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DEPT. OF FINANCIAL INSTITUTIONS

ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Mortgage Banker License of:	No. 09F-BD032-BNK
DHI MORTGAGE COMPANY, LTD. LIMITED PARTNERSHIP 16430 N. Scottsdale Road, Suite 250 Scottsdale, Arizona 85253 Petitioner.	**CONSENT ORDER**

On October 15, 2008, the Arizona Department of Financial Institutions ("Department") issued a Notice of Hearing alleging that Petitioner had violated Arizona law. Wishing to resolve this matter in lieu of an administrative hearing and without admitting liability, Petitioner does not contest the entry of an Order with the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

FINDINGS OF FACT

1. Petitioner DHI Mortgage Company, Ltd. Limited Partnership, (hereinafter "DHI") is a foreign limited partnership authorized to transact business in Arizona as a mortgage banker, license number BK 0901845, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of DHI's business is that of making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

2. Randall C. Present ("Mr. Present") is the President of DHI and is authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S. § 6-941(5), as outlined within A.R.S. § 6-943(F).

3. DHI is not exempt from licensure as a mortgage banker within the meaning of A.R.S. §§ 6-942 and 6-941(5).

4. An examination of DHI conducted by the Department, beginning August 6, 2007 and concluding April 4, 2008, resulted in the Department's allegations that DHI:

   a. Failed to display the original mortgage banker license in its principal place of business office;

b. Failed to include its name and license number as issued on the mortgage banker's principal place of business license within the text of certain regulated advertising or business solicitations and, in certain advertisements, failed to: (1) include the annual percentage rate (APR) as prominently as the interest rate; (2) disclose all of the required additional terms of a loan when it stated the percentage of down payment to be required; and (3) failed to correct these deficiencies from its previous examination;

c. Failed to conduct certain minimum elements of reasonable employee investigations prior to hiring employees, including: (1) obtaining Employment Eligibility (Form I-9) forms; (2) consulting with prospective employees' most recent or next most recent employer; (3) obtaining completed and signed employment applications prior to hiring a prospective employee; (4) completing a survey of prospective employees' qualifications for employment; (5) obtaining and completing a survey of prospective employees' credit reports, including a survey of derogatory credit items; (6) obtaining a written certification from prospective employees prior to employment regarding any of such individual's felony convictions; and (7) failed to correct these deficiencies from its previous examination;

d. Failed to maintain originals or copies of loan applications in certain loan files;

e. Failed to comply with certain disclosure requirements under federal law by: (1) failing to timely provide a good faith estimate, a truth in lending disclosure, a mortgage servicing transfer disclosure, and a denial letter to certain borrower(s); (2) failing to maintain evidence in loan files that a good faith estimate, a truth in lending disclosure, a mortgage servicing transfer disclosure, and an Affiliated Business Arrangement disclosure were provided to certain borrower(s); (3) failing to disclose payment of a Yield Spread Premium on certain Good Faith Estimates; and (4) failing to date one loan application;

f. Allowed borrowers to sign regulated documents containing blank spaces, including

Disclosure Notices and Application Disclosures;

g. Maintained a check register that failed to include a summary regarding each payment's purpose; and

h. Failed to use or obtain a statutorily correct written fee agreement when accepting advance fees from borrowers in certain instances.

5. DHI provided the Department with a response evidencing that it has taken corrective action to ensure that the violations will not take place, specifically:

i. Petitioner presently displays its original license at its Arizona principal place of business;

ii. Petitioner has updated the licensing disclosure for its advertisements to reflect the appropriate Arizona information;

iii. Petitioner has supplemented its own rigorous screening of potential employees to ensure that its Arizona hiring procedures meet the criteria set forth for Mortgage Bankers;

iv. In addition to routine Quality Control Audits, petitioner implemented post-state audit reviews by its Quality Control Department, resulting in overall improved compliance with respect to ensuring that DHI meets its federal and state disclosure obligations;

v. Petitioner moved forward with providing additional training to its Arizona staff members to ensure that they meet federal and state compliance requirements;

vi. Petitioner updated its disclosures to ensure that certain disclosures would be auto-populated and would not include blank spaces;

vii. Petitioner is moving forward with updating its check register report to include information regarding the payment's purpose; and

viii. Petitioner made the decision to eliminate the collection of up-front fees from

borrowers, which serves as corrective action with respect to updating any deficiencies in its advance fee agreement disclosures.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage banker business and with the enforcement of statutes, rules, and regulations relating to mortgage bankers.

2. By the conduct set forth in the Findings of Fact, DHI Mortgage Company, Ltd. Limited Partnership violated the following:

a. A.R.S. § 6-944(C) and A.A.C. R20-4-1805, by failing to prominently display the mortgage banker license in the office of the mortgage banker;

b. A.R.S. §§ 6-943(N) and 6-946(E), by advertising for or soliciting business without using the name and license number as issued on the mortgage banker's principal place of business license and by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts;

c. A.R.S. § 6-943(O) and A.A.C. R20-4-102, by failing to conduct the minimum elements of reasonable employee investigations prior to hiring employees;

d. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B)(6), by failing to maintain originals or copies of loan documents;

e. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e), by failing to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts;

f. A.R.S. § 6-947(A) and A.A.C. R20-4-1808, by allowing borrowers to sign regulated documents containing blank spaces;

g. A.A.C. R20-4-1806(B)(3), by failing to maintain a complete listing of all checks written and the payment's purpose; and

h. A.R.S. § 6-946(C), by failing to use a properly executed written fee agreement involving mortgage loan transactions.

3. The violations of applicable laws, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioner's license pursuant to A.R.S. § 6-945; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and 6-131.

ORDER

1. DHI Mortgage Company, Ltd. Limited Partnership shall immediately stop the violations set forth in the Findings of Fact and Conclusions of Law. DHI Mortgage Company, Ltd. Limited Partnership:

a. Shall prominently display the mortgage banker license in the office of the mortgage banker;

b. Shall use its proper name and license number within all regulated advertising and shall comply with Federal Disclosure requirements as required by law;

c. Shall conduct the minimum elements of reasonable employee investigations prior to hiring employees;

d. Shall maintain originals or copies of loan transactions;

e. Shall comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated

under these acts;

f. Shall not allow borrowers to sign regulated documents containing blank spaces;

g. Shall maintain a complete listing of checks written including the payment's purpose;

h. Shall pay three thousand, fifty four dollars ($3,054.00) restitution to resolve Complaint #4011365; and

i. Shall refund one thousand, five hundred dollars ($1,500.00) earnest money that was paid to Petitioner's affiliate builder to resolve Complaint #4011925.

2. DHI Mortgage Company, Ltd. Limited Partnership shall immediately provide to the Department an assessment in the amount of **seventeen thousand, five hundred dollars ($17,500.00).**

3. The provisions of this Order shall be binding upon DHI Mortgage Company, Ltd. Limited Partnership, its employees, agents, and other persons participating in the conduct of the affairs of DHI Mortgage Company, Ltd. Limited Partnership.

4. The provisions of this Order shall be binding upon Petitioner, and resolves the Notice of Hearing, subject to Petitioner's compliance with the requirements of this Order.

5. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside.

SO ORDERED this _____ day of _____, 2008.

_____
Robert D. Charlton
Assistant Superintendent of Financial Institutions

CONSENT TO ENTRY OF ORDER

1. Petitioner acknowledges that it has been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same, is aware

of its right to an administrative hearing in this matter, and has waived the same.

2. Petitioner admits the jurisdiction of the Superintendent and consents to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

3. Petitioner states that no promise of any kind or nature has been made to induce it to consent to the entry of this Order, and that it has done so voluntarily.

4. Petitioner acknowledges that the acceptance of this Order by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

5. Mr. Randall C. Present, President, on behalf of DHI Mortgage Company, Ltd. Limited Partnership, represents that he is the President, and that, as such, has been authorized by DHI Mortgage Company, Ltd. Limited Partnership to consent to the entry of this Order on its behalf.

6. Petitioner waives all rights to seek judicial review or otherwise to challenge or contest the validity of this Consent Order.

DATED this 18th day of November, 2008.

By _____
Randall C. Present, President
DHI Mortgage Company, Ltd. Limited Partnership

ORIGINAL of the foregoing filed this 20th day of November, 2008, in the office of:

Felecia A. Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

COPY mailed/delivered same date to:

Hon. Lewis D. Kowal
Administrative Law Judge
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AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

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Attorneys for DHI Mortgage Company, Ltd.
Limited Partnership
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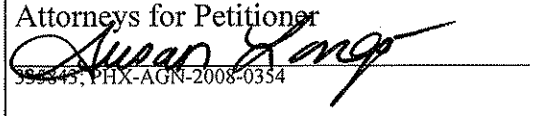

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