ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Mortgage Broker License of: **DEL OESTE FINANCIAL, INC. DBA VALLEY MORTGAGE CONSULTANTS and NICHOLAS P. SILVESTRI, PRESIDENT** 27204 N. 96th Lane Peoria, AZ 85383 Respondents.	No. 09F-BD073-BNK **ORDER OF SUMMARY SUSPENSION AND NOTICE OF HEARING TO REVOKE**

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The Arizona Department of Financial Institutions (the "Department") hereby finds that Del Oeste Financial, Inc. and Nicholas P. Silvestri, President, ("Respondents") have violated the provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-1092.11(B).

THEREFORE, IT IS ORDERED to summarily suspend the Arizona mortgage broker license held by Respondents, effective immediately, pending the proceedings for revocation or other action commenced this date. **This suspension is effective immediately.**

EFFECTIVE this 20th day of May, 2009.

Felecia A. Rotellini
Superintendent of Financial Institutions

By _____
Robert D. Charlton
Assistant Superintendent of Financial Institutions

NOTICE OF HEARING AND COMPLAINT

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for July 17, 2009 at 1:30 p.m., at the Office of

Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is: (1) to determine whether grounds exist to suspend or revoke Respondents' mortgage broker license; (2) to order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131; and (3) to impose a civil money penalty pursuant to A.R.S. § 6-132.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Lewis Kowal, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law Judge is specifically prohibited from entering.

Motions to continue this matter shall be made in writing to the Administrative Law Judge **not less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),

any person may appear on his or her own behalf or by counsel.

Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be made by a court reporter or by electronic means. Any party that requests a transcript of the proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Craig Raby (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

NOTICE OF APPLICABLE RULES

The hearing will be conducted pursuant to A.A.C. R20-4-1201 through R20-4-1220 and the rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through R2-19-122. A copy of these rules is enclosed.

Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20) days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents' position or defense and shall specifically admit or deny each of the assertions contained in this Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted. When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised in the answer is deemed waived.

If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be deemed in default and the Superintendent may deem the findings in this Notice of Hearing as true and admitted and the Superintendent may take whatever action is appropriate, including (1) suspension or revocation of Respondents' license; (2) any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

Respondents' answer shall be mailed or delivered to the Arizona Department of Financial

Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007 and to Assistant Attorney General Craig Raby, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for special accommodations must be made as early as possible to allow time to arrange the accommodations. If accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

FINDINGS

1. Respondent Del Oeste Financial, Inc. DBA Valley Mortgage Consultants, ("DEL OESTE") is an Arizona corporation authorized to transact business in Arizona as a mortgage broker, license number MB 00906071, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of DEL OESTE's business is that of making, negotiating, or offering to make or negotiate loans secured by Arizona real property, within the meaning of A.R.S. § 6-901(6).

2. Respondent Nicholas P. Silvestri., ("Mr. Silvestri") is the President and one hundred percent (100%) owner of DEL OESTE. Mr. Silvestri is authorized to transact business in Arizona as a mortgage broker within the meaning of A.R.S. § 6-903(E).

3. DEL OESTE, before conducting business as a mortgage broker, is required to have a surety bond, deposited with the Superintendent, pursuant to A.R.S. § 6-903(G), in the required amount pursuant to A.R.S. § 6-903(H).

4. On January 2, 2009, the Department received a Notice of Cancellation from Kaercher, Campbell, and Associates Insurance Brokerage, stating that DEL OESTE's surety bond, number SUR2037906, in the amount of ten thousand dollars ($10,000.00), shall expire February 2, 2009.

5. On January 6, 2009, the Department sent a letter to DEL OESTE, to the address on record with the Department, via certified mail, informing them of the bond cancellation.

6. DEL OESTE failed to provide documentation regarding the reinstatement of their bond or documentation of a new surety bond.

7. DEL OESTE does not have the required surety bond in order to conduct business as a mortgage broker.

8. The conduct described above constitutes an immediate threat to the public health, safety, and welfare, warranting immediate suspension of Respondents' mortgage broker license because Respondents are able to conduct business in Arizona as a licensed mortgage broker and they do not have the required surety bond.

9. The mortgage broker license of DEL OESTE is suspended.

10. The conduct described above constitutes grounds for revocation of Respondents' mortgage broker license.

LAW

1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules, and regulations relating to mortgage brokers.

2. By the conduct set forth above in the Findings DEL OESTE and Mr. Silvestri violated A.R.S. § 6-903(G) by failing to maintain the required surety bond.

3. Respondents have not conducted business in accordance with the law and violated Title 6, Chapter 9 and the rules relating to this chapter, which are grounds for the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-905(A)(3).

4. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

5. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars ($5,000.00) for each violation for each day.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above described violations or other grounds for disciplinary action, the Superintendent may: (1) suspend or revoke DEL OESTE and Mr. Silvestre's mortgage broker license pursuant to A.R.S. § 6-905; (2) order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona under A.R.S. §§ 6-123 and 6-131; and (3) impose a civil penalty pursuant to A.R.S. § 6-132.

EFFECTIVE this 20th day of May, 2009.

Felecia A. Rotellini
Superintendent of Financial Institutions

By _____
Robert D. Charlton
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 20th day of May, 2009, in the office of:

Felecia 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:

Lewis, Kowal, Administrative Law Judge
Office of the Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

Craig Raby, Assistant Attorney General
Attorney General's Office
1275 West Washington
Phoenix, AZ 85007

Richard Fergus, Licensing Division Manager
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

Robert D. Charlton, Assistant Superintendent
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

AND COPY MAILED SAME DATE, by
Certified Mail, Return Receipt Requested to:

Del Oeste Financial, Inc. DBA
Valley Mortgage Consultants
Attn: Nicholas P. Silvestri, owner
27204 N. 96th Lane
Peoria, AZ 85383

Nicholas Silvestri, Statutory Agent for:
Del Oeste Financial, Inc. DBA
Valley Mortgage Consultants
27204 N. 96th Lane
Peoria, AZ 85383

Susan Longo