

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

3 No. 09F-BD021-BNK

4 **JUSTIN RICH DBA 1ST SOLUTIONS**
5 **MORTGAGE**

6 12910 W. Charter Oak Road
7 El Mirage, AZ 875335

8 Respondent.

9 **SUPERINTENDENT'S FINAL**
10 **DECISION AND ORDER**

11 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
12 record in this matter, including the Administrative Law Judge Decision attached and incorporated
13 herein by this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of
14 Law and Order as follows:

15 **ORDER**

16 IT IS ORDERED that Respondent's Mortgage Broker License Number MB 0908980 is
17 revoked effective as of the date of this Order.

18 **NOTICE**

19 The parties are advised that this Order becomes effective immediately and the provisions of
20 this Order shall remain effective and enforceable except to the extent that, and until such time as,
21 any provision of this Order shall have been modified, terminated, suspended, or set aside by the
22 Superintendent or a court of competent jurisdiction.

23 DATED this 6th day of November, 2008.

24 

25 Felecia Rotellini
26 Superintendent of Financial Institutions

27 ...

28 ...

1 ORIGINAL filed this 6th day of
November, 2008 in the office of:

2 Felecia Rotellini
3 Superintendent of Financial Institutions
4 Arizona Department of Financial Institutions
5 ATTN: June Beckwith
6 2910 North 44th Street, Suite 310
7 Phoenix, Arizona 85018

8 COPY of the foregoing mailed/hand delivered
9 This same date to:

10 Michael G. Wales, Administrative Law Judge
11 Office of Administrative Hearings
12 1400 West Washington, Suite 101
13 Phoenix, AZ 85007

14 Liane Kido, Assistant Attorney General
15 Office of the Attorney General
16 1275 West Washington
17 Phoenix, AZ 85007

18 Richard Fergus, Division Manager
19 Licensing Division
20 Arizona Department of Financial Institutions
21 2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018

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

25 Justin Rich dba 1st Solutions Mortgage
26 12910 W. Charter Oak Road
27 El Mirage, AZ 85335

28 BY: June Beckwith

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STATE OF ARIZONA
IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Mortgage Broker
License of:

JUSTIN RICH DBA 1ST SOLUTIONS
MORTGAGE
12910 W. Charter Oak Road
El Mirage, AZ 85335

Respondent.

No. 09F-BD021-BNK

**ADMINISTRATIVE
LAW JUDGE DECISION**

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HEARING: October 28, 2008

APPEARANCES: Assistant Attorney general Liane Kido appeared for the
Arizona Department of Financial Institutions; Respondent failed to appear.

ADMINISTRATIVE LAW JUDGE: Michael G. Wales

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FINDINGS OF FACT

1. Justin Rich, dba 1st Solutions Mortgage, ("Respondent") is authorized to transact business in Arizona as a mortgage broker, license number MB 0908980.
2. On January 23, 2008, the Arizona Department of Financial Institutions ("Department") was notified by Old Republic Insurance Company that Respondent's bond number 1246777 in the amount of \$10,000.00 would be canceled effective February 28, 2008.
3. On February 5, 2008, the Department sent Respondent a letter via certified mail, return receipt requested, to its address of record on file with the Department, 12910 W. Charter Oak Rd. in El Mirage, Arizona 85335, informing it that the Department had received notification of the cancellation of the above-mentioned bond. The Department also informed Respondent of the statutory obligation of a mortgage broker licensee to maintain a bond and the need to replace the canceled bond or its mortgage broker license would be revoked.

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1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 4. On or about February 23, 2008, the Department received the envelope
2 containing the Certified Letter back from the U.S. Post Office. The envelope contained
3 markings that indicated that that Respondent had been notified by the U.S. Post Office
4 of the Certified Letter on February 13, and again on February 18, 2008, but Respondent
5 failed to pickup the certified letter.

6 5. On April 23, 2008, Department staff received a call from Mr. Rich wherein
7 he acknowledged that his bond had been canceled and indicating he would provide the
8 Department with a new bond.

9 6. Richard Fergus ("Mr. Fergus") is in charge of supervising the Financial
10 Services Division of the Department, and has done so for the past three years. Mr.
11 Fergus testified that to-date the Department has not received any updated bond
12 information from Respondent to replace the canceled bond.

13 7. On September 22, 2008, the Superintendent of the Department issued an
14 Order of Summary Suspension and Notice of Hearing to Revoke ("Order and Notice")
15 immediately suspending Respondent's mortgage broker's license based on
16 Respondent's failure to maintain the required surety bond. The Order and Notice was
17 sent to Respondent by certified mail, return receipt requested. The envelope containing
18 the Order and Notice was returned to the Department by the U.S. Postal Service as
19 unclaimed.

20 8. The Department also attempted personal service on Respondent on
21 September 25, 2008 at Respondent's address on record, but personal service was not
22 obtained and the address on record with the Department appeared vacant. Assistant
23 Attorney General Liane Kido avowed to this tribunal that one day prior to the instant
24 hearing she received a call from Mr. Rich. During that call, Mr. Rich acknowledged that
25 he was aware of the hearing date, place and time.

26 9. The commencement of the instant hearing was delayed 15 minutes to allow
27 for the late arrival of an authorized representative or attorney for Respondent.
28 Respondent failed to appear individually or by proper authorized or legal representative.
29 Likewise, Respondent did not contact the Office of Administrative Hearings to request a
30 delay or continuance of the matter and did not file any request to appear by telephone.

1 Therefore, after the 15 day delay, the Administrative Law Judge conducted the hearing in the
2 Respondent's absence.

3 10. At hearing, Mr. Fergus testified that Respondent failed to update the
4 Department regarding the cancellation of its surety bond. The Department initiated this
5 disciplinary action to revoke the mortgage broker's license of Respondent.

6 **CONCLUSIONS OF LAW**

7 1. The Superintendent of the Department is vested with the authority to
8 regulate persons engaged in the mortgage broker business and has the duty to enforce
9 statutes and rules relating to mortgage brokers. See A.R.S. § 6-901 *et seq.*

10 2. The Department bears the burden to prove by a preponderance of the
11 evidence that Respondent has violated State laws pertaining to mortgage brokers. See
12 A.A.C. R2-19-119. A preponderance of the evidence is "such proof as convinces the
13 trier of fact that the contention is more probably true than not." Morris K. Udall, ARIZONA
14 LAW OF EVIDENCE § 5 (1960).

15 3. Credible evidence established that Respondent failed to maintain a surety
16 bond in the amount of \$10,000.00 as required by A.R.S. §§ 6-903(G) and (H) or provide
17 for an alternative as provided in A.R.S. § 6-903(J).

18 4. By failing to maintain the required surety bond, Respondent failed to
19 conduct its mortgage broker business in accordance with the law and violated the
20 provisions of Title 6, Chapter 9 and rules relating thereto, in which constitute grounds
21 for revocation of the license pursuant to A.R.S. § 6-905.

22 5. Pursuant to A.R.S. § 41-1092.11, the Superintendent has the authority to
23 suspend Respondent's mortgage broker's license if emergency action is required to
24 protect the health, safety and welfare of the public.

25 6. Based on the above, grounds existed for the issuance of the Order of
26 Summary Suspension of Respondent's mortgage broker's license.

27 7. Based on the above, grounds exist for the revocation of Respondent's
28 mortgage broker's license pursuant to A.R.S. §§ 6-905.

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ORDER

1 Respondent's mortgage broker's license summary suspension is upheld and on
2 the effective date of the Ordered entered in this matter, the license is to be revoked.
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5 Done this day, October 28, 2008.
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7 Office of Administrative Hearings
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11 Michael G. Wales
12 Administrative Law Judge
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15 Original transmitted by mail this
16 30 day of October, 2008, to:
17

18 Arizona Department of Financial Institutions
19 Felecia A. Rotellini, Director
20 ATTN: Susan Longo
21 2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018
23

24 By 
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