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IN THE MATTER OF

LANDAN K. MITCHELL

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ORDER NO. C-08-077-09-CO01

**CONSENT ORDER REVOKING LOAN OFFICER LICENSE**

This Consent Order Revoking Loan Officer License is entered pursuant to the Arkansas Fair Mortgage Lending Act, located at Ark. Code Ann. §§ 23-39-501 through 23-39-518 (“Act”), and the Arkansas Administrative Procedures Act, located at Ark. Code Ann. §§ 25-16-201 through 25-16-303, in accordance with an agreement by and between the Staff of the Arkansas Securities Department (“Staff”) and Landan K. Mitchell (“Mitchell”) in full and final settlement of the issues in this matter.

The Staff and Mitchell consent to all terms, conditions, and orders contained herein. Mitchell waives his right to a formal hearing and any right to appeal the order, admits jurisdiction of the Act and the Arkansas Securities Commissioner (“Commissioner”), and without admitting or denying the findings of facts made herein, consents to the entry of this order.

**FINDINGS OF FACT**

1. On October 17, 2008, the Staff submitted its Request for Revocation of License and Hearing (“Request”). The Request alleges that Mitchell submitted false and misleading material information to the Commissioner in connection with an application for a loan officer license as submitted by Boardwalk Mortgage Group, LLC (f/k/a Benton

Mortgage Group, LLC) (“Boardwalk”). A copy of the Request is attached hereto as “Exhibit A.”

2. Mitchell is a former licensed loan officer under license number 15250. Mitchell was licensed as a loan officer of Boardwalk with the Arkansas Securities Department (“Department”) from February 3, 2006, until November 28, 2007. Mitchell’s loan officer license was cancelled on November 28, 2007, by Boardwalk.

3. On or about October 10, 2005, a complaint was filed alleging theft, forgery, and fraud against Mitchell in the Circuit Court of Pulaski County, Arkansas, *Block 2 Limited Partnership d/b/a Block 2 Lofts, Plaintiff vs. Landan Mitchell, Defendant vs. Arvest Bank, Third-party Defendant*, Case No. CV 2005-12575 (“Complaint”). On or about November 3, 2005, Mitchell filed an Answer to the Complaint denying allegations of theft, forgery, and fraud.

4. On or about December 15, 2005, FMLA Form 014, “Application for Managing Principal, Branch Manager, or Loan Officer” was filed with the Department requesting a loan officer license for Mitchell. The employer listed was Benton Mortgage Group, LLC, mortgage broker license number 28263.

5. In the application, questions regarding Mitchell’s business background were answered, specifically Questions 3(a) through 3(f). A negative response was indicated for Question 3(f) which states,

**“Have you been named as a defendant in any pending civil court proceeding in which a complaint alleges fraud, dishonesty, misrepresentation, theft, misappropriation, bad faith, deceptive trade practices, or predatory lending practices?”**

6. The application purports to be signed by Mitchell in the presence of a notary public on December 8, 2005. The application contains the following language in bold type for emphasis (on the application only) directly above the notarized signature of Mitchell: “I hereby swear or affirm that I have reviewed this application and the accompanying information submitted herein, and that that (sic) the information contained therein is true, accurate, correct and complete to the best of my knowledge. I understand that the submission of false information to the Arkansas Securities Commissioner could result in the revocation or suspension of my license. I understand that it is unlawful pursuant to Section 23-39-516(a) of the Arkansas Fair Mortgage Lending Act for any person to make or cause to be made, in any document filed with the Arkansas Securities Commissioner, any statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect. Further, I understand that making or causing to be made a false or misleading statement as described above, if made willfully in a document filed with the Arkansas Securities Commissioner, is a Class B felony pursuant to Ark. Code Ann. Section 23-39-516(b), and carries a penalty of imprisonment of not less than five (5) years nor more than twenty (20) years imprisonment.”

7. Staff reviewed Mitchell’s loan officer license application submitted December 15, 2005, and based upon the information provided, approved the application on February 3, 2006, with an expiration date of February 28, 2007. Mitchell was issued loan officer license number 15250.

8. On or about December 11, 2006, FMLA Form LO-003, “Loan Officer License Renewal Application” was filed with the Department requesting a renewal of the

loan officer license for Mitchell. The employer listed was “Boardwalk Mortgage Group”, license number 28263 (formerly known as Benton Mortgage Group, LLC).

9. In the application, questions regarding Mitchell’s business background were answered, specifically Questions 2(a) through 2(f). A negative response for Question 2(f), which states,

**“Have you been named as a defendant in any pending civil court proceeding in which a complaint alleges fraud, dishonesty, misrepresentation, theft, misappropriation, bad faith, deceptive trade practices, or predatory lending practices?”**

10. The application purports to be signed by Mitchell in the presence of a notary public on December 6, 2006. The application contains the following language in bold type for emphasis (on the application only) directly above the notarized signature of Mitchell: “I hereby swear or affirm that I have reviewed this application and the accompanying information submitted herein, and that that (sic) the information contained therein is true, accurate, correct and complete to the best of my knowledge. I understand that the submission of false information to the Arkansas Securities Commissioner could result in the revocation or suspension of my license. I understand that it is unlawful pursuant to Section 23-39-516(a) of the Arkansas Fair Mortgage Lending Act for any person to make or cause to be made, in any document filed with the Arkansas Securities Commissioner, any statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect. Further, I understand that making or causing to be made a false or misleading statement as described above, if made willfully in a document filed with the Arkansas Securities Commissioner, is a Class B

felony pursuant to Ark. Code Ann. Section 23-39-516(b), and carries a penalty of imprisonment of not less than five (5) years nor more than twenty (20) years imprisonment.”

11. Staff reviewed Mitchell’s loan officer license renewal application submitted December 11, 2006, and based upon the information provided, renewed the loan officer license on December 14, 2006, with an expiration date of February 28, 2008. Mitchell’s loan officer license was cancelled by Boardwalk on November 28, 2007.

12. Mitchell obtained a loan officer license, enabling him to use the rights, benefits and privileges of a licensee, through the submission of false or misleading documentation to the Department.

13. The entry of this order is in the public interest.

#### **LEGAL AUTHORITY**

14. The Act allows for pursuit of revocation of license notwithstanding a surrender or termination of the license and acceptance of same by the Commissioner, if within one (1) year following the effective date of the surrender or termination of a licensee or any person acting on behalf of the licensee has knowingly violated any provision of the Act or any rule or order promulgated or issued under the Act. The Commissioner may enter an order revoking the license as of a date before the acceptance of the surrender or termination. Ark. Code Ann. §23-39-505(n)(3)(A)-(B).

16. The Commissioner may by order deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant if the Commissioner finds that the order is in the public interest and the licensee, or any loan officer or managing principal has violated or failed to comply with any provision of the Act, including filing an application for

license that, as of its effective date or as of any date after filing, contained any omission or statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact. Ark. Code Ann. § 23-39-514(a)(1) and (a)(2)(A).

### **CONCLUSIONS OF LAW**

17. This matter has been properly brought before the Commissioner and is in the public interest. Ark. Code Ann. § 23-39-514(a)(1).

18. The Act requires that applicants make full disclosure and file applications that do not contain any false or misleading statements to material facts. At the time of the submission of the initial and renewal application for a loan officer license, there was a pending civil case against Mitchell with allegations of theft, forgery, and fraud. This information was not disclosed to the Staff or the Department. Ark. Code Ann. § 23-39-514(a)(2)(A).

19. The Commissioner is authorized to revoke a loan officer's license if the order is in the public interest and the submission contains any false or misleading statements to material facts the applicant has failed to disclose. Ark. Code Ann. § 23-39-514(a)(1) and (a)(2)(A).

### **OPINION**

The loan officer applications submitted for Mitchell were false and misleading with respect to a material fact as Mitchell failed to disclose a pending civil case against him alleging theft, forgery, and fraud. Mitchell obtained a loan officer license through the submission of false documentation to the Department. Mitchell was allowed to use

the rights, benefits and privileges of a licensee and thus benefitted from the fraudulently obtained loan officer license.

Mitchell denies that he signed for or personally submitted any application for a Loan Officer License on or about December 6, 2006. However, Mitchell does not contest the revocation of the license and consents to this Order revoking said license.

**ORDER**

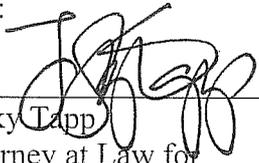
IT IS HEREBY ORDERED that the Arkansas loan officer license of Mitchell, license number 15250, be revoked as of November 27, 2008. In addition, Mitchell or any entity owned or controlled, in whole or in part by Mitchell, shall not apply to the Department for a license to engage in the mortgage loan business in Arkansas for a period of three (3) years to commence upon entry of this order, and that during the three (3) year period, Mitchell shall refrain from owning, controlling, being employed by, or participating in any capacity in the conduct of the affairs of any mortgage banker, mortgage servicer, or mortgage broker licensed by the Commissioner until such time a new license has been issued to Mitchell by the Commissioner.

WITNESS MY HAND AND SEAL on this 6<sup>th</sup> day of April, 2009:

  
A. Heath Abshure  
Arkansas Securities Commissioner

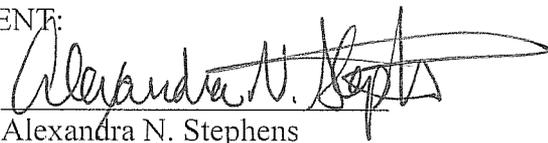
APPROVED AS TO FORM AND  
CONTENT:

By:

  
J. Sky Tapp  
Attorney at Law for  
Landan K. Mitchell

APPROVED AS TO FORM AND  
CONTENT:

By:

  
Alexandra N. Stephens  
Staff Attorney