

MIKE BEEBE
GOVERNOR

A. HEATH ABSHURE
COMMISSIONER



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ARKANSAS SECURITIES DEPARTMENT

VIA REGULAR U.S. MAIL

December 3, 2014

Pouyan Zivari, Esq.
Anchor Loans, Inc.
5230 Las Virgenes Road, Suite 285
Calabasas, CA 91301

RE: Request for No-Action Letter Regarding Mortgage Lending Licensing
No-Action 14-NA-0006

Dear Ms. Zivari:

The Arkansas Securities Department ("Department") is in receipt of your letter dated October 29, 2014, requesting that the Department issue a no-action letter concerning the applicability of the Arkansas Fair Mortgage Lending Act ("FMLA") as codified at Ark. Code Ann. § 23-39-501 through 518 to the contemplated activities of Anchor Loans, Inc. ("ALI"). The request seeks confirmation that the Staff of the Department ("Staff") will neither take nor recommend enforcement action regarding the licensure of ALI as a mortgage broker, mortgage banker, or mortgage servicer. A copy of your request is attached to avoid reciting or summarizing the facts that you have presented.

Based upon the specific representations set forth in your request, the Staff will not recommend that the Arkansas Securities Commissioner take enforcement against ALI if it engages in the activities detailed in your request letter without first obtaining licenses from the Department.

Please note that the position of the Staff is based solely upon the representations made in your request letter and applies only to the facts as set out therein. Different facts or circumstances might and often would require a different response or opinion. The Staff only expresses its position as to the recommendation of formal enforcement action and does not purport this position to be a legal opinion or formal conclusion.

Sincerely,



Karyn Tierney
Deputy Securities Commissioner

enclosure

[REDACTED]

October 29, 2014

VIA FED-EX AND E-MAIL: KARYN.TIERNEY@SECURITIES.ARKANSAS.GOV

Karyn Tierney, Deputy Securities Commissioner
Arkansas Securities Department
Heritage West Building, Suite 300
201 East Markham Street
Little Rock, Arkansas 72201-1692

Regarding: [REDACTED] – No-action letter

Dear Deputy Commissioner Tierney,

I am writing on behalf of [REDACTED] (“[REDACTED]”) to request a no-action letter confirming that the Arkansas Securities Department (“Securities Department”) will take no action under Arkansas’ Fair Mortgage Lending Act in connection with [REDACTED] lending activities in Arkansas. Specifically, we respectfully request that your office issue a no-action letter confirming that [REDACTED] will not require the Mortgage Banker, Mortgage Servicer, Mortgage Broker, and Loan Officer licenses in order to make, service, and originate the type of investment-purpose, business-purpose loans detailed in this letter. Please note that [REDACTED] has not yet started making loans in Arkansas, and is at this time only inquiring about the need for a license.

[REDACTED] is a California Corporation founded in 1998. [REDACTED] makes hard-money loans on 1-4 unit properties to business entities that will either fix-and-flip the property or hold onto the property as a rental. In either case, the loans are always made to business entities, as opposed to natural persons or “consumers,” and the security property will not be owner occupied. Further, all of [REDACTED] loans are made subject to the borrower’s written attestation through a company representative that the loan proceeds will be used for business and commercial purposes, and will not be used for personal, family, or household use.

Karyn Tierney
Arkansas Securities Department
October 29, 2014
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As we understand it, Arkansas law requires a Mortgage Banker License, Mortgage Broker License, Mortgage Servicer License, and licensed Loan officers in order to make, broker, service, and/or originate a "mortgage loan." Arkansas Statute § 23-39-502(16) defines "mortgage loan" as follows:

[A] loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, reverse mortgage, or other equivalent consensual security interest encumbering: (A) [a] dwelling . . . or (B) [r]esidential real estate upon which is constructed or intended to be constructed a dwelling.

Therefore, it is our understanding that [REDACTED] will not require a license because its mortgage lending activities do not fall under the purview of this definition because [REDACTED] makes loans only to business entities, for business and investment purposes, as opposed to natural persons or consumers for "personal, family, or household use." Further, the property securing [REDACTED] loan is not owner-occupied. Additionally, all of [REDACTED] loans are subject to the borrower's written attestation by a company representative that the loan proceeds will be used for business and commercial purposes, and will not be used for personal, family, or household use.

Accordingly, we respectfully request that your office issue a no-action letter confirming that [REDACTED] will not require the Mortgage Banker, Mortgage Broker, Mortgage Servicer, and Loan Officer licenses in order to make, service, and originate the type of investment-purpose, business-purpose loans detailed above.

I want to personally thank you for your time and attention regarding this matter. Should you have any questions or comments, or require any additional information, please feel free to contact the undersigned.

Sincerely,

[REDACTED]

[REDACTED], Esq.
In-House Counsel