

**STATE OF ARKANSAS
SECURITIES DEPARTMENT**

IN THE MATTER OF

**FIRST MAGNUS FINANCIAL
CORPORATION**
Tucson, Arizona

ORDER NO. 07-035-07-OR01

ORDER SUMMARILY SUSPENDING LICENSE

On this day comes on for consideration before the Arkansas Securities Commissioner (hereinafter referred to as the “Commissioner”) the matter of First Magnus Financial Corporation (hereinafter referred to as “Respondent”), and the issue of its compliance with the Arkansas Fair Mortgage Lending Act (hereinafter referred to as “the Act”). The Staff of the Arkansas Securities Department (hereinafter referred to as the “Staff”), alleges that Respondent has engaged in, is engaging in, or is about to engage in acts or practices which violate the Arkansas Fair Mortgage Lending Act (Ark. Code Ann. §23-39-501 et seq.) and applicable regulations thereof. Based upon the records on file with the Commissioner, and the representations of Staff, the Commissioner finds:

FINDINGS OF FACT

1. The Act became effective on January 1, 2004. The Act authorizes the Arkansas Securities Department (“Department”), by and through the Commissioner, to exercise jurisdiction over the licensing and regulations of persons and entities

engaged in the business of residential mortgage banking and residential mortgage loan servicing pursuant to the Act.

2. Respondent is licensed by the Department as a Mortgage Banker and Mortgage Broker with the State of Arkansas. According to records maintained on file with the Department, Respondent was initially issued a Mortgage Banker and Mortgage Broker license on or about March 10, 1999 as License No. 11156.
3. Respondent is, and at all relevant times since licensure, has been a corporation conducting business in Arkansas. First Magnus's main office is located at 603 North Wilmot Road, Tucson, AZ 85711.
4. Respondent maintains additional office locations from which the Corporation conducts the mortgage banker and mortgage broker business. The files on record with the Commissioner reflect four (4) branch locations that are located outside of the State of Arkansas, and none located within the State of Arkansas.
5. On or about August 16, 2007 the Staff became aware that Respondent had ceased to disburse funds on an unknown number of mortgage loans approved for closing as required by agreements they had entered into with Arkansas residents.
6. On August 16, 2007 the Staff received a notification via e-mail from the Iowa Division of Banking that Respondent had ceased funding Mortgage Loans as of Thursday, August 16, 2007. In the e-mail, the Iowa Division of Banking included a forwarded, undated, e-mail purporting to be from the management team of Respondent that had been sent to its employees and associates.

7. The e-mail message referenced in Paragraph 6 states in part: “First Magnus has been forced to stop accepting new loan applications or funding loans effective today.” [A copy of the e-mail is attached hereto as Exhibit “A”].
8. Prior to August 16, 2007 Respondent accepted an unknown number of pending mortgage loan applications from Arkansas residents that have not closed, and the Respondent knew or should have known they would be unable to process through to closing and funding in accordance with the mortgage agreements.

APPLICABLE CODE PROVISIONS

9. The Commissioner is authorized to suspend the license of a licensee who has violated or failed to comply with any provision of the Act. Ark. Code Ann. § 23-39-514 (c) (1).
10. Ark. Code Ann. § 23-39-514 (a) (2) (H) provides that a Mortgage Banker must meet the qualifications for financial responsibility and general fitness requirements found in Ark Code. Ann. § 23-39-505.
11. Ark. Code Ann. § 23-39-513 (6) provides that it is unlawful for a Mortgage Banker to fail to disburse funds in accordance with a written commitment or agreement to make of service a mortgage loan.

CONCLUSIONS OF LAW

12. Based upon all information contained in Paragraphs 1 through 11, Respondent has failed to comply with the requirements of the Act by conducting mortgage business without the ability to fund any loans that it may originate. Such activities constitute grounds for revocation or suspension of Respondent’s license.

13. The Commissioner is authorized to summarily suspend any license and to order a licensee to cease and desist from a prohibited action upon a finding of a violation of the Act. Ark. Code Ann. § 23-39-514 (c) (1).

ORDER

After taking into consideration the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ORDERED that:

1. The Mortgage Loan Broker and Mortgage Loan Banker license of First Magnus Financial Corporation is summarily suspended pending a final determination of this matter.

2. First Magnus Financial Corporation and any and all officers, directors, employees, or agents operating on behalf of First Magnus Financial Corporation, and its successors or assigns, are hereby ordered to Cease and Desist from engaging in all mortgage loan originating activities in Arkansas until such time as compliance the FMLA is achieved, including soliciting or accepting, either directly or indirectly, any mortgage loan applications from consumers for residential property located in Arkansas.

3. First Magnus Financial Corporation shall immediately place any fees previously collected from Arkansas consumers relative to any pending mortgage loan applications in a separate escrow account maintained at a federally insured bank.

4. First Magnus Financial Corporation shall immediately place with one or more qualified and licensed mortgage banker(s) or mortgage broker(s), with no loss to applicants, the entire First Magnus portfolio of Arkansas mortgage loans in which an application was approved by First Magnus, commonly known as “loans in the pipeline”.

First Magnus shall obtain prior approval from the Commissioner before placing such applications to the qualified banker(s) or broker(s).

4. First Magnus Financial Corporation shall keep the Commissioner updated on a weekly basis, no later than Friday of each week at 4:00 p.m. Central Standard Time, of the status of all Arkansas consumers' loans that are the pipeline. The information on file as of the date of submission to the Commissioner shall contain the following information including, but not limited to:

- (i) The names of all Arkansas Consumers that have loans that have closed but have not been funded from Respondent, or have submitted an application to Respondent that has not yet closed;
- (ii) The address and telephone numbers of the consumers listed in (i.)
- (iii) The loan number;
- (iv) The amount of all prepaid loan fees submitted;
- (v) The amount of each loan;
- (vi) The current application status;
- (vii) The actual closing dates;
- (viii) Whether the loan was a purchase or refinance;
- (ix) The identification of the applicable lender with whom each loan will be placed and contact information for that lender.

Failure to comply with the Order Summarily Suspending License provisions of this order could subject the Respondent to a civil penalty of up to twenty-five thousand dollars (\$25,000.00) per violation. Ark. Code Ann. § 23-39-514 (d)(3)(A). Respondent may request a hearing before the Commissioner in accordance with Ark. Code Ann. § 23-

39-514. Any request for a hearing must be made in writing and delivered to the Commissioner within thirty (30) days from the date on which notice of the Order is sent by the Commissioner to the addresses mentioned above by first class mail, postage prepaid. If the Respondent does not request a hearing and the Commissioner does not order a hearing, the Order will remain in effect until it is modified or vacated by the Commissioner.

IT IS SO ORDERED:



MICHAEL B. JOHNSON
Arkansas Securities Commissioner



Date