

**STATE OF ARKANSAS
SECURITIES DEPARTMENT**

IN THE MATTER OF

ORDER NO. C-03-030-03-CD01

**Phillip Darren Shockey,
a/k/a Phillip Daren Shockey**

RESPONDENT

CEASE AND DESIST ORDER

On or about November 3, 2003 as part of an ongoing investigation of Phillip Darren Shockey (hereinafter referred to as "Respondent"), Arkansas Securities Department staff was alerted that an out of state mortgage loan company with home offices in New York City had notified the Securities Department of a proposed branch office in Van Buren, Arkansas. The notification indicated that the branch would be located at 626 Pine Hollow Drive in Van Buren, with Darren Shockey as manager.

Securities Department staff have represented that Respondent has a felony criminal record involving financial crimes. Securities Department staff have further represented that there is an ongoing investigation into Respondent's past mortgage loan activities in 2002.

Securities Department staff have represented that Respondent's documented intent to enter the mortgage loan industry represents a clear and present risk to the consuming public, in light of Respondent's past criminal record, and evidence adduced thus far into Respondent's 2002 mortgage loan brokering activities.

FINDINGS OF FACT

1. As part of its ongoing investigation, the Securities Department staff have been examining the past mortgage loan brokering activities of Respondent, all of which took place in the vicinity of Van Buren, Arkansas during 2002. The Securities Department staff represents to the best of its knowledge, Respondent's mortgage loan brokering activities ceased in September, 2002, due to Respondent's confinement in the United States Bureau of Prisons. Respondent was released from custody in or about August, 2003.
2. On November 3, 2003, Securities Department staff were alerted that registration records received by the Department indicated that an out of state mortgage loan company with home offices in New York, New York (The New York company) had furnished notice of its intent to open an office in Van Buren, Arkansas, with Respondent as branch manager.
3. The Securities Department staff contacted said company on November 3, 2003 and placed the company on notice of Respondent's criminal record. Respondent's record is described below.
4. On October 15, 1998, Respondent was sentenced by the United States District Court for the Western District of Arkansas to a term of twenty-four (24) months imprisonment in the custody of the United States Bureau of Prisons pursuant to guilty pleas entered to one (1) count of wire fraud, in violation of Title 18 U.S.C. § 1343, and a separate count of interstate transportation of a stolen motor vehicle in violation of Title 18 U.S.C. § 2312. On February 18, 2000, Respondent was

sentenced by the United States District Court for the Eastern District of Oklahoma to a term of 24 months imprisonment in the United States Bureau of Prisons pursuant to a guilty plea entered to one (1) count of wire fraud in violation of Title 18 U.S.C. § 1344 and § 2. The Respondent was further ordered to pay restitution to Courtesy Motor Company in Muskogee, Oklahoma in the amount of \$22, 982.00, and to John Deere Insurance Company in the amount of \$47,000.00, for a total restitution obligation of \$69,982.00.

5. By letter dated November 4, 2003, the New York company officially withdrew its request for a proposed branch in Van Buren, Arkansas, with Respondent as branch manager.
6. Securities Department staff have represented that based upon its ongoing investigation, and the financial crimes of record committed by Respondent, that the Respondent's engagement in the mortgage loan business creates a clear and present risk to the consuming public.
7. Securities Department staff have represented that, in light of Respondent's documented intent to enter into the mortgage loan brokering industry, that the Commissioner has no alternative than to issue a cease and desist order barring Respondent from said industry in Arkansas.

CONCLUSION OF LAW

8. The Arkansas Securities Commissioner (hereinafter referred as "the Commissioner") shall exercise general supervision and control over mortgage loan companies and loan brokers doing business in Arkansas. **Ark. Code Ann. § 23-39-201.**

9. Whenever it appears, upon sufficient grounds or evidence satisfactory to the Commissioner, that any mortgage loan company has engaged in or is about to engage in any act or practice in violation of this chapter or any rule or regulation or order hereunder, or the assets or capital of any mortgage loan company is impaired or the mortgage loan company's affairs are in an unsafe condition, the Commissioner may summarily order the mortgage loan company to cease and desist from the act or practice. **Ark. Code Ann. § 23-39-202(b)(1)(B).**
10. "Mortgage loan company" includes any person who directly or indirectly holds himself out to be a loan broker. **Ark. Code Ann. § 23-39-102(5)(A)(v).**
11. The Arkansas Mortgage Loan Companies and Loan Broker's Act contemplates that the Commissioner may reject or suspend one from the industry who been convicted of a felony or any misdemeanor of which fraud is an essential element. See **Ark. Code Ann. § 23-39-307(a) (11).**
12. Upon the entry of a cease and desist order, the Commissioner may, in his discretion, apply to the Circuit Court of Pulaski County, Arkansas to enjoin the act or practice which is the subject of the order. Upon proper showing, the Court shall enter an injunction or restraining order. **Ark. Code Ann. § 23-39-202(b)(1)(B) and 23-39-202(b)(2).**

OPINION

13. This matter is properly before the Commissioner pursuant to **Ark. Code Ann. § 29-39-201.**

14. The Commissioner finds, upon evidence presented, that Respondent's intent to enter into the mortgage loan brokering business in Arkansas is sufficiently documented.
15. The Commissioner finds that Respondent's entry into the mortgage loan industry in Arkansas represents a clear and present risk to consumers and that Respondent should be barred from said industry.
16. The Commissioner finds that Respondent was convicted of a felony of which fraud is an essential element. Specifically, on October 15, 1998 Respondent was convicted in the United States District Court (W.D. Ark.) of wire fraud and interstate transportation of a stolen motor vehicle, all in violation of Title 18, U.S.C. §§ 1343 and 2312. The Commissioner finds that on February 18, 2000, Respondent was convicted in the United States District Court (E.D. Okla.) of wire fraud in violation of Title 18 U.S.C. § 1344 and § 2.
17. The Commissioner finds that the New York company identifying Respondent as branch manager of its proposed Van Buren office withdrew its previous notification by letter dated November, 4, 2003.
18. While Respondent may no longer be associated with New York company, Respondent has indicated his intent to engage in the mortgage loan brokering business. For this reason, and based upon Respondent's criminal convictions involving financial crimes, the Commissioner finds that Respondent shall hereby CEASE and DESIST from engaging in the mortgage loan industry in Arkansas.

ORDER

IT IS HEREBY ORDERED that Respondent shall immediately CEASE and DESIST from transacting the business of a mortgage loan company or loan broker, or otherwise engaging in mortgage loan or loan brokering activities in Arkansas.

Securities Department staff is hereby authorized to monitor Respondent's compliance with this Order, and promptly report any violations. Securities Department legal counsel is authorized to conduct sworn examinations of any persons who may have information relevant to this inquiry. Respondent is admonished that any violations of this Order will result in the initiation of legal proceedings before the Circuit Court of Pulaski County by Securities Department legal counsel.

Respondent may request a hearing before the Commissioner. Any request for a hearing must be made in writing within twenty (20) days of Respondent's receipt of the Cease and Desist Order. If no hearing is requested within twenty (20) days, this Order shall become final.

IT IS SO ORDERED:



Michael B. Johnson
Arkansas Securities Commissioner

November 7, 2003
Date