

**STATE OF ARKANSAS  
SECURITIES DEPARTMENT**

**IN THE MATTER OF JUDY J. DUGGAN,  
AN UNLICENSED MORTGAGE LOAN  
BROKER**

**RESPONDENT**

**CASE NO. C-06-032  
ORDER NO. C-06-032-CD01**

**ORDER TO CEASE AND DESIST**

The staff of the Arkansas Securities Department has presented evidence to the Arkansas Securities Commissioner (“Commissioner”) sufficient to conclude that Judy J. Duggan, (“Respondent”) has recently engaged in unlicensed mortgage loan brokering activities in Arkansas in violation of the Arkansas Fair Mortgage Lending Act, and in violation of an order entered by the Commissioner in February 2006. The facts and the law forming the basis of this order are more particularly set forth below.

**FINDINGS OF FACT**

1. The Respondent is and has been at all pertinent times a resident of Percy, Garland County, Arkansas.
2. The Respondent was issued a mortgage loan broker license by the Arkansas Securities Commissioner in 1995. Respondent was at that time doing business as “DFS Mortgage and Funding” located in Hot Springs Village, Arkansas.

3. In February 2006, the Commissioner entered a consent order wherein the Respondent agreed to surrender her mortgage loan broker license and loan officer license. Respondent further agreed to cease and desist from all mortgage loan brokering activities in Arkansas.

4. On October 25, 2006, the Respondent was the subject of a hearing before the Commissioner. Securities Department staff presented evidence at the hearing that Respondent had engaged in unlicensed mortgage loan brokering activities in Arkansas in violation of the February 2006 order. Securities Department staff also presented evidence that the Respondent had engaged in a scheme to conceal her ownership interest in a mortgage loan company doing business as "Able Mortgage and Funding", and that in an effort to obtain a license for the company, Respondent submitted false statements and falsified documents to the Securities Department in furtherance of the scheme. Near the conclusion of the hearing, attorneys for Respondent and for the Securities Department announced that an agreement had been reached wherein there would be a stipulation of agreed facts presented and the entry of an order containing said facts. As part of the agreement announced, an application for a license for "Able Mortgage and Funding" was to be denied by the Commissioner. It was agreed that the order would contain language barring Respondent from engaging in any mortgage loan brokering activities in Arkansas for an indefinite period of time.

5. Subsequent to the October 25, 2006 hearing and prior to the entry of a formal order, Securities Department staff has received information and confirmed that Respondent was continuing to engage in unlicensed mortgage loan brokering activities subsequent to the October 25, 2006 hearing. Respondent's mortgage loan brokering activities have included but are not limited to the taking of mortgage loan applications from unknowing consumers, and the solicitation and receipt of advance mortgage loan brokering fees.

6. Changes in the law in recent years have made it difficult for an unlicensed mortgage loan broker to effectuate financing for a loan, or to "close the loan". As part of her most recent scheme, Respondent solicited the assistance of one licensed mortgage loan broker in closing eleven (11) mortgage loan files for which she had taken applications. Among the 11 loan files in Respondent's portfolio is an application for a mortgage loan taken by Respondent on November 15, 2006. This particular application was taken from a man residing in Hot Springs Village, age 65, for a mortgage loan in the amount of \$438,000. Respondent continued brokering the loan through December until delivery of the file with 10 others to a licensed broker for completion. The evidence will demonstrate that Respondent proposed to the licensed broker that certain fees at closing be made payable to Respondent for "interior decorating services". Respondent presented an invoice with letterhead that reads as follows:

***ABLE GROUP OF BUSINESSES  
COLORS BY DESIGN  
ABLE PRO-BUILDERS  
239 ELMBROOK TERRACE  
PEARCY, ARKANSAS 71964  
501-767-9800 FAX 501-787-9802***

The invoice dated December 18, 2006 was for a total of \$5700.00. The invoice reflected a \$700.00 consultation fee for "Interior Design and Remodel", and an additional charge of \$5000.00 at an hourly fee of \$165.00 for 30.3 hours of services performed. The invoice also reflects that a \$1700.00 deposit was made, for a balance due of \$4000.00. However, the fees charged were actually for mortgage loan brokering services performed by the Respondent.

**CONCLUSIONS OF LAW**

7. It is unlawful for any person located in Arkansas other than an exempt person to act or attempt to act, directly or indirectly, or to hold himself or herself out as a mortgage broker, mortgage banker, loan officer, or mortgage servicer without first having obtained a license from the Arkansas Securities Commissioner. **Ark. Code Ann. 23-39-503 (a)(1) and 23-39-503 (f).**

8. Upon a finding that any action of a person is in violation of the Arkansas Fair Mortgage Lending Act, the Commissioner may summarily order the person to cease and desist from the prohibited action. **Ark. Code Ann. Section 23-39-514 (d)(1).**

9. A person shall be subject to a civil penalty of up to twenty-five thousand dollars

(\$25,000) for each violation of the commissioner's cease and desist order committed after entry if the person continues to engage in the prohibited activity.

**Ark. Code Ann. 23-39-514 (d)(3)(A).**

10. Respondent may contest this cease and desist order by requesting a hearing before the commissioner. A request for a hearing must be made within thirty (30) days of the date that Respondent receives the order. If the Respondent does not request a hearing and the commissioner does not order a hearing, the order shall remain in effect until it is modified or vacated by the commissioner. **Ark. Code Ann. Section 23-39-514 (d)(2).**

### **ORDER**

The Commissioner finds that Respondent has continued to engage in unlicensed mortgage loan brokering activities since entry of a February 2006 consent order wherein Respondent surrendered her mortgage loan broker and loan officer licenses, and agreed to cease and desist from all mortgage loan brokering activities in Arkansas. The unlicensed mortgage loan brokering activities are a violation of the Arkansas Fair Mortgage Lending Act and the February 2006 consent order.

In addition to unlicensed mortgage loan brokering activities, the Commissioner finds that since February 2006, Respondent has engaged in a course of conduct designed to conceal her loan brokering activities, including but not limited to

submitting false statements and falsified documents to the Securities Department in furtherance of her scheme, and soliciting the assistance of other licensed brokers to effectuate financing and to close mortgage loans for which Respondent has taken applications from consumers.

The Commissioner finds that Respondent has continued to engage in unlicensed mortgage loan brokering activities in violation an agreement announced on the record at a hearing held on October 25, 2006.

The Commissioner finds that summary entry of this order is in the public interest as Respondent has accepted advance mortgage loan origination fees from consumers who are unaware that Respondent is barred from brokering mortgage loans in Arkansas and unaware that Respondent is unable to effectuate funding for a mortgage loan.

IT IS HEREBY ORDERED that Respondent shall immediately CEASE and DESIST from all mortgage loan brokering activities in Arkansas.

The Respondent is admonished that any further violations of this order or of the February 2006 order will result in the initiation of legal proceedings before the Pulaski County Circuit Court for imposition of injunctive relief and civil penalties of up to twenty-five thousand (\$25,000) per violation.

The Respondent may contest this order by making a written request for a hearing before the Commissioner within thirty (30) days of her receipt of this order.

The Commissioner reserves the right to schedule additional hearings and take testimony on the issues referenced in this order, the issues addressed in the February 2006 consent order, and the evidence taken at the October 25, 2006.

IT IS SO ORDERED this 27<sup>th</sup> day of December, 2006.

  
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Michael B. Johnson  
Arkansas Securities Commissioner