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BEFORE THE ARKANSAS SECURITIES COMMISSION JUL 22 AM 9:59

CASE NO. C-09-076

ORDER NO. C-09-076-10-CO01

ARKANSAS SECURITIES DEPT.

**IN THE MATTER OF:**

**W.R. STARKEY MORTGAGE, LLP, NMLS&R NO. 2146**

**JASON JAMES CREE, NMLS&R NO. 209270, AND**

**ROBERT EDWIN STAVELY, NMLS&R NO. 209293**

**RESPONDENTS**

**CONSENT ORDER**

This Consent Order is entered pursuant to the Arkansas Fair Mortgage Lending Act ("FMLA"), Ark. Code Ann. §§ 23-39-501 through 23-39-518, the Rules of the Arkansas Fair Mortgage Lending Act ("Rules") and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-101 through 25-15-219, in accordance with an agreement by and between the Staff of the Arkansas Securities Department ("Staff") and the Respondents, W.R. Starkey Mortgage, LLP ("W.R. Starkey"), Jason James Cree ("Cree"), and Robert Edwin Stavely ("Stavely"), in full and final settlement of all claims that could be brought against W.R. Starkey, Cree, and Stavely by the Staff on the basis of the facts set forth herein.

W.R. Starkey, Cree, and Stavely admit the jurisdiction of the FMLA and the Arkansas Securities Commissioner ("Commissioner"), waive its and their right to a formal hearing and appeal, without admitting or denying the findings of facts made herein, consent to the entry of this order, and agree to abide by its terms.

**FINDINGS OF FACT**

1. W.R. Starkey is a mortgage banker and broker located in Plano, Texas, Nationwide Mortgage Licensing System Registry ("NMLS&R") number 2146. W.R. Starkey is currently

licensed as a mortgage banker and mortgage broker by the Arkansas Securities Department (“Department”), and has been licensed continually since April 17, 2001. W.R. Starkey’s license as a mortgage banker and mortgage broker is scheduled to expire on December 31, 2010.

2. During all relevant times for the matters involved in this order, Cree and Stavely were employed respectively as a loan officers for and managers of W.R. Starkey’s Texarkana and Nashville, Arkansas, branch offices. Cree and Stavely were first licensed by the Department as mortgage loan officers with W.R. Starkey on or about June 28, 2004 and August 13, 2007, respectively, and were continuously licensed through December 31, 2008. During the time period covered by this order, Cree and Stavely were not licensed by the Department under the FMLA in any capacity. Cree and Stavely are currently employed by and licensed as a loan officer with W.R. Starkey. Cree’s and Stavely’s Arkansas mortgage loan officer’s licenses, NMLS&R number 209270 and 209293, will expire on December 31, 2010.

3. The Staff has determined that in August 2008, during the time when Brad Underwood (Underwood) was employed as a loan officer for W.R. Starkey, Underwood was involved in accepting a mortgage loan application from one Arkansas resident without being properly licensed under the FMLA. Further, the Staff has determined that in October 2008, during the time when Glenn Colley (Colley) was employed as a loan officer for W.R. Starkey, Colley was involved in accepting a mortgage loan application from one Arkansas resident without being properly licensed under the FMLA. The unlicensed mortgage loan officer activity of Easter and Colley constitute two separate violations of Ark. Code Ann. § 23-39-503(c) by W.R. Starkey in 2008.

4. The Staff has determined that between January 1, 2009, and November 24, 2009, while Cree was employed as a loan officer for W.R. Starkey, Cree was involved in accepting

mortgage loan applications from 102 Arkansas residents without being properly licensed under the FMLA. The unlicensed mortgage loan officer activity of Cree constitutes 102 separate violations of Ark. Code Ann. § 23-39-503(a) by Cree.

5. The Staff has determined that between January 1, 2009, and November 9, 2009, while Stavely was employed as a loan officer for W.R. Starkey, Stavely was involved in accepting mortgage loan applications from 27 Arkansas residents without being properly licensed under the FMLA. The unlicensed mortgage loan officer activity of Stavely constitutes 27 separate violations of Ark. Code Ann. § 23-39-503(a) by Stavely.

6. The unlicensed mortgage loan officer activity of Cree and Stavely as detailed above constitutes 129 separate violations of Ark. Code Ann. § 23-39-503(c) by W.R. Starkey in 2009.

7. W.R. Starkey operates two branch offices conducting mortgage loan activities in Arkansas; one in Nashville, Arkansas, and one in Texarkana, Arkansas. The branches were first licensed in Arkansas on or about February 15, 2007 and June 24, 2003, respectively, and were continuously licensed through December 31, 2008. Neither of these branch offices were licensed under the FMLA from January 1, 2009 through November 9, 2009 and November 24, 2009, respectively in violation of Ark. Code Ann. § 23-39-505(i). These two unlicensed branch offices constitute two separate violations of Ark. Code Ann. § 23-39-505(i) by W.R. Starkey.

8. The Arkansas licenses of Cree, Stavely and the Nashville and Texarkana branch offices of W.R. Starkey expired on December 31, 2008, due to a failure to properly transition these licenses onto the NMLS&R.

9. W.R. Starkey fully cooperated with the Staff during the Staff's investigation of this matter. In addition, W.R. Starkey has shown the Staff that it has instituted significant internal

controls and supervisory changes in order to ensure that the above detailed violations will not occur in the future.

### LEGAL AUTHORITY AND CONCLUSIONS OF LAW

10. Pursuant to Ark. Code Ann. § 23-39-503(a) it is unlawful for any person located in Arkansas other than an exempt person to act or attempt to act, directly or indirectly, as a loan officer without first obtaining a license from the Securities Commissioner under this subchapter. The acts of Cree as detailed in ¶ 4 constitute 102 violations of Code Ann. § 23-39-503(a) by Cree.

11. Pursuant to Ark. Code Ann. § 23-39-503(a) it is unlawful for any person located in Arkansas other than an exempt person to act or attempt to act, directly or indirectly, as a loan officer without first obtaining a license from the Securities Commissioner under this subchapter. The acts of Stavely as detailed in ¶ 5 constitute 27 violations of Code Ann. § 23-39-503(a) by Stavely.

12. Pursuant to Ark. Code Ann. § 23-39-503(c) it is unlawful for any person other than an exempt person to employ, to compensate, or to appoint as its agent any person to act as a loan officer unless the loan officer is licensed as a loan officer under this subchapter. The acts of W.R. Starkey and the unlicensed loan officers employed by W.R. Starkey as detailed in ¶¶ 3-5 constitute 131 violations of Ark. Code Ann. § 23-39-503(c) by W.R. Starkey.

13. Pursuant to Ark. Code Ann. § 23-39-505(i) each branch office of a mortgage broker or banker licensed under this subchapter shall obtain a separate license. The failure of W.R. Starkey to obtain a license from the Department for either of the two branch offices of W.R.

Starkey conducting mortgage loan activity in Arkansas as detailed in ¶ 7 constitutes two violations of Ark. Code Ann. § 23-39-505(i) by W.R. Starkey.

14. Pursuant to Ark. Code Ann. § 23-39-514(a)(1) the entry of this order is in the public interest.

15. The Commissioner by order may impose a civil penalty that shall not exceed \$10,000.00 for each violation by a mortgage broker, banker or loan officer upon a licensee or any partner, officer, director, member, manager, or other person occupying a similar status or performing a similar function on behalf of a licensee for any violation of the FMLA. Ark. Code Ann. § 23-39-514(b)(1) and (2). The acts and violations of the FMLA and Rules by W.R. Starkey, Cree, and Stavely as detailed in ¶¶ 3-7 warrant the entry of appropriate civil penalties against W.R. Starkey, Cree, and Stavely as authorized by Ark. Code Ann. § 23-39-514(b)(1) and (2).

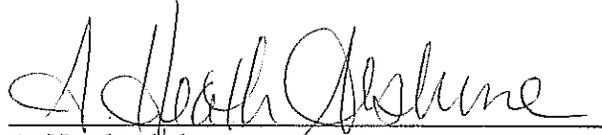
16. Pursuant to Ark. Code Ann. § 23-39-514(k) the FMLA permits the informal disposition of an allegation by a consent order. The acts and violations of the FMLA by W.R. Starkey, Cree, and Stavely as detailed in ¶¶ 3-7 warrant the entry of a consent order.

### **ORDER**

By agreement and with the consent of the Staff, the authorized representative of W.R. Starkey, Cree, and Stavely, it is hereby ordered that: One, W.R. Starkey shall be responsible for the payment of a civil penalty in the amount of \$20,000.00 to the Arkansas Securities Department. Two, Cree shall be responsible for the payment of a civil penalty in the amount of \$5,000.00 to the Arkansas Securities Department. Three, Stavely shall be responsible for the payment of a civil penalty in the amount of \$1,000.00 to the Arkansas Securities Department.

Four, the payment of said civil penalties by W.R. Starkey, Cree and Stavely shall be made to the Arkansas Securities Department within thirty (30) calendar days of the entry of this Consent Order.

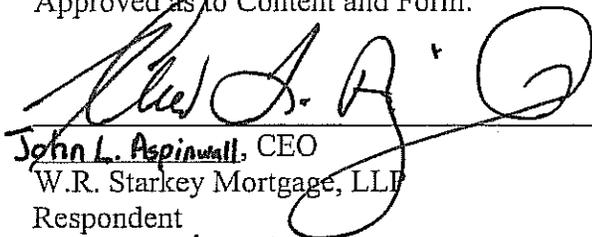
IT IS SO ORDERED.



A. Heath Abshure  
Arkansas Securities Commissioner

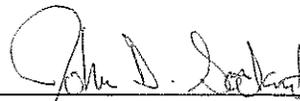
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Date

Approved as to Content and Form:



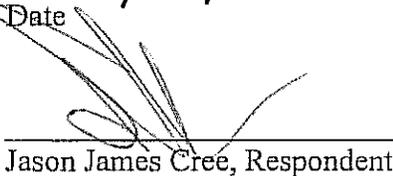
John L. Aspinwall, CEO  
W.R. Starkey Mortgage, LLC  
Respondent

07/13/2010  
Date



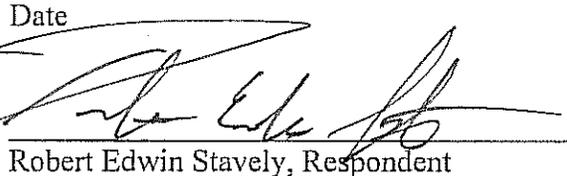
John D. Socknat, Attorney for the  
Respondents

7/20/10  
Date



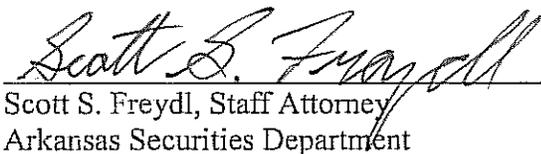
Jason James Cree, Respondent

7/13/10  
Date



Robert Edwin Stavely, Respondent

7/14/10  
Date



Scott S. Freydl, Staff Attorney  
Arkansas Securities Department

7/22/10  
Date