

**STATE OF ARKANSAS  
SECURITIES DEPARTMENT**

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IN THE MATTER OF  
  
FIRST HOME LOANS, INC.  
  
LICENSE NO. 1274-01-R

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ORDER REVOKING  
REGISTRATION

ORDER NO. 02-010-M

**ORDER REVOKING REGISTRATION**

On November 16, 2001, the Arkansas Securities Commissioner ("Commissioner") authorized an investigation into the activities of First Home Loans Little Rock, Arkansas, ("First Home Loans"), by the staff of the Arkansas Securities Department after having received information alleging possible violations of the Arkansas Mortgage Loan Company and Loan Broker Act, Ark. Code Ann. § 23-39-101 et seq. ("Mortgage Loan Act"). Pursuant to this investigation, the Arkansas Securities Department has obtained evidence that First Home Loans has violated the Mortgage Loan Act while transacting or offering to transact business as a mortgage loan company in Arkansas.

**FINDINGS OF FACT**

1. First Home Loans is an Arkansas corporation in good standing, whose registered agent is Archie D. Carter, 1400 South Bishop Street, Little Rock, Arkansas 72202.
2. On or about March 27, 2001, First Home Loans was issued a Certificate of Authority by the Arkansas Securities Department, said certificate bearing license Number 1274-01-R. The Certificate of Authority authorizes the corporation to conduct the business of a mortgage loan company and loan broker in Arkansas. Said certificate expired on March 31, 2002. A registration renewal application was received by the Securities Department on March 27, 2002.

3. First Home Loans has been licensed to conduct the business of a mortgage loan company in Arkansas at all pertinent times.
4. On or about November 16, 2001, representatives from Beach Abstract and Guaranty Company, of Little Rock, Arkansas ("Beach") contacted the Securities Department and advised that in reviewing various closed mortgage loan files originated by First Home Loans, that it had reason to believe that excessive fees were charged, second mortgages were executed by the borrower and released by the seller on or about the same day, and a pattern of disbursing funds to a firm doing business as Circle CM Enterprises was discovered, and that the reasons for the disbursements were unclear. James Carter was identified as the person most responsible for effectuating the transactions on behalf of First Home Loans
5. On or about November 19, 2001, the Arkansas Securities Commissioner issued a subpoena duces tecum to Beach for documents in its possession relating to mortgage loan transactions originated by First Home Loans.
6. On or about November 30, 2001, the Arkansas Securities Commissioner issued a second subpoena duces tecum to Beach requesting the production of closing files in its position relating to mortgage loan transactions involving James Carter or Kerrie Joiner.
7. From on or about November 27, 2001 through on or about December 4, 2001, the subpoenaed documents were reviewed at Beach by Arkansas Securities Department staff.
8. Securities Department staff limited its examination by reviewing 34 Beach closing files identified by Beach as containing apparent irregularities. Said files were all originated by First Home Loans. Securities Department staff reviewed files alleged to contain irregularities in the following three categories:

- (A) Those files containing disbursements made at or near the time of closing to Circle CM Enterprises.
- (B) Those files reflecting that a second mortgage had been executed by the borrower at or about the time of closing, and released by the seller immediately thereafter.
- (C) Those files reflecting that funds were released by the closing agent (Beach) prior to the funds being received by Beach from the lender.

9. Upon examination of the 34 closing files, as referenced by paragraph 8(A) above, the HUD-1 closing statements reflected that disbursements were made directly to Circle CM Enterprises prior to or at the time of closing on 17 of those files. Those 17 files were closed during the time period beginning in December, 1998 and ending on October 10, 2001. The HUD-1 closing statements reflected that during this period, the sum total of disbursements made to Circle CM Enterprises was \$196,138.04, more specifically described as follows:

<b>Borrower</b>	<b>Seller</b>	<b>ASD File Number</b>	<b>Disbursements made to Circle CM Enterprises Shown on HUD -1 Statement</b>
<b>Brannon</b>	<b>Osborne</b>	<b>6</b>	<b>\$ 13,045.38</b>
<b>Price</b>	<b>Leonard</b>	<b>7</b>	<b>\$ 4,285.00</b>
<b>Parham, R.</b>	<b>Parham, D.</b>	<b>12</b>	<b>\$ 1,500.00</b>
<b>Wayne</b>	<b>Gilbert</b>	<b>13</b>	<b>\$ 4,908.10</b>
<b>Craig</b>	<b>Carter</b>	<b>16</b>	<b>\$ 4,325.92</b>
<b>Warren</b>	<b>Oregon Trail</b>	<b>17</b>	<b>\$ 24,200.00</b>
<b>Otote</b>	<b>Simmons</b>	<b>18</b>	<b>\$ 3,900.00</b>
<b>Calhoun</b>	<b>Williams</b>	<b>19</b>	<b>\$ 3,000.00</b>
<b>Hood</b>	<b>Vaughn</b>	<b>20</b>	<b>\$ 23,943.90</b>
<b>Scott</b>	<b>Grady Church of Christ</b>	<b>21</b>	<b>\$ 9,700.00</b>
<b>Wilson</b>	<b>Golden</b>	<b>22</b>	<b>\$ 1,320.00</b>
<b>Dillard</b>	<b>Hudson</b>	<b>23</b>	<b>\$ 3,725.45</b>
<b>McDaniel</b>	<b>Smith</b>	<b>31</b>	<b>\$ 1,200.00</b>
<b>Shepard</b>	<b>Hobbs</b>	<b>32</b>	<b>\$ 6,100.00</b>
<b>Burns</b>	<b>Parker</b>	<b>33</b>	<b>\$ 48,150.00</b>
<b>McClure</b>	<b>Brown</b>	<b>35</b>	<b>\$ 12,600.00</b>
<b>Joiner</b>	<b>Nelson</b>	<b>36</b>	<b>\$ 29,605.00</b>
<b>Joiner</b>	<b>Nelson</b>	<b>36</b>	<b>\$ 629.29</b>
		<b>Total</b>	<b>\$196,138.04</b>

10. The Securities Department staff reviewed copies of actual checks contained in the 17 loan files identified as having disbursements to Circle CM Enterprises at or near the time of closing, as referenced in Paragraph 8(A.) above. The actual amount of the checks made payable to Circle CM Enterprises were as follows:

<b>Date</b>	<b>Buyer</b>	<b>Seller</b>	<b>ASD File Number</b>	<b>Amount</b>
01-25-2002	Brannon	Osborne	6	\$ 13,045.38
10-10-2001	Price	Leonard	7	\$ 4,285.00
09-19-2001	Parham, R.	Parham, D.	12	\$ 1,500.00
02-01-2001	Wayne	Gilbert	13	\$ 4,908.10
10-23-2000	Craig	Carter	16	\$ 4,325.92
05-18-2001	Warren	Oregon Trail	17	\$ 25,700.00
11-14-2000	Otote	Simmons	18	\$ 3,900.00
12-08-2000	Calhoun	Williams	19	\$ 3,000.00
10-05-2000	Hood	Vaughn	20	\$ 23,943.90
10-18-2001	Scott	Grady Church of Christ	21	\$ 9,839.00
05-01-2001	Wilson	Golden	22	\$ 1,320.00
06-26-2001	Dillard	Hudson	23	\$ 3,725.45
11-14-2000	McDaniel	Smith	31	\$ 2,700.00
03-06-2001	Shepard	Hobbs	32	\$ 6,100.00
06-09-2000	Burns	Parker	33	\$ 48,150.00
07-13-2001	McClure	Brown	35	\$ 12,600.00
08-25-2000	Joiner	Nelson	36	\$ 29,605.00
08-31-2000	Joiner	Nelson	36	\$ 629.29
			<b>Total</b>	<b>\$199,287.04</b>

11. The Securities Department staff reviewed those closing files originated by First Home Loans at Beach reflecting that a second mortgage on the property had been executed by the borrower at or about the time of closing, and released by the seller immediately thereafter. This inquiry was conducted pursuant to paragraph 8(B) above. Of the 34 closing files reviewed, the second mortgages had been released on the same day as executed in 13 instances.

<b>Borrower</b>	<b>Seller</b>	<b>ASD File Number</b>	<b>Closing Date</b>	<b>Amount of Second Mortgage</b>	<b>Date Second Mortgage Released</b>
Spain	Herrera	3	12-10-1998	\$10,500.00	12-10-2002
Brannon	Osborne	6	01-23-2001	\$13,100.00	01-23-2001
Wayne	Gilbert	13	01-31-2001	\$ 6,420.00	01-31-2002
Craig	Carter	16	10-23-2000	\$ 3,400.00	10-23-2000
Warren	Oregon Trail	17	05-18-2001	\$50,800.00	05-18-2001
Calhoun\ Tievel	Williams	19	12-06-2000	\$ 2,800.00	12-06-2000
Hood	Vaughn	20	09-29-2000	\$16,000.00	09-29-2000
Young	Sanderlin	24	05-14-2001	\$10,000.00	05-14-2001
Day	Guess	25	08-31-1999	\$ 7,000.00	08-13-1999
Burkins	Gilbertson	28	06-14-2001	\$ 7,680.00	06-14-2001
Rogers	Harris	29	11-09-2000	\$ 7,800.00	11-09-2000
Burns	Parker	33	06-07-2000	\$32,850.00	06-07-2000
McClure	Brown	35	07-13-2001	\$ 1,750.00	07-13-2001

Second mortgages had been released within eight months of their execution on four additional loan closing files, as follows:

<b>Borrower</b>	<b>Seller</b>	<b>ASD File Number</b>	<b>Closing Date</b>	<b>Amount of Second Mortgage</b>	<b>Date Second Mortgage Released</b>
Morgan	Roberts	4	04-20-2001	\$12,000.00	12-10-2001
Wright	Luker	9	02-23-2000	\$19,500.00	06-17-2000
Henderson	Page	15	05-19-2000	\$ 9,300.00	06-17-2000
Moody	Eldridge	27	04-21-2000	\$ 6,720.00	09-28-2000

12. Securities Department staff reviewed certain closing files originated by First Home Loans at Beach reflecting that funds had been released by Beach before the funds had been received from the lender. This inquiry was made pursuant to Paragraph 8(C) above. Of the 34 closing files reviewed, three files reflected that funds have been released by Beach prior to receiving the funds from the lender. Those transactions were as follows:

<b>Borrower</b>	<b>Seller</b>	<b>ASD File Number</b>	<b>Amounts Disbursed</b>
<b>Brannon</b>	<b>Osborne</b>	<b>6</b>	<b>\$23,500.00</b>
<b>Price</b>	<b>Leonard</b>	<b>7</b>	<b>\$ 4,285.00</b>
			<b>\$47,485.98</b>
<b>McDaniel</b>	<b>Smith</b>	<b>31</b>	<b>\$ 2,850.00</b>
" "	" "	" "	<b>\$ 2,000.00</b>
" "	" "	" "	<b>\$32,650.00</b>
" "	" "	" "	<b>\$ 2,700.00</b>

13. Eight (8) closing files were selected for further review. Interviews were conducted of persons identified as borrowers in six (6) of those files. Three persons identified as sellers were interviewed.
14. Of these six files in which borrowers and/or sellers were interviewed, Securities Department staff has identified three closing file transactions which reflect a representative sample of the findings made examining the other closing files. The files submitted pursuant to this proceeding are as follows:

<b>ASD File Number</b>	<b>Borrower</b>	<b>Seller</b>
<b>6</b>	<b>Brannon</b>	<b>Osborne</b>
<b>7</b>	<b>Price</b>	<b>Leonard</b>
<b>21</b>	<b>Scott</b>	<b>Grady Church of Christ</b>

15. **Brannon – Osborne Transaction**

- A. On November 7, 2000, Gary D. and Melissa M. Brannon submitted a residential loan application to First Home Loans. The purpose of the loan application was to purchase a residence located at 610 North Grand Avenue in McRae, Arkansas. The property was to be purchased from Burnice E. Osborne and Hazel R. Osborne.
- B. Gary and Melissa Brannon contacted First Home Loans to obtain financing for the purchase. The Brannon's contact person with First Home Loans was James Carter.

- C. Bernice and Hazel Osborne offered the property for sale to the Brannons for \$50,000.00.
- D. At the direction of First Home Loans an appraisal of the property was prepared by William Cummings of Little Rock, Arkansas. The appraisal was prepared on November 22, 2000. The value of the property was placed at \$54,400.00.
- E. The loan application and appraisal were submitted by First Home Loans to Long Beach Mortgage Company in Dallas, Texas.
- F. The closing on the property occurred at 231 Copperas Spring Road in McRae, White County, Arkansas on or about January 23, 2001. Those present at closing were Burnice and Hazel Osborne, Gary and Melissa Brannon, and James Carter.
- G. Mr. Carter introduced himself to the Osborne's by presenting his business card, which reads James H. Carter, CEO First Home Loans. Mr. Carter advised that he was representing Beach, and presented the business card of Beach employee Kerrie Joiner, Escrow Officer.
- H. The HUD-1 Settlement Statement dated January 23, 2001, reflects that Kerrie Joiner was the settlement agent. The Settlement Statement reflects that the contract sales price for the property was \$54,000.00. The Settlement Statement reflects that the Brannon's executed a second note to the Osbornes for \$13,100.00, for a gross amount due at closing of \$54,230.97, with the borrowers tendering \$6,009.24 in cash at closing for a net amount due from the borrowers of \$48,221.73.

- I. The HUD-1 Settlement Statement reflects that the gross amount due to the sellers at closing was \$54,000.00, with settlement charges to the seller of \$3,988.00. The Settlement Statement subtracts miscellaneous other reductions, as well as the \$13,100.00 second note to the seller. The Settlement Statement further reflects a payment made to Circle CM Enterprises in the amount of \$13,045.38. The settlement statement reflects that the sum total of the reduction from the \$54,000.00 contract sales price is \$30,500.00, with a net cash amount due to the seller of \$23,500.00.
- J. The Settlement Statement was signed by Gary D. Brannon, Melissa M. Brannon, Burnice Osborne, and Hazel R. Osborne in the presence of James Carter of First Home Loans. Kerrie Joiner of Beach was not present.
- K. The actual contract sales price was \$50,000.00. Gary and Melissa Brannon did not tender \$6,009.24 at closing, as reflected in the Settlement Statement. The Brannons did execute a second mortgage to the Osbornes in the amount of \$13,100.00. Another second mortgage dated January 23, 2001, was executed by the Brannons to the Osbornes in the amount of \$26,500.00 on January 24, 2001. The \$13,100.00 second mortgage was released by the Osbornes on January 23, 2001. The release was recorded on February 26, 2001.
- L. Prior to closing, James Carter advised Gary and Melissa Brannon that at the expiration of one year, First Home Loans could refinance their mortgage. This statement was made again at closing in the presence of the Osbornes.
- M. The financing arrangement anticipated that at the expiration of one year, the Brannons could refinance the loan to include the amount of the second mortgage in the amount of \$26,500.00 and the Osbornes would be paid in full at that time.



- N. There were no debts owed to Circle CM Enterprises by the Brannons or the Osbornes at the time of closing.
- O. Circle CM Enterprises performed no services to the Brannons or the Osbornes.
- P. Circle CM Enterprises is an Arkansas limited liability company whose registered agent is James H. Carter, 14624 Sara Lynn Drive, Little Rock, Arkansas 72216.
- Q. The \$13,045.38 check to Circle CM Enterprises, check No. 10068, drawn on the escrow account of Beach, was deposited to a commercial checking account January 25, 2001, that account being in the names of James H. Carter and Archie D. Carter, Pinnacle Bank checking account. The Pinnacle Bank deposit slip reflects that from the Circle CM proceeds, the depositor received \$2,000.00 in cash, for a net deposit of \$11,045.38. On the same date, James Carter issued a check on the same account to "cash" in the amount of \$6,009.24, indicating that the check was for a cashiers check. On that same date, Pinnacle Bank issued a cashiers check No. 5870 in the amount of \$6,009.24 made payable to Beach. The cashiers check reflects Gary and Melissa Brannon as remitters.
- R. On or about January 4, 2001, an agent(s) or employee(s) of First Home Loans transmitted or caused to be transmitted a letter to Long Beach Mortgage. The letter, dated January 4, 2001, contained a false statement of fact. The letter was prepared by a person representing herself to be Mary Green of 610 North Street, Stephens, Arkansas. Ms. Green represents that she has given her brother, Gary D. Brannon (the Borrower) a gift in the amount of \$9,000.00 to be used toward the purchase of a home. However, Gary and Melissa Brannon did not obtain a gift or money payment in any form from any person to be used toward the purchase of the property. Gary Brannon does not have a sister named Mary

Green, does not know a Mary Green, and was unaware of the January 4, 2001 letter prior to this investigation.

- S. On or about November 9, 2000, prior to closing, First Home Loans submitted a false Rent Verification Form to Long Beach Mortgage Company. The form represented that Ms. Schree Hill was the landlord and property manager of the home that the Brannon's had been renting. The false representation had been altered by some unknown person or persons at First Home Loans. Ms. Hill is an acquaintance of James Carter and referred the Brannons to First Home Loans. The Brannon's have never rented property from Ms. Hill.

16. **Price – Leonard Transaction**

- A. On or about October 9, 2001, Ms. Vivian M. Price submitted a loan application to First Home Loans for the purpose of obtaining financing on a residence located at 2307 Cumberland Street, Little Rock, Pulaski County, Arkansas. Ms. Price proposed purchasing the property from A.D. and Nellie Leonard. The contact person at First Home Loans for Ms. Price was James M. Carter.
- B. Mr. and Mrs. Leonard wanted to net \$50,000.00 on the sale of the property, after payment of their closing costs and a payoff to the City of Little Rock in the amount of \$4,800.00 for a heating and air conditioning system.
- C. Ms. Price had very little money to use in obtaining the property. James Carter represented to Ms. Price that he could use his company, Circle CM Enterprises, to assist her in paying her closing costs.
- D. At the direction of First Home Loans an appraisal was prepared on the subject property by William Cummins of Little Rock, Arkansas. The appraiser valued the property at \$74,000.00.

- E. The Settlement Statement was signed by Vivian Price (Buyer), and A.D. Leonard and Nellie Leonard (Seller), on or about October 10, 2001. The Settlement Statement reflected a contract sales price of \$74,000.00. The loan amount to Ms. Price was \$59,200.00, with an \$11,000.00 second mortgage to the Sellers. The Settlement Statement reflected that Ms. Price had brought \$3,919.11 to the closing as a down payment.
- F. The Settlement Statement reflected that a gross amount of \$74,000.00 was due to the Seller, with the Seller paying \$4,464.43 in closing cost. In addition, there was a payoff to the City of Little Rock for a heating and air conditioning system, a payment to Shirley Tucker in the amount of \$1,200.00, and a payment to Circle CM Enterprises in the amount of \$4,285.00. An invoice from Circle CM Enterprises is contained within the Beach loan closing file. The invoice reflects a charge of \$4,000.00 for "services rendered". As stated in paragraph 16(P) above, Circle CM Enterprises' registered agent is James Carter.
- G. Circle CM Enterprises performed no services on the subject property for Ms. Price or for A.D. and Nellie Leonard. Neither the Borrower or the Seller were indebted to Circle CM Enterprises.
- H. The Settlement Statement reflects that the net cash amount due to the Seller at closing was \$47,485.98.
- I. The mortgage file of Long Beach Mortgage contains a letter dated September 26, 2001, from Natividad Gonzalez. Ms. Gonzalez identifies herself as the mother of Vivian Price. Ms. Gonzales represents that she has made a cash gift to Vivian Price to apply toward the purchase of the subject property.

- J. Natividad Gonzalez did not make a cash gift to Vivian Price for the purpose of purchasing the subject property. Said letter contained a false statement of fact. Knowing this statement to be false, First Home Loans forwarded the letter to Long Beach Mortgage for the purpose of qualifying Ms. Price for financing on the purchase of the residence.
- K. Check No. 006102 on the escrow account of Beach in the amount of \$4,285.00 was issued to Circle CM Enterprises on October 10, 2001. The \$4,285.00 check to Circle CM Enterprises was deposited to a commercial checking account on October 10, 2001, that account being in the names of James H. Carter and Archie D. Carter, Pinnacle Bank checking account. On the same date, James Carter withdrew the sum of \$3,919.01 for the purchase of Pinnacle Bank cashier's check No. 7066 in the amount of \$3,919.01 made payable to Beach. The cashier's check reflects that Vivian Price is the remitter.
- L. The net amount of cash paid to Sellers at closing was \$47,485.98. Although the Borrower executed a second mortgage to the Sellers as reflected in the Settlement Statement, the mortgage was released by the Sellers on October 10, 2001. The release deed was notarized by Beach employee Kerrie Joiner.

17. **Scott – Grady Church of Christ Transaction**

- A. The Borrower in this transaction is Robert Scott. Robert Scott is the brother of Parthina Scruggs. Parthina Scruggs had contracted to purchase a residence from the Grady Church of Christ, located at 3 North Wood, Grady, Lincoln County, Arkansas. The agreed purchase price was \$36,500.00.

- B. Ms. Scruggs contacted First Home Loans to obtain financing for the loan. Prior to closing, most of Ms. Scruggs' contacts were with First Home Loans employee Michelle Williams. At some point prior to closing, Ms. Scruggs was advised that she would need a co-signer to qualify for financing.
- C. On or about August 29, 2001, at the direction of First Home Loans, an appraisal of the subject property was prepared by Stephen A. Ganaway, 730 Carter Street, Fordyce, Arkansas. The appraisal valued the subject property at \$47,000.00.
- D. On or about October 10, 2001, Ms. Scruggs's brother, Robert Scott, submitted a loan application to First Home Loans reflecting a purchase price for the subject property in the amount of \$45,000.00 and requesting a loan in the same amount.
- E. The loan application was submitted to First Consolidated Mortgage Company of Dallas, Texas by First Home Loans.
- F. On or about October 17, 2001, the closing took place at the Jefferson County Courthouse at Pine Bluff, Arkansas. Those present at closing were Parthina Scruggs, Robert Scott, Shirley Scott, Larry Dutton on behalf of Grady Church of Christ, James Carter and Michelle Williams on behalf of First Home Loan, , and an unknown female.
- G. At closing, James Carter advised the parties that Robert Scott would be the sole purchaser and mortgagor of the subject property. James Carter advised that Ms. Scruggs would not need to sign any of the documents. Mr. Carter advised that in approximately six months, Ms. Scruggs could refinance the loan in her name, after an opportunity to pay some debt that was obstructing her approval for financing.

- H. Ms. Scruggs, Robert Scott, and Shirley Scott had been led to believe that Mr. Scott would only be a co-signer, until Mr. Carter made the disclosure referenced in paragraph G above at closing.
- I. The HUD-1 Settlement Statement reflects a contract sales price of \$45,000.00, with settlement charges due to the borrowers at closing in the amount of \$5,832.75, with a gross amount due in the amount of \$50,832.75.
- J. The Settlement Statement submitted to the lender reflects that the Seller paid \$1,298.25 in closing costs, and \$9,700.00 to Circle CM Enterprises. An invoice from Circle CM Enterprises, Inc. is contained within the Beach loan closing file. The invoice reflects a charge of \$9,700.00 for "services rendered". The settlement statement reflects a net amount of cash due to the Seller in the amount of \$34,001.75.
- K. At closing, Larry Dutton on behalf of Grady Church of Christ, objected, stating that the Church had understood that it would receive net proceeds from the sale in the amount of \$35,000.00. Ms. Scruggs then issued Simmons First National Bank Check No. 4011 in her name to Larry Dutton in the amount of \$998.25 to pay the difference.
- L. The Settlement Statement submitted to the lender did not reflect the change referenced in paragraph 18(H) above.
- M. On October 18, 2001, check No. 13485 drawn on the Beach escrow account was issued to Circle CM Enterprises, Inc. in the amount of \$9,839.00. The check was deposited to a commercial checking account in the names of James H. Carter and Archie D. Carter, Pinnacle Bank checking account. The deposit slip reflects that a simultaneous deposit was made in the amount of \$4,500.00, the source of which is discussed below. The deposit slip reflects that the depositor received

cash back from the deposit in the amount of \$839.08, for a net deposit of \$13,500.00. On the same date, from the proceeds of the \$13,500.00 deposited to the account of James Carter and Archie D. Carter, a cashiers check was purchased, that being Pinnacle Bank Cashiers Check Number 7096 in the amount of \$5,832.75 made payable to Beach. The cashiers check reflects that the remitter is Robert Scott, the borrower.

- N. The October 18, 2001 deposit included the check in the amount of \$4,500.00 referenced in paragraph 18(M) above. On or about October 16, 2001, Michelle Williams of First Home Loans delivered \$4,500.00 in funds to Robert Scott at Grady, Arkansas. The funds were deposited into the checking account of Robert Scott, that being Simmons First National Bank Account. Michelle Williams accompanied Mr. Scott to the bank to make the deposit. The deposit was made at 10:31 a.m. On that same date at 3:00 p.m., Michelle Williams transmitted or caused to be transmitted a Verification of Deposit to First Consolidated Mortgage Company reflecting a balance of \$6,405.95 in the account of Robert Scott. On October 18, 2001, a cashiers check was purchased made payable to James H. Carter in the amount of \$4,500.00, reflecting the remitter as being Robert L. Scott (Simmons First National Bank Cashiers Check Number 168149). The purpose of the cashiers check was repayment of the \$4,500.00 deposit made to the account of Robert Scott on October 16, 2001. The deposit was made for the purpose of misleading First Consolidated Mortgage Company as to Mr. Scott's account balance in order to qualify him for the financing.

- O. Subsequent to closing, Larry Dutton, a representative of Grady Church of Christ, expressed his concern to First Home Loans that the Settlement Statement reflected a contract sales price of \$45,000.00, yet the Church received only \$35,000.00 at closing. In response, Michelle Williams of First Home Loans prepared a letter stating that the contract had to be written "up for the appraised value in order to pay Mrs. Parthina's closing costs".

### **CONCLUSIONS OF LAW**

18. The Securities Commissioner is charged with the duty of enforcing the Arkansas Mortgage Loan Company and Loan Broker Act pursuant to Ark. Code Ann. § 23-39-201.
19. The Securities Commissioner may reject, suspend, or revoke any registration when the applicant or registrant does not conduct his business in accordance with law; or has violated any provision of this chapter; or, has been guilty of fraud in connection with any transaction governed by the Arkansas Mortgage Loan Company and Loan Broker Act; or, has made any misrepresentation or false statement to, or concealed any essential or material fact from, any person in the course of the mortgage loan company business. Ark. Code Ann. § 23-39-309(a)(3), (6) and (7).
20. It is unlawful for any mortgage loan company, in connection with the operation, management, or servicing of mortgage contacts, directly or indirectly, to employ and device, scheme, or artifice to defraud; or to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. Ark. Code Ann. §23-39-105(1) and (2).



## OPINION

21. First Home Loans is a mortgage loan company or loan broker business in the State of Arkansas. The Securities Commissioner shall exercise general supervision and control over mortgage loan companies and loan brokers doing business in this State, pursuant to Ark. Code Ann. § 23-39-201, and may conduct examinations and investigations of mortgage loan companies as necessary and proper for the efficient administration of the mortgage loan company laws of this state.
22. The Securities Commissioner has the authority to revoke the registration of any mortgage loan company or loan broker whenever the mortgage loan company or loan broker applicant or registrant is determined to meet any of the criteria set forth in Ark. Code Ann. §23-39-307(a) or (b).
23. Upon a careful review of the facts determined from this investigation and the supporting documents produced, the Securities Commissioner concludes that First Home Loans by and through its Chief Executive Officer, James M. Carter, and others at his direction, has engaged in a pattern of fraudulent behavior in relation to its mortgage loan activities. The fraudulent activity is designed to qualify prospective borrowers for mortgage loan financing, who otherwise would be unable to meet the lender's requirements. The scheme consists of obtaining an appraisal on the property sufficiently above the agreed price to qualify the prospective borrower for a loan in an inflated amount sufficient to pay the borrower's closing costs. The scheme consists of submitting a Settlement Statement to the lender reflecting a false contract sales price. The scheme further consists of a pattern of diverting funds from the surplus funds to Circle CM Enterprises, Inc., a company controlled by First Home Loans', Chief Executive Officer, James M. Carter, and representing that those funds are for "services rendered".

24. First Home Loans, by and through its Chief Executive Officer, James M. Carter, and others at his direction, have engaged in a pattern of creating, executing, and transmitting fraudulent gift letters to lenders in order to obtain financing for prospective borrowers who otherwise might not qualify for financing.
25. First Home Loans, by and through its Chief Executive Officer, James M. Carter, and others at his direction, including Kerrie Joiner, a former employee of Beach, obtained funds on occasion from the Beach escrow account prior to funding as a device to misrepresent the source of funds for the borrower's closing costs, and as a means divert money to the bank account of James M. Carter and/or Archie D. Carter, President of First Home Loans.
26. First Home Loans has knowingly caused or directed others to cause second mortgages to be executed on certain properties, with the second mortgages being released at the time of closing, or shortly thereafter. On these transactions, First Home Loans has submitted HUD-1 Statements to the lenders reflecting those second mortgages, but failing to disclose the releases or anticipated releases. The above described practice has been employed by First Home Loans for the purpose of deceiving others, and to further the objectives of the scheme.
27. First Home Loans by and through its Chief Executive Officer, James M. Carter, and others at his direction, have engaged in a pattern of submitting HUD-1 Statements to lenders and other persons containing misrepresentations and false statements and concealing essential and material facts relating to the true nature of the mortgage loan transactions.

28. The Securities Commissioner concludes that First Home Loans, by and through its Chief Executive Officer, James M. Carter, and others at his direction, has engaged itself in a fraudulent scheme which operates to deceive other persons, in violation of Ark. Code Ann. § 23-39-105(1) and (2).
29. First Home Loans has failed to conduct its business in accordance with law, and is therefore subject to revocation of its registration, pursuant to Ark. Code Ann. § 23-39-307(a)(3).
30. First Home Loans has been guilty of fraud in connection with transactions governed by the Arkansas Mortgage Loan Company and Loan Broker Act, and is therefore subject to revocation of its registration pursuant Ark. Code Ann. § 23-39-307(a)(6).
31. First Home Loans has engaged in a pattern of making misrepresentations and false statements of fact to, and concealing essential and material facts from, others in the course of the mortgage loan company business, and is therefore subject to revocation of its registration pursuant to Ark. Code Ann. § 23-39-307(a)(7).

### **ORDER**


In accordance with Ark. Code Ann. §23-39-105(1) and (2), and § 23-39-307(a)(3)(6) and (7) the registration of First Home Loans, License Number 1274-01-R to conduct mortgage loan activities in the State of Arkansas is hereby revoked, and the registration renewal application is denied. It is hereby ordered that the Company shall refrain from all mortgage loan and loan brokering activities.

First Home Loans may request a hearing on this matter before the Securities Commissioner, but, if no application for a hearing is made within twenty (20) days of the date of this order, then the order shall become final. Ark. Code Ann. § 23-39-308.

By virtue of the discretion granted the Securities Commissioner pursuant to Ark. Code Ann. § 23-39-202(b)(1)(B), a copy of this Order shall be mailed to the Honorable H.E. Cummins, U.S. Attorney, Eastern District of Arkansas, and the Honorable Larry Jegley, Prosecuting Attorney, Sixth Judicial District of Arkansas.

IT IS SO ORDERED.

WITNESS MY HAND AND SEAL THIS 3rd DAY OF APRIL, 2002.



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