

**BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO C-11-0308
ORDER NO C-11-0308-OR02**

RECEIVED

11 AUG 30 AM 9:32

ARKANSAS SECURITIES DEPT.

**IN THE MATTER OF:
RINDA L. UNDERWOOD, NMLS&R NO. 136125,
BUDGET REPAIRED, INC. D/B/A I'M NOT LEAVING, AND
DAVID GEORGE**

RESPONDENTS

CEASE AND DESIST ORDER

On August 23, 2011, the Staff of the Arkansas Securities Department ("Staff") filed a Request for a Cease and Desist Order ("Request"), stating that it has information and certain evidence in its possession that indicates Rinda L. Underwood ("Underwood"), Budget Repaired, Inc. d/b/a I'm Not Leaving ("Budget Repaired"), and David George ("George") have violated provisions of the Arkansas Fair Mortgage Lending Act ("FMLA"), Ark. Code Ann. §§ 23-39-501 through 23-39-518. The Arkansas Securities Commissioner ("Commissioner") has reviewed the Request, and based upon representations made therein, finds that:

FINDINGS OF FACT

The Staff's Request asserts the following representations of fact:

1. Underwood is a resident of Bentonville, Arkansas. Underwood was licensed as a loan officer under the FMLA with American Mortgage of Rogers until January 1, 2011, NMLS&R no. 136125. Underwood was never licensed under the FMLA in any capacity with Budget Repaired.
2. Budget Repaired is a corporation organized and operating under the laws of the State of Texas with its main office in Houston, Texas. Budget Repaired has never been licensed under the FMLA in any capacity.

3. George is an agent, director, and control person of Budget Repaired. George has never been licensed under the FMLA in any capacity.

4. During January 2011, Arkansas resident one (“AR1”) received a solicitation in the mail from Underwood, an employee of Budget Repaired, offering to modify the terms of AR1’s mortgage loan. This solicitation is attached to the Request as Exhibit 1. After receiving this solicitation, AR1 contacted Underwood by telephone. During AR1’s telephone conversation with Underwood, AR1 and Underwood discussed a modification of the existing mortgage loan for AR1’s residential dwelling located in Mayflower, Arkansas. After the initial telephone conversation, Underwood sent a packet of documents to AR1. The documents included a fax cover sheet (attached to the Request as Exhibit 2); a letter from Underwood, residential property specialist with Budget Repaired (attached to the Request as Exhibit 3); a Budget Repaired form titled Mortgage Modification Support Third Party Authorization/Power of Attorney Agreement to Release (attached to the Request as Exhibit 4); a Credit Card Authorization Form (attached to the Request as Exhibit 5); a form titled Check Authorization Form (attached to the Request as Exhibit 6); and a form titled Residential Principal Reduction Servicing Agreement (attached to the Request as Exhibit 7). Underwood’s letter to AR1, attached to the Request Exhibit 2, was on I’m Not Leaving letterhead. In addition, the agreement, attached to the Request as Exhibit 7, lists I’m Not Leaving as one of the parties to the agreement. Further, the Credit Card Authorization Form and the Check Authorization Form both list Budget Repaired as the entity authorized to charge and receive payment of a fee from AR1’s credit card or checking account. Finally, the return address listed on all of the forms faxed to AR1 is Budget Repaired’s address.

5. The letter and forms listed in paragraph one clearly show that Underwood and Budget Repaired were offering to modify the terms of AR1’s existing mortgage loan in exchange for a

fee of \$2,500. AR1 ultimately decided not to use Underwood and/or Budget Repaired to modify the terms of AR1's mortgage loan, so AR1 did not complete or return these documents and forms to Underwood or Budget Repaired.

6. In 2010 Underwood and Budget Repaired solicited six other Arkansas residents (AR2 through AR7) offering mortgage loan modification services. Each of these six Arkansas residents received forms and paperwork from Underwood and Budget Repaired that were the same as the forms and paperwork listed in paragraph five. Letters sent by Underwood, as residential property specialist, to four of the six Arkansas residents are attached to the Request as Exhibits 8 through 11. In addition, at least four of the six Arkansas residents paid a fee to Underwood and Budget Repaired. The Staff has received no evidence any of the mortgage loans for these six Arkansas residents were successfully modified by Underwood and/or Budget Repaired.

7. On May 24, 2011, David George, sent a letter in response to a written request from the Staff for information concerning the mortgage loan modification activities in Arkansas of Budget Repaired. Mr. George's letter is attached to the Request as Exhibit 12. On July 13, 2011, the Staff issued a subpoena to David George on behalf of Budget Repaired. This subpoena was served on July 15, 2011. The subpoena requested specific information about the mortgage loan modification activities of Budget Repaired in Arkansas. Budget Repaired and George have failed and refused to respond to the subpoena issued by the Staff.

8. As a director and control person, George was responsible for directing and controlling the actions of Budget Repaired. Therefore, George is responsible for the actions of Budget Repaired concerning any violations of the FMLA.

CONCLUSIONS OF LAW

9. Ark. Code Ann. § 23-39-503(a) states that it is unlawful for any person located in Arkansas to act or attempt to act, directly or indirectly, as a loan officer without first obtaining a license from the Securities Commissioner under the FMLA. As detailed in paragraphs four through six, Underwood violated Ark. Code Ann. § 23-39-503(a) when she acted as a loan officer with AR1 through AR7 without first being licensed under the FMLA.

10. Ark. Code Ann. § 23-39-503(b) states that it is unlawful for any person to act or attempt to act, directly or indirectly, as a mortgage broker with any person located in Arkansas without first obtaining a license from the Commissioner under the FMLA. As detailed in paragraphs four through six, Budget Repaired and George violated Ark. Code Ann. § 23-39-503(b) when Budget Repaired acted as a mortgage broker with AR1 through AR7 without first being licensed under the FMLA.

11. Ark. Code Ann. § 23-39-503(c) states that it is unlawful for any person other than an exempt person to employ, to compensate, or appoint as its agent any person to act as a loan officer unless the loan officer is licensed as a loan officer under the FMLA. As detailed in paragraphs four through six, Budget Repaired and George violated Ark. Code Ann. § 23-39-503(c) when they employed or appointed Underwood and other employees to act as loan officers with AR1 through AR7 without first being licensed under the FMLA.

12. Ark. Code Ann. § 23-39-513(4) states that it is unlawful for any person other than an exempt person to pay, receive, or collect, in whole or in part, any commission, fee, or other compensation for brokering a mortgage loan in violation of this subchapter, including a mortgage loan brokered or solicited by any unlicensed person other than an exempt person. As detailed in paragraph six, Underwood, Budget Repaired, and George violated Ark. Code Ann. § 23-39-

513(4) when Underwood and Budget Repaired collected commissions or advance fees from at least four Arkansas residents for attempting to renegotiate or modify the terms of their mortgage loans without first being licensed as a loan officer or mortgage broker under the FMLA.

13. Ark. Code Ann. § 23-39-513(13) states that it is unlawful for any person in the course of mortgage loan activity to unreasonably fail to deliver or provide information or documents promptly to the Commissioner upon written request. As detailed in paragraph seven, Budget Repaired and George violated Ark. Code Ann. § 23-39-513(13), when they failed and refused to provide specific information about the mortgage loan modification activities in Arkansas of Budget Repaired in response to the subpoena issued by the Staff.

14. Ark. Code Ann. § 23-39-514(d) states that upon finding that any action of a person is in violation of the FMLA, the Commissioner may summarily order the person to cease and desist from the prohibited action. The conduct, acts, and practices of Underwood, Budget Repaired, George, and the employees of Budget Repaired threaten immediate and irreparable public harm. Based on the Findings of Fact and Conclusions of Law, this Cease and Order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-39-514(d).

ORDER


It is therefore ordered that Underwood, Budget Repaired, and George cease and desist from all mortgage loan activity in the State of Arkansas, until such time as she and/or it are properly licensed under the FMLA; from allowing employees of Budget Repaired from acting as mortgage loan officers in the State of Arkansas, until such time as they are properly licensed under the FMLA.

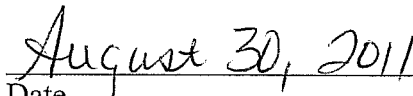
A hearing on this Cease and Desist Order shall be held, if requested by Underwood, Budget Repaired, or George in writing within thirty days of the date of the entry of this Cease

and Desist Order, or if otherwise ordered by the Commissioner. Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner
201 East Markham, Suite 300
Little Rock, Arkansas 72201

If no hearing is requested and none is ordered by the Commissioner, this Cease and Desist Order will remain in effect until it is modified or vacated by the Commissioner. Ark. Code Ann. § 23-39-514(d).


A. Heath Abshure
Arkansas Securities Commissioner


Date