

**STATE OF ARKANSAS
SECURITIES DEPARTMENT**

IN THE MATTER OF

LICENSE NO. 11928

**ESI MORTGAGE, LP
RESPONDENT**

ORDER NO. C-04-043-04-OR01

ORDER SUSPENDING LICENSE

On this date before the Arkansas Securities Commissioner (hereinafter referred to as the "Commissioner") is the matter of the above referenced firm (hereinafter referred to as "Respondent"), and the issue of its compliance with the Arkansas Fair Mortgage Lending Act (hereinafter referred to as the "FMLA"). Securities Department Staff (hereinafter referred to as the "Staff") allege that Respondent has failed to comply with the surety bonding requirements of the FMLA. Based upon the records on file with the Commissioner, and the representations of Securities Department staff, the Commissioner finds:

FINDINGS OF FACT

1. The FMLA was enacted by the Arkansas General Assembly, approved by the Governor of Arkansas on March 2003, and became effective on January 1, 2004. Among other things, the FMLA increased the minimum surety bonding requirements for mortgage loan companies operating in Arkansas from thirty-five thousand dollars (\$35,000) to fifty-thousand dollars (\$50,000) in the case of mortgage brokerage firms, and one-hundred thousand dollars (\$100,000) in the case of mortgage banking and mortgage servicing firms.

2. The files on record with the Commissioner reflect that Respondent's current surety bond is in the amount of thirty-five thousand dollars (\$35,000), and is therefore deficient.
3. Respondent has been provided by the Staff with adequate and sufficient notice of the surety bonding requirements of the FMLA by at least three different mailings.
4. Respondent has been provided by the Staff with adequate and sufficient notice of its failure to comply with the surety bonding requirement of the FMLA by at least two different mailings.
5. Respondent has been provided with adequate and sufficient notice of the Securities Department staff's intent to seek suspension of its license due to its failure to comply with the surety bonding requirement.

CONCLUSIONS OF LAW

6. Prior to January 1, 2004, with limited exceptions, mortgage loan companies and loan brokers operating in Arkansas were required to deposit with the Commissioner a corporate surety bond in the amount of \$35,000.00. Arkansas Mortgage Loan Company's and Loan Broker's Act, **Ark. Code Ann. § 23-39-304(a)(1)(Repealed)**.
7. The Arkansas Mortgage Loan Company's and Loan Brokers' Act was repealed by the 2003 Arkansas General Assembly, and was replaced by the FMLA, effective January 1, 2004. **Ark. Code Ann. § 23-39-501, et seq.**

8. The FMLA requires each mortgage banking or mortgage servicing firm doing business in Arkansas to post a surety bond with the Securities Commissioner in the amount of \$100,000.00. Each mortgage brokerage firm is required to post a surety bond in the amount of \$50,000.00. **Ark. Code Ann. § 23-39-505(f)(1).**
9. Respondent's current surety bond falls short of the statutory minimum.
10. The Commissioner is authorized to suspend the license of a licensee who has violated or failed to comply with any provision of the FMLA. **Ark. Code Ann. § 23-39-514(a)(B).**

ORDER

WHEREFORE, the license of the Respondent is hereby suspended, effective immediately, until such time as Respondent has complied with the surety bonding requirement of the FMLA. Respondent is hereby ordered to Cease and Desist from all mortgage loan brokering, servicing, and banking activities in Arkansas until such time as compliance with the surety bonding requirement of the FMLA is achieved. Failure to comply with the Cease and Desist provision of this order could subject the Respondent to a civil penalty of up to twenty-five thousand dollars (\$25,000) per violation. **Ark. Code Ann. Section 23-39-514(d)(3)(A).** Respondent may contest this Order by delivering a written request for a hearing to the Securities Commissioner within 30 days from the date that the Respondent receives notice of this Order. **Ark. Code Ann. § 23-39-514(c)(3).** If Respondent does not request a hearing, and the Commissioner does not order a hearing, the Order will remain in effect until it is nullified or vacated by the Commissioner. **Ark. Code Ann. § 23-39-514(c)(5).**

IT IS SO ORDERED this 5th day of March, 2004.

A handwritten signature in black ink, appearing to read "M. Johnson". The signature is fluid and cursive, with the first letter "M" being particularly large and stylized.

Michael B. Johnson, Securities Commissioner

March 5, 2004

Date