

**STATE OF ARKANSAS
SECURITIES DEPARTMENT**

**IN THE MATTER OF
ARTHUR DRIVER A/K/A
ART DRIVER D/B/A
DIVERSIFIED FINANCIAL;
GERMANTOWN, TENNESSEE**

RESPONDENT

ORDER NO. C-05-040

CEASE AND DESIST ORDER

On or about November 16, 2005, the staff of the Arkansas Securities Department (hereinafter referred to as "Securities Department staff") received information concerning Arthur Driver a/k/a Art Driver, d/b/a Diversified Financial (hereinafter referred to as "Respondent"), of Germantown, Tennessee. The information and documentation received indicated that the Respondent had engaged in certain mortgage loan brokering activities in violation of the Arkansas Fair Mortgage Lending Act, Ark. Code Ann. Section 23-39-501, et seq. Specifically, the evidence gathered reflects that Respondent has engaged in the business of a mortgage loan broker and as a loan officer in Arkansas without having been duly licensed in this state to engage in such activities. The evidence further reflects that Respondent has solicited and received funds from an

Arkansas resident and consumer (hereinafter referred to as the “Arkansas Consumer”) that the Respondent is not entitled to retain, and that the Respondent has failed to account to the Arkansas Consumer for the funds obtained in connection with the brokering of the mortgage loan.

FINDINGS OF FACT

1. On or about November 16, 2005, the Securities Department staff received a complaint from the above referenced Arkansas Consumer alleging that she had been in contact with the Respondent for the purpose of obtaining financing for the anticipated purchase of a home in Jonesboro, Arkansas.

2. The Arkansas Consumer reported that in or about November 2003, an advertisement for “Diversified Financial” appeared in a local shopper’s newspaper that she had obtained at a Jonesboro grocery store. The Arkansas Consumer was at that time and at all pertinent times in the market for a residential mortgage loan for the anticipated purchase of a residence. The Diversified Financial advertisement solicited persons interested in residential mortgage loans.

3. Shortly after reviewing the advertisement referenced in Paragraph 2 above, the Arkansas Consumer contacted the telephone number published in the advertisement. The Arkansas Consumer spoke with the Respondent.

The Respondent advised the Arkansas Consumer that he would need \$150.00 to initiate the loan process. The Respondent advised the Arkansas Consumer that he was en route from Little Rock to West Memphis, and that he could meet with her later in the day at Corky's Restaurant in Jonesboro. Later that afternoon, the Arkansas Consumer met with the Respondent at Corky's. During the meeting, the Respondent took relevant financial information from the Arkansas Consumer for processing of the mortgage loan application. At the Respondent's request, the Arkansas Consumer tendered the sum of \$150.00 in currency to the Respondent, for which the Arkansas Consumer was given a receipt signed by the Respondent.

4. In or about February 2004, the Respondent advised the Arkansas Consumer that an additional \$500.00 would be needed to process the loan application. Shortly thereafter, the Arkansas Consumer mailed a \$500.00 money order to the Respondent. At that time, the Respondent advised the Arkansas Consumer that she would be receiving papers from Respondent within the "next few months".

5. During the months between February 2004 and November 2005, the Arkansas Consumer would periodically contact the Respondent concerning the status of her home loan. In October 2005, the Respondent advised the

Arkansas Consumer that an additional \$40.00 would be needed to process the mortgage loan application. On November 2, 2005, the Arkansas Consumer mailed a \$40.00 money order to the Respondent at his address in Germantown, Tennessee.

6. On November 15, 2005, the Arkansas Consumer contacted the Respondent by telephone. The Respondent advised the Arkansas Consumer that he was unable to broker an Arkansas residential mortgage loan. The following day, the Arkansas Consumer submitted her complaint to the Arkansas Securities Department.

7. The records of the Arkansas Securities Department reflect that Diversified Financial of Germantown, Tennessee has not applied for or obtained a license from the Arkansas Securities Commissioner authorizing the company to broker residential mortgage loans in Arkansas.

8. The records of the Arkansas Securities Department reflect that Arthur Driver of Germantown, Tennessee has not applied for or obtained a loan officer's license from the Arkansas Securities Commissioner authorizing him to broker mortgage loans for any company in Arkansas.

9. Information received from the Tennessee Department of Financial Institutions reflects that Diversified Financial of Germantown, Tennessee is not licensed as a mortgage loan company in that state. The records of the

Tennessee regulator further reflect that the Respondent is not licensed as a mortgage loan officer with any company authorized to broker residential mortgage loans in Tennessee.

10. During the time period from October 2003 through November 2005, the Respondent solicited and received a total of \$690.00 from the Arkansas Consumer for the purpose of brokering a residential mortgage loan. The Respondent has failed to account to the Arkansas Consumer for the use of those funds.

11. While interviewing the Arkansas Consumer, the Respondent made representations that he was at that time brokering residential mortgage loans for 12 (twelve) other individuals in the Jonesboro area.

12. There is sufficient evidence to conclude that the Respondent has engaged in acts in violation of the Arkansas Fair Mortgage Lending Act, and that this is an appropriate case for summary entry of a cease and desist order, and that such an order is in the public interest.

CONCLUSIONS OF LAW

13. It is unlawful for any person other than an exempt person to act or attempt to act, directly or indirectly, as a mortgage broker, mortgage banker, loan officer, or mortgage servicer with any person located in Arkansas without first having obtained a license to engage such activity from the

Arkansas Securities Commissioner. **Ark. Code Ann. Section 23-39-503(b).**

14. It is unlawful for any person, other than an exempt person, in the course of a mortgage loan transaction or activity, to fail to account for or deliver to any person any funds, documents, or other thing of value obtained in connection with a mortgage loan, including money provided by a borrower for a real estate appraisal or a credit report, that the mortgage banker, mortgage broker, mortgage servicer, or loan officer is not entitled to retain.

Ark. Code Ann. Sec. 23-39-513(3).

15. The Arkansas Securities Commissioner is duly authorized to summarily order a person to cease and desist from an activity upon finding that the activity is prohibited by the Arkansas Fair Mortgage Lending Act.

Ark. Code Ann. Section 23-39-514(6)(d)(1).

ORDER

IT IS HEREBY ORDERED that Respondent shall immediately CEASE and DESIST from engaging in any residential mortgage loan brokering activities in Arkansas. The mortgage loan brokering activities from which the Respondent is precluded from engaging in Arkansas include, but shall not be limited to, accepting or offering to accept an application for a mortgage loan, soliciting or offering to solicit an application for a mortgage loan, negotiating or offering to negotiate the terms or condition of a

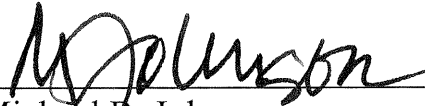
mortgage loan, issuing or offering to issue mortgage loan commitments or interest rate guarantee agreements to borrowers, advertising mortgage loan brokering services, or contacting borrowers or potential borrowers for the purpose of brokering a residential mortgage loan, directly or indirectly, by telephone, electronic means, mail, or in person.

Securities Department staff is hereby authorized to monitor Respondent's compliance with this Order, and shall promptly report any violations. Securities Department legal counsel is authorized to conduct any sworn examinations relevant to this inquiry. Respondent is admonished that any violations of this Order may result in the initiation of legal proceedings before the Circuit Court of Pulaski County, Arkansas by Securities Department legal counsel.

Respondent may request a hearing on this matter before the Arkansas Securities Commissioner. Any request for a hearing shall be made within thirty (30) days of the date on which the Respondent receives a copy of this Order and shall be made in writing to the Arkansas Securities Commissioner at 201 East Markham Street, Suite 300, Little Rock, Arkansas, 72201. If no hearing is requested by Respondent within thirty (30) days of Respondent's receipt of this Order, this Order shall become final.

Securities Department legal counsel is hereby directed to furnish a copy of this Order to the Tennessee Department of Financial Institutions.

IT IS SO ORDERED.



Michael B. Johnson
Arkansas Securities Commissioner



Date