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BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. C-10-0031

ORDER NO. C-10-0031-10-C001

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ARKANSAS SECURITIES DEPT.

**IN THE MATTER OF:**

**EVERETT FINANCIAL, INC. d/b/a SUPREME LENDING**

**NMLS&R NO. 2129**

**RESPONDENT**

**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 Respondent, Everett Financial, Inc. d/b/a Supreme Lending ("Everett"), in full and final settlement of all claims that could be brought against Everett by the Staff on the basis of the facts set forth herein.

Everett admits the jurisdiction of the FMLA and the Arkansas Securities Commissioner ("Commissioner"), waives its right to a formal hearing and appeal, admits the findings of facts made herein, consents to the entry of this Order, and agrees to abide by its terms.

**FINDINGS OF FACT**

1. Everett is a mortgage banker and mortgage broker located in Dallas, Texas, Nationwide Mortgage Licensing System Registry ("NMLS&R") number 2129. Everett is currently licensed as a mortgage banker and mortgage broker under the FMLA. Everett's license as a mortgage banker and mortgage broker is scheduled to expire on December 31, 2010.

2. The Staff has determined that in March 2008, during the time when Dan Zeek ("Zeek") was employed as a loan officer for Everett, Zeek was involved in soliciting and

accepting a mortgage loan application from an Arkansas resident without being properly licensed under the FMLA. Also, the Staff has determined that in May 2008, during the time when Andrew McMutre (“McMutre”) was employed as a loan officer for Everett, McMutre was involved in soliciting and accepting a mortgage loan application from an Arkansas resident without being properly licensed under the FMLA.

3. The Staff has determined that in July 2009, during the time when Joe Marshall (“Marshall”) was employed as a loan officer for Everett, Marshall was involved in soliciting and accepting a mortgage loan application from two Arkansas residents without being properly licensed under the FMLA. In addition, the Staff has determined that in July and August 2009, during the time when Ryan Faeger (“Faeger”) was employed as a loan officer for Everett, Faeger was involved in soliciting and accepting two mortgage loan applications from three Arkansas residents without being properly licensed under the FMLA. Finally, the Staff has determined that between October 2009 and March 2010, during the time when Pat Mistowski (“Mistowski”) was employed as a loan officer for Everett, Mistowski was involved in soliciting and accepting five mortgage loan applications from seven Arkansas residents without being properly licensed under the FMLA.

4. The unlicensed mortgage loan activity of Zeek, McMutre, Marshall, Faeger, and Mistowski constitutes ten separate violations of Ark. Code Ann. § 23-39-503(c) by Everett.

5. During 2009, Everett operated a branch office conducting mortgage loan activities in Arkansas, located at 4409 Meramec Bottom Road, Suite B, St. Louis, Missouri. In addition, during 2010, Everett operated a branch office conducting mortgage loan activities in Arkansas, located at 8641 5<sup>th</sup> Street, Suite 11, Frisco, Texas. Neither of these branch offices were licensed

under the FMLA 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 Everett.

6. Everett fully cooperated with the Staff during the Staff's investigation of this matter. In addition, Everett has assured 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**

7. 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 Everett and the unlicensed loan officers employed by Everett as detailed in ¶¶ 2-3 constitute ten violations of Ark. Code Ann. § 23-39-503(c) by Everett.

8. Pursuant to Ark. Code Ann. § 23-39-505(i), each branch office of a mortgage broker or mortgage banker licensed under this subchapter shall obtain a separate license. The failure of Everett to obtain a license under the FMLA for either of the two branch offices of Everett conducting mortgage loan activity in Arkansas as detailed in ¶ 5 constitutes two violations of Ark. Code Ann. § 23-39-505(i) by Everett.

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

10. 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 by Everett as detailed in ¶¶ 2-5 warrant the entry of appropriate civil penalties against Everett as authorized by Ark. Code Ann. § 23-39-514(b)(1) and (2).

11. 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 Everett as detailed in ¶¶ 2-5 warrant the entry of a consent order.

**ORDER**

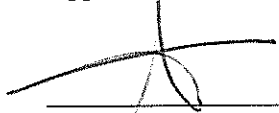
By agreement and with the consent of the Staff and the authorized representative of Everett, it is hereby ordered that: One, Everett shall be responsible for the payment of a civil penalty in the amount of \$3,500.00 to the Arkansas Securities Department. Two, the payment of said civil penalty by Everett shall be made to the Arkansas Securities Department within thirty (30) calendar days of the entry of this Consent Order.

IT IS SO ORDERED.


  
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A. Heath Abshure  
Arkansas Securities Commissioner

July 26, 2010  
\_\_\_\_\_  
Date

Approved as to Content and Form:

  
\_\_\_\_\_  
Scott Andrew Everett, President  
Everett Financial, Inc.  
Respondent

7/22/2010  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Scott S. Freydl, Staff Attorney  
Arkansas Securities Department

7/26/10  
\_\_\_\_\_  
Date