

STATE OF ARKANSAS
SECURITIES DEPARTMENT

IN THE MATTER OF

MELODY A. MOORE,
TIMOTHY MOORE,
DEMETRIA MOORE, AND
CONGRESS MORTGAGE, L.L.C.,
TEXARKANA, TEXAS

CEASE AND DESIST
ORDER ISSUED PURSUANT
TO ARK. CODE ANN.
§ 23-39-202(b)(1)

ORDER NO. 99-015-M

CEASE AND DESIST ORDER

On April 21, 1999, the Arkansas Securities Commissioner ("Commissioner") directed that an investigation into the activities of Melody A. Moore, Timothy Moore, Demetria Moore, and Congress Mortgage, L.L.C., Texarkana, Texas ("Congress and affiliates") be started by the staff of the Arkansas Securities Department ("Department") after having received information which indicated possible violations of the Arkansas Mortgage Loan Company and Loan Broker Act, Ark. Code Ann. § 23-39-101 et seq. (Repl. 1994) ("Act").

Pursuant to this investigation, the Commissioner has obtained evidence which indicates that Congress and affiliates have violated Ark. Code Ann. §§ 23-39-202(B)(1) and 307 while transacting or offering to transact business as a loan broker or mortgage loan company in Arkansas.

FINDINGS OF FACT

1. Congress and affiliates are currently located and conducting mortgage loan and loan brokering business at 4530 Summerhill Road, Texarkana, Texas.
2. On September 14, 1998, Congress Mortgage, L.L.C. ("Congress") filed an application for registration as a mortgage loan company pursuant to the Act.
3. This application reflects that Melody A. Blake, currently Melody A. Moore, was President and Demetria Moore was Secretary of the Applicant.
4. By a letter dated September 23, 1998, the Department approved Congress' registration application.
5. On January 13, 1999, Mr. W. Dennis Daniel filed a compliant with the Department stating that Congress owed him \$2,500.00 for appraisal work done for them. Mr. Daniel advised that this account was very delinquent with some of the appraisal fees due being outstanding since February, 1998.
6. By letter dated January 14, 1999, Mr. Rick Weaver, an employee of the Department, sent Congress a copy of Mr. Daniel's compliant letter of January 13, 1999, and requested that they advise Mr. Daniel and the Department of their understanding regarding this matter.
7. Because Congress did not reply to the Department's January 14, 1999, letter, Mr. Weaver sent Congress a certified letter dated February 16, 1999, giving Congress ten days to reply to his January 14, 1999, letter.

8. The sign certified return receipt reflects that Congress received the February 16, 1999, certified letter on February 18, 1999.
9. By a letter dated February 24, 1999, which was received by the Department on March 1, 1999, Mrs. Melody A. Moore, President of Congress Mortgage, L.L.C. advised the Department that Mr. Daniel would be paid on or before March 15, 1999.
10. By a letter dated March 19, 1999, Mr. Daniel advised that he had not received payment from Congress as promised in their February 24, 1999, letter.
11. By a certified letter dated March 23, 1999, Mr. Weaver advised Congress that if Mr. Daniel was not paid within ten (10) days the Department would conduct an examination to determine if Congress was insolvent because it could not pay its bills as they become due.
12. The signed certified return receipt reflects that Congress received the March 23, 1999, certified letter on March 25, 1999.
13. By a letter dated April 2, 1999, Mr. Daniel advised the Department that on April 1, 1999, he received a \$2,500.00 check from Congress but it was not signed.
14. By a certified letter dated April 7, 1999, Mr. Weaver advised Congress that a signed \$2,500.00 check must be provided Mr. Daniel within four (4) days.
15. The signed certified return receipt reflects that Congress received the April 7, 1999, certified letter on April 13, 1999.
16. By a letter dated April 9, 1999, which was received by the Department on April 19, 1999, Mrs. Melody A. Moore advised that Congress sent Mr. Daniel a signed \$2,500.00 check by Federal Express.
17. By a letter dated April 9, 1999, Howard H. Sublett, Jr. of Hot Springs, Arkansas advised the Department that Congress owed him and was delinquent on an appraisal fee for \$125.00.
18. By a letter dated April 13, 1999, Mr. Weaver sent Congress a copy of Mr. Sublett's compliant letter and requested that they advise Mr. Sublett and the Department of their understanding regarding this matter.
19. By letter dated April 21, 1999, Mr. Daniel advised the Department that Congress' \$2,500.00 check had been returned unpaid because of insufficient funds.
20. On April 22, 1999, Mr. Weaver and Mr. Charles Handley of the Department conducted an examination of Congress at its office in Texarkana, Texas. This examination revealed the following:
 - A. Congress had no books so its assets, liabilities, net worth, and profitability could not be readily determined.
 - B. Congress' bank statements for the past fourteen months were not made available to the examiners.
 - C. Congress only had \$1,380.49 in its checking account which was not enough to pay the debts due Mr. Daniel and Mr. Sublett.
 - D. Mr. Tim Moore was acting as a loan officer, loan interviewer and principal of Congress.
21. During the examination Mr. and Mrs. Moore advised the examiners of the following:

- A. All other employees had been terminated and they were the only individuals now conducting business on behalf of Congress.
 - B. On or before April 23, 1999, they would obtain a cashiers check for \$2,500.00 and Federal Express it to Mr. Daniel and file a copy of this check with the Department on Friday, April 23, 1999.
22. As of this date Congress has not filed proof that a \$2,500.00 cashiers check has been obtained and sent to Mr. Daniel.
23. One of the definitions of "insolvent" is unable to meet debts or discharge liabilities in the normal course of business.
24. On April 26, 1999, Mr. Daniel advised this Department that he had not received the \$2,500.00 from Congress.

CONCLUSIONS OF LAW

25. The Commissioner is charged with the duty of the enforcement of the Act pursuant to its provisions.
26. Ark. Code Ann. § 23-39-202(b)(1)(B) states that whenever it appears to the Commissioner that any mortgage loan company or loan broker has engaged in or is about to engage in any act or practice in violation of the Act or any rule or regulation or order thereunder, or the assets or capital of any mortgage loan company is impaired or the mortgage loan company's affairs are in an unsafe condition, the Commissioner may summarily order the mortgage loan company or loan broker to cease and desist from such act or practice during which time the Commissioner may apply to the Chancery Court of Pulaski County, Arkansas to enjoin the act or practice and to enforce compliance with the Act.
27. Ark. Code Ann. § 23-39-307(2) states that the Commissioner may reject, suspend or revoke any registration when the applicant or registration is unfit, through lack of financial responsibility to conduct the business of a mortgage loan company or loan broker.
28. Ark. Code Ann. § 23-39-307(3) states that the 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 provisions of the Act.
29. Ark. Code Ann. § 23-39-307(7) states that the Commissioner may reject, suspend, or revoke any registration when the applicant or registrant has made any misrepresentations to any person in the course of conducting mortgage loan company business.

OPINION

30. The Commissioner has jurisdiction over Congress and affiliates and this matter has been properly brought before the Commissioner who is charged with enforcing the Act.
31. Congress and affiliates are operating in an unsafe and unsound manner because they cannot pay their debts and liabilities as they become due in the normal course of business.
32. Congress and affiliates are operating in an unsafe and unsound manner because they do not have or maintain books to readily determine their assets, liabilities, net worth or profitability.
33. Congress and affiliates by writing and issuing a check for which there are not sufficient funds have violated the Arkansas "hot check" laws.

34. Congress and affiliates by promising to issue a cashiers check for \$2,500.00 as payment to Mr. W. Dennis Daniel for appraisal fees on or before April 23, 1999, and not doing such has made a material misrepresentation to representatives of the Commissioner.
35. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED pursuant to Ark. Code Ann. § 23-39-202(b)(1) that Melody A. Moore, Timothy Moore, Demetria Moore and Congress Mortgage, L.L.C. CEASE AND DESIST from engaging in all mortgage loan and loan brokering activities which are in violation of the Act including advertising, offering and conducting mortgage loan company and loan brokering business, and making misleading statements to the Commissioner.

IT IS FURTHER ORDERED pursuant to Ark. Code Ann. §§ 23-39-307(2), 307(3) and 307(7) registration of Congress Mortgage, L.L.C. to conduct mortgage loan and loan brokering business in Arkansas is revoked.

IT IS FURTHER ORDERED that all pending mortgage loan applications now held by Congress Mortgage, L.L.C. shall immediately be transferred to a duly registered or exempted mortgage loan company or loan broker and proof of such filed with the Department within ten (10) days of the receipt of this Order.

WITNESS MY HAND AND SEAL THIS 26TH DAY OF APRIL, 1999.

MAC DODSON
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