

STATE OF ARKANSAS
SECURITIES DEPARTMENT

IN THE MATTER OF
U. S. MORTGAGE, INC.

No. 99-037-M

ORDER

This order is entered pursuant to the Mortgage Loan Company and Loan Broker Act, codified at Ark. Code Ann. §§ 23-39-101, *et seq.* (Repl. 1994) (the Act).

FINDINGS OF FACT

1. U. S. Mortgage, Inc. (U.S. Mortgage) filed on 1 April 1997 proof of exemption from the net worth, surty bond and registration requirements of the Act in accordance with Ark. Code Ann. § 23-39-306(a)(4) (Repl. 1994) because it was a U.S. Department of Housing and Urban Development (HUD) approved lender.
2. HUD regulations required U.S. Mortgage to maintain a net worth of \$250,000 and a \$300,000 fidelity bond.
3. HUD regulations also required U.S. Mortgage to escrow loan commitment deposits given by loan applicants.
4. Following an investigation, the Arkansas Securities Commissioner (the Commissioner) entered a cease and desist order against U.S. Mortgage on 8 September 1998 finding, *inter alia*, the following:
 - A. U.S. Mortgage is insolvent in that its liabilities greatly exceed its assets.
 - B. Loan commitment deposits were not escrowed as required by HUD regulations but were deposited into corporate accounts and spent.
 - C. As of the date of the cease and desist order, there were 76 known loan applicants whose loan commitment deposits totaling \$25,863.46 were not escrowed and were improperly spent by U.S. Mortgage.
5. Since the date of the cease and desist order, U.S. Mortgage has ceased doing business and has effectively gone out of business.
6. The total amount of loan commitment deposits that were misapplied and not placed in escrow has grown to \$27,598.46.
7. U.S. Mortgage purchased Mortgage Originators Policy No. MOP-96-01-1950 and Mortgage Bankers Bond, Policy No. MBB-97-00485 to cover such losses as those set out in ¶¶ 4.C and 6, *supra*. The insurance companies that wrote these policies have agreed to pay these losses, less \$15,000, the deductible amount specified in the policies.
8. On 8 February 1999, Jeff Fuller, president, majority stockholder and director of U.S. Mortgage gave the Commissioner his power of attorney to exercise any rights he or U.S. Mortgage might have in respect to the policies mentioned ¶ 7, *supra*.

CONCLUSIONS OF LAW

Ark. Code Ann. § 23-39-201 (Repl. 1994) provides that the Commissioner shall exercise general supervision and control over mortgage loan companies doing business in Arkansas.

OPINION

In accordance with an agreement with the insurers mentioned in ¶¶ 7 and 8, *supra*, the Commissioner finds that it is in the best interests of the loan applicants mentioned in ¶¶ 4.C and 6, *supra*, that the recovery of the loss, less the deductible, be collected by the Commissioner and distributed to the said loan applicants on a *pro rata* basis, less expenses.

ORDER

IT IS THEREFORE ORDERED THAT the \$12,589.46, which represents the total amount of loss less a \$15,000 deductible payment, be wired to an account of the Arkansas Securities Department at the Arkansas Employees Federal Credit Union, account No. 10523007, which will then be distributed to the persons mentioned in ¶¶ 4.C and 6, *supra*. After that distribution is completed, another order will be entered setting forth the amount distributed to each claimant.

WITNESS MY HAND AND SEAL this 26th day of July, 1999.

ANN MCDOUGAL
ACTING ARKANSAS SECURITIES COMMISSIONER