

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

3 **REGAL MORTGAGE COMPANY DBA REGAL**
4 **ONLINE MORTGAGE AND DAVID WARE,**
5 **PRESIDENT**

6 10105 E. Via Linda, Suite 103
7 Scottsdale, Arizona 85258

Petitioners.

No. 09F-BD049-BNK

**SUPERINTENDENT'S FINAL
DECISION AND ORDER**

8 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
9 record in this matter, including the transcripts of the January 13, 2009 hearing and the
10 Administrative Law Judge Decision attached and incorporated herein by this reference, modifies
11 the Procedural Background, adopts the Administrative Law Judge's Findings of Fact and adopts
12 and amends the Conclusions of Law, and rejects the Order as follows:

13 The Superintendent modifies the Administrative Law Judge's Procedural Background as follows:

14 **Procedural Background**

15 The Superintendent rejects the Amended Notice of Hearing and returns the caption of this
16 matter to its original recitation which includes David Ware, President, as a party. The rejection is
17 based upon a lack of findings of fact or conclusions of law supporting a modification to remove
18 Mr. Ware. Neither party cites any legal authority in support of the amendment.

19 **CONCLUSIONS OF LAW**

20 The Superintendent adopts the Administrative Law Judge's Conclusions of Law paragraphs
21 1-4 and amends the Conclusions of Law by adding the following paragraphs:

22 5. The Superintendent has the authority to regulate all persons engaged in the mortgage
23 business and enforce the applicable statutes and rules. *See* A.R.S. Title 6, Chapter 9, Article 2.
24 The Superintendent has the authority to suspend or revoke Petitioners' mortgage broker license
25 pursuant to A.R.S. § 6-905 and to order any remedy necessary or proper for the enforcement of the
26 statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131, and to
27 impose a civil money penalty for knowing violations of A.R.S. § 6-132.

1 September 2007 examination. The first page of the Notice of Hearing specifically states that the
2 purpose of the January 13 hearing was to determine if grounds exist for the cease and desist order,
3 the imposition of a civil money penalty, the suspension or revocation of Petitioners' mortgage
4 broker license and any other remedy necessary and proper under the statutes and rules regulating
5 mortgage brokers in Arizona.

6 Petitioners had notice and an opportunity to be heard at a meaningful time and in a
7 meaningful manner. *Comeau v. Ariz. State Bd. Of Dental Exam'rs*, 196 Ariz. 102, 106-107, 993
8 P.2d 1066, 1070-71 (App. 1999). Petitioners were also given the opportunity to offer evidence and
9 confront adverse witnesses. *Curtis v. Richardson*, 212 Ariz. 308, 131 P.3d 480 (App. 2006). ALJ
10 Kowal painstakingly instructed Petitioner David Ware to review the Notice of Hearing which he
11 did in ALJ Kowal's presence. ALJ Kowal also took a recess to allow Petitioner Ware to
12 thoroughly read the Notice of Hearing. Following his review of the Notice of Hearing, Petitioner
13 David Ware listened to ALJ Kowal's explanation of the consequences of admitting all of the
14 allegations in the Notice of Hearing. He then admitted all of the allegations in the Notice of
15 Hearing and reiterated his desire to pay the \$5, 500 civil money penalty. (Tr. Pp. 15-22)

16 The hearing in this matter should have proceeded exactly as set forth in the Notice of
17 Hearing. ALJ Kowal is commended for his efforts to proceed in this fashion and his gallant
18 attempts to educate both counsel for DFI and Petitioner David Ware. ALJ Kowal's time is valuable
19 and both parties continued reference to a prior settlement was misplaced and irrelevant. Clearly, if
20 there had been a bonafide settlement and meeting of the minds on resolution, no evidentiary
21 hearing would have been necessary.

22 Petitioners' disregard for the Notice of Assessment is an indication of a lackadaisical
23 attitude toward regulation. It also shows a lack of respect for the authority bestowed upon the DFI
24 by the legislature to enforce the statutes and rules regulating the mortgage broker business in
25 Arizona. After reading the Notice of Hearing, it is unclear from the record why Petitioner David
26 Ware was under the impression that he could admit to all of the allegations in the Notice of Hearing
27 and expect the same resolution that was reached in May of 2008 before the Department expended
28

1 additional time and expense. It is equally unclear and quite perplexing to the Superintendent as to
2 why DFI's counsel and representative would not proceed with an adjudication on the merits as set
3 forth in the Notice of Hearing.

4 It has always been the policy and practice of DFI to attempt to settle a matter through formal
5 and informal settlement negotiations. Resolution of an administrative action in lieu of a hearing is
6 preferred because it saves all parties time and money, while achieving DFI's purpose of holding
7 license holders accountable for compliance with the statutes and rules the Legislature has
8 authorized DFI to enforce. However, when a licensee reneges on a settlement agreement through
9 non-performance, benign or intentional, and DFI must proceed to an administrative hearing, the
10 prior negotiated settlement is no longer a viable option to the licensee. This has been the policy
11 and practice of DFI for many years, dating back to the early 1990s.

12 Therefore, this matter must be sent back to the Office of Administrative Hearings for a
13 hearing on the merits which include grounds for suspension or revocation of Petitioners' license
14 and a higher, more appropriate, civil money penalty. Further, Petitioners' disregard for regulation
15 and failure to fulfill their promise of settlement is evidence of Petitioners' lack of honesty,
16 truthfulness and good character and grounds for suspension or revocation of Petitioners' license
17 under A.R.S. § 6-905(A)(2).

18 **ORDER**

19 Based on the above, IT IS ORDERED: that a rehearing is set, as prescribed in the December
20 8, 2008 Notice of Hearing, for April 29, 2009, at 9:00 a.m. in order to proceed with an adjudication
21 of the merits of the case. The Superintendent will not accept any settlement proposals and
22 discourages any continuation of this hearing.

23 **NOTICE**

24 The parties are advised that, pursuant to A.R.S. § 41-1092.09, this Order shall be final
25 unless Petitioners submit a written motion for rehearing no later than thirty (30) days after service
26 of this decision. The motion for rehearing or review must specify the particular grounds upon
27 which it is based as set forth in A.A.C. R20-4-1219. A copy shall be served upon all other parties

1 to the hearing, including the Attorney General, if the Attorney General is not the party filing the
2 claim of error. In the alternative, the parties may seek judicial review of this decision pursuant to
3 A.R.S. § 41-1092.08(H).

4 DATED this 5th day of March, 2009.

5 
6 _____
7 Felecia Rotellini
8 Superintendent of Financial Institutions
9
10

11 ORIGINAL filed this 5th day of
12 March, 2009 in the office of:

13 Felecia Rotellini
14 Superintendent of Financial Institutions
15 Arizona Department of Financial Institutions
16 ATTN: June Beckwith
17 2910 North 44th Street, Suite 310
18 Phoenix, Arizona 85018

19 COPY of the foregoing mailed/hand delivered
20 This same date to:

21 Lewis D. Kowal, Administrative Law Judge
22 Office of Administrative Hearings
23 1400 West Washington, Suite 101
24 Phoenix, AZ 85007

25 Craig Raby, Assistant Attorney General
26 Office of the Attorney General
27 1275 West Washington
28 Phoenix, AZ 85007

Robert D. Charlton, Assistant Superintendent
Chris Dunshee, Senior Examiner
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

AND COPY MAILED SAME DATE by

1 Certified Mail, Return Receipt Requested, to:

2 David Ware
3 President
4 Regal Mortgage Company
5 DbA Regal Online Mortgage
6 10105 E. Via Linda, Suite 103
7 Scottsdale, AZ 85258

8 David Ware, Statutory Agent for:
9 Regal Mortgage Company
10 DbA Regal Online Mortgage
11 10105 E. Via Linda, Suite 103
12 Scottsdale, AZ 85258

13 Kirk A. Guinn, Esq.
14 GUKSEIN LAW GROUP, P.C.
15 430 W. 1st Street, Suite 102
16 Tempe, AZ 85281
17 Attorney for David G. Ware

18 BY:

19 

1 2. Mr. Ware, as President of Regal, admitted to all of the allegations of violations of
2 law set forth in the Amended Notice of Hearing, which is incorporated herein by this
3 reference.

4 3. The Department met its burden of proving by a preponderance of the evidence
5 that Regal violated the provisions of law as alleged in the Amended Notice of Hearing.

6 4. The weight of the evidence of record established that Regal should pay a civil
7 penalty to the Department in the amount of \$5,500.00 for the above-mentioned
8 violations of law and Regal did not dispute that it should pay such penalty.

9 **ORDER**

10 Based on the above, Regal shall pay to the Department a civil penalty in the
11 amount of \$5,500.00 within forty-five days of the effective date of the Order entered in
12 this matter.

13 Done this day, January 29, 2009.

14 

15 _____
16 Lewis D. Kowal
17 Administrative Law Judge

18 Original transmitted by mail this
19 30 day of Jan., 2009, to:

20
21
22 Arizona Department of Financial Institutions
23 Felecia A. Rotellini, Superintendent
24 ATTN: Susan Longo
25 2910 N. 44th Street, Suite 310
26 Phoenix, AZ 85018

27
28 By  _____
29
30

RECEIVED

JAN 13 2009

O.A.H. *[Signature]*

ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Mortgage Broker License of: No. 09F-BD049-BNK

**REGAL MORTGAGE COMPANY
DBA REGAL ONLINE MORTGAGE**
10105 E. Via Linda, Suite 103
Scottsdale, AZ 85258

AMENDED NOTICE OF HEARING

Petitioner.

PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-138, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for January 13, 2009, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioner's license pursuant to A.R.S. § 6-905; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131.

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Thomas Shedden, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative

*LOK/LS
1/13/09*

1 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
2 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
3 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
4 Judge is specifically prohibited from entering.

5 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
6 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
7 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
8 Administrative Hearings.

9 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
10 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
11 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
12 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
13 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
14 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

15 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
16 made by a court reporter or by electronic means. Any party that requests a transcript of the
17 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

18 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
19 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

20 NOTICE OF APPLICABLE RULES

21 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
22 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
23 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
24 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
25 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
26 R2-19-122. A copy of these rules is enclosed.

1 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer **within twenty (20)**
2 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position
3 or defense and shall specifically admit or deny each of the assertions contained in this Notice of
4 Hearing. If the answering Petitioner is without or is unable to reasonably obtain knowledge or
5 information sufficient to form a belief as to the truth of an assertion, Petitioner shall so state, which
6 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner
7 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner
8 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
9 in the answer is deemed waived.

10 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Petitioner will be**
11 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
12 true and admitted and the Superintendent may take whatever action is appropriate, including
13 suspension, revocation, denial of Petitioner's license or affirming an order to Cease and Desist and
14 imposition of a civil penalty or restitution to any injured party.

15 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial
16 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
17 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
18 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
19 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

20 **Persons with disabilities may request reasonable accommodations such as interpreters,**
21 **alternative format or assistance with physical accessibility.** Requests for accommodations must
22 be made as early as possible to allow time to arrange the accommodations. If accommodations are
23 required, call the Office of Administrative Hearings at (602) 542-9826.

24 FACTS

25 1. Petitioner Regal Mortgage Company dba Regal Online Mortgage ("Regal") is a New
26 Mexico corporation authorized to transact business in Arizona as a mortgage broker, license number

1 MB 0904728, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of Regal's business is that
2 of making, negotiating, or offering to make or negotiate loans secured by Arizona real property,
3 within the meaning of A.R.S. § 6-901(6).

4 2. David Ware ("Mr. Ware") is the President of Regal and is authorized to transact business
5 in Arizona as a mortgage broker within the meaning of A.R.S. § 6-901(6), as outlined within A.R.S.
6 § 6-903(E).

7 3. A September 27, 2007 through October 2, 2007, examination of Regal, conducted by the
8 Department, revealed that Regal:

9 a. Failed to conduct the minimum elements of reasonable employee investigations
10 before hiring employees, specifically:

- 11 i. Petitioner failed to obtain a completed and properly dated Employment
12 Eligibility Verification Form ("I9") before hiring eight (8) employees;
- 13 ii. Petitioner failed to collect complete Immigration Reform Control documents
14 prior to hiring five (5) employees;
- 15 iii. Petitioner failed to obtain a completed and signed employment application
16 ("EA") before hiring two (2) employees;
- 17 iv. Petitioner failed to obtain a signed statement and detailed information
18 regarding an applicant's felony convictions ("SS") before hiring nine (9)
19 employees;
- 20 v. Petitioner failed to consult with the applicant's most recent or next most
21 recent employer ("EI") before hiring nine (9) employees;
- 22 vi. Petitioner failed to inquire regarding an applicant's qualifications and
23 competence for the position ("QI") before hiring nine (9) employees;
- 24 vii. Petitioner failed to obtain a current credit report from a credit reporting
25 agency ("CR") before hiring eight (8) employees;
- 26 viii. Petitioner failed to obtain an explanation for derogatory credit before hiring

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

- five (5) employees; and
- ix. Petitioner failed to correct this violation from its previous examination;
- b. Failed to reconcile and update all records specified in A.A.C. R20-4-917(B) in each calendar quarter, specifically:
 - i. Petitioner failed to reconcile Regal's accounts since June 2007; and
 - ii. Petitioner failed to correct this violation from its previous examination;
- c. Failed to maintain a complete record containing all documents as required; specifically:
 - i. Petitioner failed to provide minutes for review at the Department's examination;
- d. Failed to maintain all required information on its list of all executed loan applications or executed fee agreements, specifically:
 - i. Petitioner's loan list failed to contain a provision for entering the application date or name of loan officer;
 - ii. Petitioner's loan list failed to include declined and withdrawn applications;
 - iii. Petitioner's loan list failed to have separate entries for disposition and disposition date; and
 - iv. Petitioner failed to correct this violation from its previous examination;
- e. Petitioner failed to maintain originals or clearly legible copies of all mortgage loan transactions for not fewer than five years, specifically:
 - i. Petitioner failed to keep and maintain the withdrawal, cancellation, or denial notice for two (2) borrowers;
- f. Failed to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts, specifically:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

- i. Petitioner failed to provide complete Truth in Lending (“TIL”) disclosures to five (5) borrowers;
- ii. Petitioner failed to disclose the Yield Spread Premium (“YSP”) on the Good Faith Estimate (“GFE”) to four (4) borrowers;
- iii. Petitioner failed to provide complete, updated Servicing Transfer (“ST”) disclosures to five (5) borrowers; and
- iv. Petitioner failed to correct this violation from its previous examination;
- g. Failed to keep and maintain at all times correct and complete records as prescribed by the Superintendent, specifically:
 - i. Petitioner failed to maintain complete records, evidenced by the fact that it was unable to provide any back-up documents;
- h. Failed to use a written agreement, signed by all parties, when accepting fees and/or documents in connection with mortgage loan applications, specifically:
 - i. Petitioner failed to maintain a statutorily correct written agreement in the loan files of at least four (4) borrowers; and
 - ii. Petitioner failed to correct this violation from its previous examination;
- i. Failed to ensure that the Responsible Individual maintained a position of active management, specifically:
 - i. Petitioner’s Responsible Individual, David Ware, failed to be in active management as evidenced by his failure to ensure Petitioner’s compliance with Arizona Statutes and Rules governing mortgage brokers;
- j. Failed to notify the Superintendent prior to maintaining branch records at its principal place of business, specifically:
 - i. Petitioner failed to notify the Superintendent that it has maintained branch office records at its principal place of business office, financials with its accountant, and organizational files with its lawyer;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

k. Used an appraisal disclosure that places an unlawful 90-day limit on the amount of time in which a borrower may obtain a copy of an appraisal for which the borrower has paid;

i. Petitioner has used a disclosure entitled "NOTICE OF RIGHT TO RECEIVE AN APPRAISAL REPORT" that includes a 90-day limit on the amount of time an applicant may request the appraisal; and

l. Failed to obtain the Superintendent's approval of its use of a computer or mechanical recordkeeping system, specifically:

i. Petitioner failed to provide the Superintendent with advance written notice seeking approval of its computer or mechanical record keeping system, as evidenced by copies of its financial and other records appearing to be generated from one or more computer systems.

4. Based upon the above findings, on February 11, 2008, the Department issued and served upon Regal a Notice of Assessment, *In the Matter of the Mortgage Broker License of Regal Mortgage Company dba Regal Online Mortgage*, No. 08F-BD069-SBD, as well as the Department's Report of Examination, and two invoices, assessing Regal an examination fee in the amount of \$1,125.00, and a civil money penalty in the amount of \$10,000.00.

5. On March 13, 2008, Regal filed a Request for Hearing to appeal the Notice of Assessment.

6. On April 4, 2008, the Department issued a Notice of Hearing, *In the Matter of the Mortgage Broker License of Regal Mortgage Company dba Regal Online Mortgage*, No. 08F-BD050-BNK, setting a hearing at the Office of Administrative Hearings ("OAH") on May 12, 2008, before Administrative Law Judge Michael Wales.

7. Following an Informal Settlement Conference, held on April 16, 2008, the Department and Regal reached a settlement in the administrative matter, wherein Regal's president was to sign the Consent to the Notice of Assessment, the civil money penalty was reduced to \$5,500.00, and the

1 scheduled hearing would be vacated.

2 8. On May 6, 2008, the Department received a letter from Mr. Ware, informing the
3 Department that enclosed was Regal's response to the Report of Examination and a check in
4 payment of the examination fee. In the letter, Mr. Ware further stated that, "IT IS MY
5 UNDERSTANDING FROM MY CONVERSATION WITH YOU THAT THE \$5,500 WILL BE
6 PAID OVER 90 DAYS BEGINNING MAY 12, 2008 FOR THE FIRST INSTALLMENT OF
7 \$1,833.33, AND THEN \$1,833.33 ON JULY 12, 2008 AND THEN THE FINAL INSTALLMENT
8 ON AUGUST 12, 2008."

9 9. On May 9, 2008, based upon notification of settlement, the May 12, 2008 OAH hearing
10 was vacated.

11 10. On May 16, 2008, the Department received from Regal the Notice of Assessment, as
12 modified with the reduced civil money penalty amount penciled in, which contained the "Consent to
13 Assessment" signed by Mr. Ware on May 15, 2008.

14 11. As of the date this Notice of Hearing is issued, Regal has failed to pay to the Department
15 any of the \$5,500.00 civil money penalty owed to the Department, pursuant to the Notice of
16 Assessment and the Consent thereto signed by Mr. Ware, on behalf of Regal, in violation of A.R.S.
17 § 6-132.

18 12. Based upon the above findings, the Department issued and served upon Regal an Order to
19 Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease and Desist
20 Order") on October 21, 2008.

21 13. On November 14, 2008, Petitioner filed a Request For Hearing to appeal the Cease and
22 Desist Order.

23 LAW

24 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to
25 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,
26 rules, and regulations relating to mortgage brokers.

1 2. By the conduct set forth in the Facts, Regal violated the following:

- 2 a. A.R.S. § 6-903(N) and A.A.C. R20-4-102 by failing to conduct the minimum
3 elements of reasonable employee investigations before hiring employees;
- 4 b. A.A.C. R20-4-917(C) by failing to reconcile and update all records specified in
5 A.A.C. R20-4-917(B) in each calendar quarter;
- 6 c. A.A.C. R20-4-917(B)(9) by failing to maintain a complete record containing all
7 documents as required;
- 8 d. A.A.C. R20-4-917(B)(1) by failing to maintain all required information on its list of
9 all executed loan applications or executed fee agreements;
- 10 e. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6) by failing to maintain originals or
11 clearly legible copies of all mortgage loan transactions for not fewer than five years;
- 12 f. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing to comply with the
13 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.
14 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C.
15 §§ 2601 through 2617), and the regulations promulgated under these acts;
- 16 g. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B) by failing to keep and maintain at all
17 times correct and complete records as prescribed by the Superintendent;
- 18 h. A.R.S. § 6-906(C) by failing to use a written agreement, signed by all parties, when
19 accepting fees and/or documents in connection with mortgage loan applications;
- 20 i. A.R.S. § 6-903(E) and A.A.C. R20-4-102 by failing to ensure that the Responsible
21 Individual maintained a position of active management;
- 22 j. A.R.S. § 6-906(A) by failing to notify the Superintendent prior to maintaining branch
23 records at its principal place of business;
- 24 k. A.R.S. § 6-906(C) by using an appraisal disclosure that places an unlawful 90-day
25 limit on the amount of time in which a borrower may obtain a copy of an appraisal for
26 which the borrower has paid; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. A.A.C. R20-4-917(A) by failing to obtain the Superintendent's approval of its use of a computer or mechanical recordkeeping system.

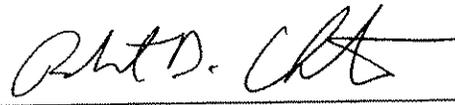
3. By the conduct set forth in the Facts above, Regal has violated A.R.S. § 6-132 by failing to pay to the Department the civil money penalty due pursuant to the Notice of Assessment and the Consent thereto signed by Mr. Ware, on behalf of Regal.

4. The violations, set forth above, constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the suspension or revocation of Petitioner's license pursuant to A.R.S. § 6-905; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations, the Superintendent may affirm the October 21, 2008, Cease and Desist Order pursuant to A.R.S. § 6-137; impose a civil money penalty pursuant to A.R.S. § 6-132; suspend or revoke Petitioner's license pursuant to A.R.S. § 6-905; and order any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§ 6-123 and 6-131.

DATED this 13 day of January, 2008 ^{RDC} 9

Felecia A. Rotellini
Superintendent of Financial Institutions

By 
Robert D. Charlton
Assistant Superintendent of Financial Institutions

1 ORIGINAL of the foregoing filed this _____
day of _____, 2008, in the office of:

2 Felecia A. Rotellini, Superintendent of Financial Institutions
3 Arizona Department of Financial Institutions
4 ATTN: Susan L. Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

5 COPY mailed same date to:

6 Thomas Shedden, Administrative Law Judge
7 Office of the Administrative Hearings
1400 West Washington, Suite 101
8 Phoenix, AZ 85007

9 Craig A. Raby, Assistant Attorney General
Office of the Attorney General
10 1275 West Washington
Phoenix, AZ 85007

11 Robert D. Charlton, Assistant Superintendent
12 Chris Dunshee, Senior Examiner
Arizona Department of Financial Institutions
13 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

14 AND COPY MAILED SAME DATE by
15 Certified Mail, Return Receipt Requested, to:

16 Regal Mortgage Company
dba Regal Online Mortgage
17 c/o David Ware, President
10105 E. Via Linda, Suite 103
18 Scottsdale, AZ 85258
Petitioner

19 David Ware, Statutory Agent For:
20 Regal Mortgage Company
dba Regal Online Mortgage
21 10105 E. Via Linda, Suite 103
Scottsdale, AZ 85258

22 David Ware, Statutory Agent For:
23 Regal Mortgage Company
dba Regal Online Mortgage
24 2575 E. Camelback Road, Suite 450
Phoenix, AZ 85016

25

26 ...

1 Kirk A. Guinn, Esq.
2 GUKISEN LAW GROUP, P.C.
3 430 W. 1st Street, Suite 102
4 Tempe, AZ 85281
5 Attorneys for David G. Ware

6 360560; PHX-AGN-2008-0578
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26