

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Revocation of the Mortgage
3 Broker License of:

No. 07F-BD032-BNK

CONSENT ORDER

4 **EAGLE FIRST MORTGAGE**
5 **CORPORATION AND DAVID T.**
6 **SANCHEZ, PRESIDENT**
7 1550 South Alma School Road, Suite 100
8 Mesa, AZ 85210

Respondents.

9 On October 25, 2006, the Arizona Department of Financial Institutions ("Department")
10 issued a Notice of Hearing alleging that Respondents had violated Arizona law. Wishing to resolve
11 this matter in lieu of an administrative hearing, and without admitting liability. Respondents do not
12 contest the following Findings of Fact and Conclusions of Law, and consent to the entry of the
13 following Order.

FINDINGS OF FACT

14 1. Respondent Eagle First Mortgage Corporation ("EFMC") is an Arizona corporation
15 authorized to transact business in Arizona as a mortgage broker, license number MB 0905508,
16 within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of EFMC's business is that of making,
17 negotiating, or offering to make or negotiate loans secured by Arizona real property, within the
18 meaning of A.R.S. § 6-901(6).

19 2. Respondent David T. Sanchez ("Mr. Sanchez") is President of EFMC. Mr. Sanchez is
20 authorized to transact business in Arizona as a mortgage broker within the meaning of A.R.S.
21 § 6-903(E).

22 3. Beginning on May 8, 2006 through June 22, 2006, the Department conducted an examination
23 of the mortgage broker business of EFMC and Mr. Sanchez and found that Respondents:

24 a. Are insolvent as defined in A.R.S. § 47-1201(23), which is grounds for denial,
25 suspension, or revocation pursuant to A.R.S. § 905(A)(1);
26

- 1 b. Failed to adequately reconcile their checking accounts and failed to supply the
2 Department with documentation to support their financial status relating to said accounts;
- 3 i. Respondents failed to correct this violation from their previous examination;
- 4 c. Failed to conduct the minimum elements of reasonable employee investigations
5 before hiring employees; specifically:
- 6 i. Failed to collect and review all of the documents authorized by the Immigration
7 and Control Act of 1986 before hiring forty seven (47) employees;
- 8 ii. Failed to obtain a completed and dated "I9" (Employment Eligibility Verification
9 Form) before hiring at least one hundred (100) employees;
- 10 iii. Failed to consult with the applicant's most recent or next most recent employer
11 or failed to date said inquiry before hiring at least ninety eight (98) employees;
- 12 iv. Failed to inquire regarding an applicant's qualifications and competence or failed
13 to date said inquiry for the position before hiring at least ninety one (91)
14 employees;
- 15 v. Failed to obtain a signed statement attesting to all of an applicant's felony
16 convictions, including detailed information regarding each conviction before
17 hiring at least ninety five (95) employees;
- 18 vi. Failed to obtain a credit report for one hundred one (101) employees;
- 19 vii. Failed to obtain a completed and signed employment application before hiring at
20 least fourteen (14) employees;
- 21 viii. Failed to conduct a further investigation of sixty two (62) employees with
22 derogatory credit reports; and
- 23 ix. Respondents failed to correct these violations from their previous examinations;
- 24 d. Failed to maintain a complete organizational file; specifically:
- 25 i. Respondents failed to provide their annual meeting and/or board minutes;
- 26 e. Failed to maintain a complete loan application list; specifically:

- 1 i. Respondents failed to maintain records of all executed loan applications
2 specifically involving: applicants' names, application dates, the amount of the
3 initial loan request, provisions for final disposition date, disposition (declined or
4 withdrawn), and names of loan officers;
- 5 f. Failed to include their name and license number as issued on their principal place of
6 business license within the text of all regulated advertising or business solicitations;
- 7 g. Mr. Sanchez, the Responsible Individual, failed to be in active management of
8 Respondents' activities governed by A.R.S. Title 6, Chapter 9, Article 1;
- 9 i. Mr. Sanchez has not ensured compliance with Arizona laws and rules as
10 evidenced by the multiple violations and repeat exam violations;
- 11 h. Failed to comply with the Superintendent's Order No. 04F-BD090-SBD, which is
12 grounds for license suspension or revocation; specifically:
- 13 i. The Department examined Respondents' mortgage broker business from
14 November 19, 2003 through December 4, 2003 and found that Respondents
15 violated ten (10) applicable laws and/or rules;
- 16 ii. The Department issued a Notice of Assessment with a civil money penalty and a
17 Consent Order on January 9, 2004;
- 18 iii. On March 4, 2004, Respondents acknowledged the violations listed in the Notice
19 of Assessment, agreed to take corrective action, and paid a civil money penalty;
- 20 i. Contracted with or paid at least \$2,482,476.63 in compensation to unlicensed,
21 independent contractors, specifically:
- 22 i. Respondents' paid \$2,000.00 to two (2) employees of Branch #6. Advances
23 were not reported to ADP and no payroll taxes were withheld;
- 24 ii. Respondents paid \$122,000.00 to Latin Wave Marketing Group, L.L.C., an
25 unlicensed, independent contractor that is a company owned by Branch #8's
26 manager, Miguel Angel Patino;

- 1 iii. Respondents paid \$373,100.00 to Casa Latino Mortgage and/or Casa Latino
- 2 Marketing, L.L.C., an unlicensed, independent contractor that is a company
- 3 owned by Branch #9's managers, Maria Villalobos and Francisco Urias;
- 4 iv. Respondents' Branch #9's manager withdrew \$160,263.51 from the company
- 5 checking account and no payroll taxes were withheld;
- 6 v. Respondents' Branch #13's manager withdrew \$13,560.00 from the company
- 7 checking account and no payroll taxes were withheld;
- 8 vi. Respondents paid \$28,000.00 to Mi Kasa Realty, L.L.C., an unlicensed,
- 9 independent contractor that is a company owned by Branch #22's manager,
- 10 Werner Von Borries;
- 11 vii. Respondents paid \$33,162.98 to NB Mortgage, L.L.C., an unlicensed,
- 12 independent contractor that is a company owned by Branch #27's manager,
- 13 Oscar Nevarez;
- 14 viii. Respondents' Branch #41 engaged in withdrawals and transfers of monies to
- 15 personal checking accounts. Branch #41 employee, Diana Deleon was paid
- 16 \$22,818.75 without payroll taxes withheld. Transfers in the amount of
- 17 \$21,500.00 were made to Michael Moore's personal account. Michael Moore
- 18 represents that he is owner of Expert Lending Pro, which is an unlicensed,
- 19 independent contractor. Michael Moore and Diana Deleon are also listed as
- 20 managing members of Silver Star Lending, L.L.C., which is an unlicensed,
- 21 independent contractor;
- 22 ix. Respondents paid \$418,646.00 to CM Vermex, L.L.C. and CM Vermex
- 23 Mortgage, an unlicensed, independent contractor that is owned by Branch #2's
- 24 manager, Cesar Hurtado;
- 25 x. Respondents paid \$314,204.00 to JC Mortgage, L.L.C. and JC Mortgage, an
- 26 unlicensed, independent contractor that is owned by Branch #1's manager, Jose

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

- Castillo;
- xi. Respondents paid \$47,721.00 to SD Mortgage Financial, L.L.C. and SD Mortgage, an unlicensed, independent contractor that is owned by Branch #6's manager, Saovach Demichellis;
- xii. Respondents paid \$172,771.00 to Miguel Castillo, Frank & Miguel Castillo, F & M Mortgage, M & F Mortgage, L.L.C., all of which are unlicensed, independent contractors owned by Branch #13's managers, Frank Castillo, Miguel Castillo, and Kimberly Castillo;
- xiii. Respondents paid \$103,757.00 to Hector Demichellis who received branch office disbursements through Respondents' corporate account, but who is not listed as an employee or branch manager;
- xiv. Respondents paid \$277,024.00 to Francisco Diaz, FDiaz Marketing, L.L.C., and FDiaz Marketing, an unlicensed, independent contractor that is owned by Branch #10's manager, Francisco Diaz;
- xv. Respondents paid \$85,556.81 to Jamie Diaz, a loan officer employed at Respondents' corporate office. These payments did not go through ADP payroll services;
- xvi. Respondents paid \$34,727.00 to Maria Cervantes, Branch #10's manager. These payments did not go through ADP payroll services; they were listed on the check register as branch disbursements;
- xvii. Respondents paid \$37,273.33 to Dayami Villalobos, a loan officer employed at Respondents' corporate office. These payments did not go through ADP payroll services;
- xviii. Respondents paid \$136,350.00 to Joe Canzales, a loan officer employed at Respondents' corporate office. These payments did not go through ADP payroll services;

- 1 xix. Respondents paid \$59,003.25 to Sandra Rios who is not listed as a branch
2 manager or employee; the check register description is branch office
3 disbursements; and
- 4 xx. Respondents paid \$19,038.00 to Troy Spalding, who is an employee at Scottsdale
5 Title. These payments are listed as cost of goods sold and operating expenses.
6 There are no invoices for these payments;
- 7 j. Unlawfully transferred or assigned branch office licenses, specifically:
- 8 i. All branch office leases are not in the name of Eagle First Mortgage Corporation;
- 9 ii. Respondent's Owner and President David T. Sanchez's name and signature does
10 not appear on any and all branch office leases;
- 11 iii. According to Respondents' branch managers' agreement, branch managers are
12 responsible for paying all fees in connection with a mortgage broker branch
13 license;
- 14 iv. Branch managers are required to open a business checking account with Bank of
15 America and deposit the minimum required amount to open said account;
- 16 v. Branch managers are signors on the aforementioned account and are able to
17 make any distributions from the account without Respondents' knowledge or
18 approval;
- 19 vi. Branch offices are required to pay \$2,200.00 dollars a month to Respondents for
20 the rights to run a branch office and for any corporate support;
- 21 vii. Branch managers are responsible for hiring employees and obtaining the
22 necessary employee background investigations for the hiring and termination of
23 employees. No approval is necessary from the corporate office. All personnel
24 records/files are maintained at the branch offices;
- 25 viii. Branch managers are responsible for the branch office payroll and payroll
26 reports. No approval is necessary from the corporate office and no corporate

- 1 review of said payroll is conducted by Respondents;
- 2 ix. Branch managers are responsible for all branch office fixtures, equipment, and
- 3 office supplies;
- 4 x. All branch office equipment leases and maintenance contracts are in the branch
- 5 manager's name;
- 6 xi. Branch managers set their own fee structure. Respondents have no uniform fee
- 7 structure among their branches;
- 8 xii. Respondents require each branch office to maintain their own check register and
- 9 balance and income statement;
- 10 xiii. Respondents do not account for all branch income and expenses according to
- 11 their balance sheet, income statement, 2004 tax return, and 2005 tax return;
- 12 xiv. Respondents do not have physical access to all of their branches at all times; and
- 13 xv. Respondents use their corporate office address and/or license number on loan
- 14 application forms and documentation in a manner that causes confusion because
- 15 of inconsistencies in the loan origination/application process. Respondents use
- 16 their corporate address on an application that indicates the information was taken
- 17 from a borrower "face to face" when, in fact, the borrower lives a significant
- 18 distance away. Respondents, therefore, originated loans at a different location or
- 19 branch office location whose license was pending;
- 20 k. Failed to keep and maintain, at all times, correct and complete records;
- 21 l. Collected compensation for rendering services as a real estate broker or real estate
- 22 salesperson while also acting as a mortgage broker without disclosing said relationship to four (4)
- 23 borrowers;
- 24 m. Failed to use a statutorily correct written fee agreement signed by all parties;
- 25 n. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
- 26 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12

1 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts, specifically:

- 2 i. Yield spread premiums were not disclosed within good faith estimates to twelve
- 3 (12) borrowers;
- 4 ii. A preliminary good faith estimate was not issued, incomplete, or was defective
- 5 when issued to six (6) borrowers;
- 6 iii. A preliminary Truth in Lending (“TIL”) disclosure was not issued, incomplete,
- 7 or was defective when issued to twenty seven (27) borrowers;
- 8 iv. Servicing transfer disclosures were defective or not issued to forty two (42)
- 9 borrowers;
- 10 v. An affiliated business arrangement was not disclosed to four (4) borrowers;
- 11 vi. A HUD-1 final copy was not certified; and
- 12 vii. Respondents failed to correct this violation from their previous examination;
- 13 o. Allowed borrowers to sign regulated documents containing blank spaces, specifically:
- 14 i. Four (4) preliminary TIL disclosures were incomplete;
- 15 ii. Twenty two (22) TIL disclosures were incomplete;
- 16 iii. Six (6) blank space agreements were incomplete;
- 17 iv. Thirty six (36) servicing transfer disclosure statements were incomplete;
- 18 v. One (1) flood disaster protection act disclosure was incomplete;
- 19 vi. Four (4) good faith estimate disclosures were incomplete;
- 20 vii. Eight (8) affiliated business disclosures were incomplete; and
- 21 viii. Eight (8) mortgage brokerage business contracts were incomplete;
- 22 p. Failed to keep and maintain, at all times, correct and complete records as prescribed
- 23 by the superintendent; Respondents failed to produce requested records.
- 24 q. Engaged in unlicensed activity,
- 25 r. Used an unlawful appraisal disclosure placing a 90-day limit upon borrowers to
- 26 request transfer or return of an appraisal report for which the borrowers had already paid;

- 1 i. Respondents failed to correct this violation from their last examination;
- 2 s. Made a false promise or misrepresentation or concealed an essential or material fact
- 3 in the course of the mortgage broker business, specifically:
- 4 i. Respondents' #41 branch manager, Michael Moore ("Mr. Moore"), obtained
- 5 credit reports from Misource Mortgage Information ("Misource") using
- 6 Freestand Financial Holding Corporation's ("Freestand") account information
- 7 without paying for such reports. Mr. Moore misrepresented himself as a
- 8 Freestand employee to Misource. Mr. Moore and other Branch #41 employees
- 9 have also used Silver Star Lending as a division of Respondents in various
- 10 correspondence;
- 11 ii. Respondents' #38 branch manager, Alma Donadio ("Ms. Donadio"), took a loan
- 12 application on February 9, 2006 whereby the borrower listed his gross monthly
- 13 salary as \$2,860.00. On March 16, 2006, Ms. Donadio took a second application
- 14 from the same borrower whereby the listed gross monthly salary was \$4,959.00.
- 15 Both applications resulted in approval and funding by Fremont Investment and
- 16 Loan for \$148,500.00 and \$82,800.00 respectively;
- 17 iii. Respondents' #38 branch manager, Ms. Donadio, took a phone application on
- 18 January 4, 2006 whereby the borrower listed his primary residence in Glendale,
- 19 Arizona. On January 31, 2006, Ms. Donadio received a second application, by
- 20 mail, from the same borrower whereby the borrower listed his primary residence
- 21 in Phoenix, Arizona. Both applications resulted in approval and funding by Lime
- 22 Financial Services and Fremont Investment and Loan for \$132,000.00 and
- 23 \$170,000.00 respectively; and
- 24 iv. Respondents charge an "administration fee" of various amounts at closing, which
- 25 are not always disclosed to borrowers in the good faith estimate. Respondents
- 26 failed to correct this violation from their prior examination.

1 LAW

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

5 2. By the conduct set forth in the Complaint, EFMC and Mr. Sanchez have violated the
6 mortgage broker statutes and rules as follows:

- 7 a. A.R.S. § 6-905(A) for being insolvent as defined in A.R.S. § 47-1201(23), which is
8 grounds for denial, suspension, or revocation;
- 9 b. A.A.C. R20-4-917(C) by failing to adequately reconcile their checking accounts and
10 failing to supply the Department with documentation to support their financial status
11 relating to said accounts;
- 12 c. A.R.S. § 6-903(N) and A.A.C. R20-4-102 by failing to conduct the minimum
13 elements of reasonable employee investigations before hiring employees;
- 14 d. A.A.C. R20-4-917(B)(9) by failing to maintain a complete organizational file;
- 15 e. A.A.C. R20-4-917(B)(1) by failing to maintain a complete loan application list;
- 16 f. A.R.S. § 6-903(M) by failing to include their name and license number as issued on
17 their principal place of business license within the text of all regulated advertising or
18 business solicitations;
- 19 g. A.R.S. § 6-903(E) and A.A.C. R20-4-102 by failing to ensure that the responsible
20 individual maintains a position of active management and failing to ensure that the
21 responsible individual is knowledgeable about Arizona activities;
- 22 h. A.R.S. § 6-905(A) by violating an applicable law, rule, or order;
- 23 i. A.R.S. § 6-909(B) and A.A.C. R20-4-102 by contracting with or paying
24 compensation to unlicensed, independent contractors;
- 25 j. A.R.S. § 6-903(O) by transferring or assigning their mortgage broker license;
- 26 k. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6) by failing to keep and maintain, at all

- 1 times, correct and complete records;
- 2 l. A.R.S. § 6-909(I) by collecting compensation for rendering services as a real estate
3 broker or real estate salesperson while also acting as a mortgage broker without
4 disclosing said relationship to all borrowers;
- 5 m. A.R.S. § 6-906(C) by failing to use a statutorily correct fee agreement;
- 6 n. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing to comply with the
7 disclosure requirements of Title I of the Consumer Protection Act (15 U.S.C. §§
8 1601-1666j); the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601-2617);
9 and the regulations promulgated under these acts;
- 10 o. A.R.S. § 6-909(A) and A.A.C. R20-4-921 by permitting borrowers to sign regulated
11 documents containing certain blank spaces without first obtaining the proper written
12 authorization from the borrowers to complete the blank spaces;
- 13 p. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B) by failing to keep and maintain, at all
14 times, correct and complete records as prescribed by the superintendent;
- 15 q. A.R.S. § 6-903(A) by engaging in unlicensed activity; and
- 16 r. A.R.S. § 6-906(C) by using an unlawful appraisal disclosure placing a 90-day limit
17 upon borrowers to request transfer or return of an appraisal report for which the
18 borrowers had already paid; and
- 19 s. A.R.S. § 6-909(L) by making a false promise or misrepresentation or concealing an
20 essential or material fact in the course of the mortgage broker business.

21 3. The violations of applicable laws, set forth above, constitute grounds to suspend or
22 revoke EFMC's and Mr. Sanchez's mortgage broker license, number MB 0905508, pursuant to
23 A.R.S. § 6-905(A).

24 4. Respondents are insolvent as defined in A.R.S. § 47-1201(23), which is grounds for
25 license suspension or revocation pursuant to A.R.S. § 905(A)(1).

26 5. Respondents failed to comply with the Superintendent's Order No. 04F-BD090-SBD,

1 which is grounds for license suspension or revocation pursuant to A.R.S. § 905(A)(3).

2 6. Respondents failed to supply the Department with documentation to support their
3 financial status relating to certain accounts, which is grounds for suspension or license revocation
4 pursuant to A.R.S. § 905(A)(4).

5 7. The violations, set forth above, constitute grounds for the pursuit of any other remedy
6 necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona
7 pursuant to A.R.S. §§ 6-123 and 6-131.

8 8. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes
9 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation
10 for each day.

11 **ORDER**

12 1. Respondents shall immediately stop the violations set forth in the Findings of Fact and
13 Conclusions of Law.

14 2. Respondents shall surrender its mortgage broker license and all branch licenses to the
15 Superintendent.

16 3. Respondents shall not accept any further mortgage broker business and shall immediately
17 provide the Department a statement indicating that no mortgage broker business has been accepted
18 since January 31, 2007.

19 4. Respondents shall immediately hand deliver their mortgage broker license and all branch
20 licenses they have collected as of this date.

21 5. Respondents shall within thirty (30) days:

- 22 a. wind down and close all loan files, or in the alternative, transfer all remaining loan
23 files to a mortgage broker or mortgage banker licensed by the Department or exempt
24 from licensure;
- 25 b. provide to the Superintendent, the balance of the uncollected branch licenses; and
- 26 c. provide a report of the arrangements made for storage of the closed loan files. This

1 information should include a list of all files placed in storage, the location of the files,
2 and the name of the person to contact for retrieval.

3 d. Provide a status report on all branches indicating whether the respective branch is
4 closed, merged with another licensee, a DBA of a licensee or similar status.

5 6. The provisions of this Order shall be binding upon Respondents, and resolves the Notice
6 of Hearing, subject to Respondents' surrender of its licenses and subject to compliance with the
7 requirements of this Order. Should Respondents fail to comply with this order the Superintendent
8 shall initiate a proceeding to revoke Respondents' license.

9 7. The provisions of this Order shall be binding upon EFMC and Mr. Sanchez, their
10 employees, agents, and other persons participating in the conduct of the affairs of EFMC.

11 8. This Order shall become effective upon service, and shall remain effective and
12 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
13 or set aside.

14 SO ORDERED this 14th day of February, 2007.

15
16 
17 Felecia A. Rotellini
18 Superintendent of Financial Institutions

19 **CONSENT TO ENTRY OF ORDER**

20 1. Respondents acknowledge that they have been served with a copy of the foregoing
21 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
22 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

23 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of
24 the foregoing Findings of Fact, Conclusions of Law, and Order.

25 3. Respondents state that no promise of any kind or nature has been made to induce
26 them to consent to the entry of this Order, and that they have done so voluntarily.

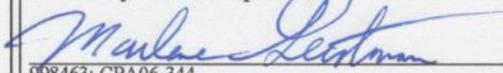
1 Judi Moss, Senior Examiner
Arizona Department of Financial Institutions
2 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

3
4 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

5 David T. Sanchez, President
Eagle First Mortgage Corporation
6 1550 South Alma School Road, Suite 100
Mesa, AZ 85210

7
8 David T. Sanchez
1281 N. Lobster Trap Drive
Gilbert, AZ 85233

9
10 Gil Rudolph, Esq.
Brian J. Schulman, Esq.
Julie Rystad, Esq.
11 GREENBERG TRAURIG
2375 E. Camelback Road, Suite 700
12 Phoenix, AZ 85016
Attorneys for Respondents

13 
14 998463; CPA06-344

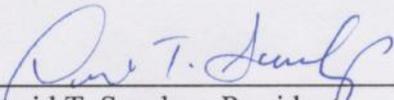
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF EAGLE FIRST MORTGAGE CORPORATION

I, David Sanchez, do hereby certify that I am the President and Responsible Individual of Eagle First Mortgage Corporation ("Eagle First"), and as such am authorized to execute and deliver this Certificate on behalf of Eagle First.

Eagle First's main office and all branches were directed to cease accepting new business effective January 31, 2007, and to my knowledge no new business has been accepted since that time.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 13th day of February, 2007.



David T. Sanchez, President
Eagle First Mortgage Corporation