

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Banker License of:

No. 07F-BD077-BNK

3 **MORTGAGE LOAN SPECIALISTS, INC.**  
4 **AND MYLES D. HUBER, PRESIDENT**  
5 8204 N. 32<sup>nd</sup> Avenue  
6 Phoenix, AZ 85051

**CONSENT ORDER**

Petitioners.

7  
8 On May 11, 2007, the Arizona Department of Financial Institutions (“Department”) issued a  
9 Notice of Hearing, alleging that Petitioners had violated Arizona law. Wishing to resolve this matter  
10 in lieu of an administrative hearing, and without admitting liability, Petitioners consent to the  
11 following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

12 **FACTS**

13 1. Petitioner Mortgage Loan Specialists, Inc. (hereinafter “MLS”) is a California  
14 corporation authorized to transact business in Arizona as a mortgage banker, license number BK  
15 0905992, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of MLS’s business is that of  
16 making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan  
17 secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

18 2. Petitioner Myles D. Hubers (“Mr. Hubers”) is the President of MLS and is authorized  
19 to transact business in Arizona as mortgage banker within the meaning of A.R.S. § 6-941(5), as  
20 outlined within A.R.S. § 6-943(F).

21 3. MLS and Mr. Hubers are not exempt from licensure as mortgage bankers within the  
22 meaning of A.R.S. §§ 6-942 and 6-941(5).

23 4. An October 31, 2006 examination of MLS, conducted by the Department, revealed  
24 that MLS and Mr. Hubers:

- 25 a. Engaged in unlicensed activity by making, negotiating, or offering to make or  
26 negotiate at least twenty-seven (27) mortgage loans at a branch office before first

1 obtaining a branch office license from the Superintendent; specifically:

- 2 i. MLS was approved for a branch license at 235 E. Ray Road, Chandler, AZ  
3 on August 11, 2006. Petitioners transacted business under the name of  
4 AMD Mortgage Services at the 235 E. Ray Road location during the time  
5 period of May 14, 2006 – August 02, 2006. Petitioners did not have a  
6 licensed branch at that location during this time period; and  
7 ii. Unlicensed mortgage loan activity occurred at the following two (2) other  
8 locations:  
9 1. 1224 Prospect Street Suite 120, La Jolla, CA 92037; and  
10 2. 4850 N. Flamingo Rd. Suite 14, Las Vegas, NV 89103;

11 b. Failed to obtain a branch office license from the Superintendent; specifically:

- 12 i. Petitioners have originated, negotiated and processed mortgage loans from  
13 two unlicensed locations as follows:  
14 1. 1224 Prospect Street Suite 120, La Jolla, CA 92037; and  
15 2. 4850 N. Flamingo Rd. Suite 14, Las Vegas, NV 89103;

16 c. Solicited and transacted business using an unlicensed name; specifically:

- 17 i. Petitioners originated and closed mortgage loans using the following  
18 unlicensed names:  
19 1. AMD Mtg. Services DBA MLS Mtg. Loan Specialists, Inc.; and  
20 2. AMD Mtg. Services, a DBA of Mtg. Loan Specialists, Inc.;

21 d. Failed to conduct the minimum elements of reasonable employee investigations  
22 before hiring employees; specifically:

- 23 i. Failed to obtain a completed and dated "I9" (Employment Eligibility  
24 Verification Form) before hiring at least six (6) employees;  
25 ii. Failed to collect and review all of the documents authorized by the  
26 Immigration and Control Act of 1986 before hiring at least three (3)

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- employees;
  - iii. Failed to consult with the applicant's most recent or next most recent employer before hiring at least seven (7) employees;
  - iv. Failed to obtain a completed and signed employment application before hiring one (1) employee;
  - v. Failed to inquire regarding an applicant's qualifications and competence for the position before hiring at least twenty (20) employees;
  - vi. Failed to obtain a credit report before hiring at least fifteen (15) employees, including at least three (3) with derogatory credit without explanation; and
  - vii. Failed to obtain a signed statement attesting to all of an applicant's felony convictions before hiring five (5) employees;
- e. Contracted with or paid compensation to unlicensed, independent contractors; specifically:
- i. Petitioners' Responsible Individual is paid on a 1099 basis rather than on a W-2 basis as required; and
  - ii. All loan processors are independent contractors, regularly paid directly at settlement on behalf of the licensee;
- f. Failed to maintain correct and complete records; specifically:
- i. Failed to provide a copy of its by-laws or annual minutes as required; and
  - ii. Failed to provide an original letter from the Petitioners' warehouse lender;
- g. Failed to obtain permission from the Superintendent to store records via computer or mechanical means; specifically:
- i. Petitioners' accounting records, bank account reconciliations and loan logs are maintained in computer files; and
  - ii. Petitioners' did not obtain prior written approval;

- 1 h. Failed to provide a complete organizational file; specifically:
- 2 i. Petitioners did not provide copies of its by-laws or annual minutes as
- 3 required;
- 4 i. Failed to provide a complete loan application listing; specifically:
- 5 i. Failed to include a provision for the application date, (5<sup>th</sup> Street office);
- 6 ii. Failed to include a provision for the amount of the initial loan request,
- 7 (Chandler, 5<sup>th</sup> Street office);
- 8 iii. Failed to include a provision for the final disposition date, (5<sup>th</sup> Street
- 9 office); and
- 10 iv. Failed to include declined and withdrawn applications, (Chandler, 5<sup>th</sup>
- 11 Street office);
- 12 j. Failed to maintain originals or copies of loan transactions; specifically:
- 13 i. Petitioners failed to maintain documents involving final HUD-1 settlement
- 14 statements in at least five (5) mortgage loan transactions;
- 15 k. Allowed borrowers to sign regulated documents containing blank spaces; specifically:
- 16 i. Eight (8) preliminary truth in lending documents were signed with blank
- 17 spaces, and
- 18 ii. Ten (10) mortgage servicing transfer forms were signed with blank spaces;
- 19 l. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
- 20 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement
- 21 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated
- 22 under these acts; specifically:
- 23 i. Yield spread premiums were not disclosed within good faith estimates
- 24 involving twelve (12) borrowers;
- 25 ii. Mortgage servicing transfer disclosures were not issued to two (2)
- 26 borrowers;

- 1                   iii. Failed to disclose an application fee on one (1) borrower's good faith  
2                   estimate;
- 3                   iv. Failed to issue a good faith estimate to one (1) borrower;
- 4                   v. Failed to disclose the correct origination fee of \$4,425.00 (\$1,200.00  
5                   disclosed) to one (1) borrower;
- 6                   vi. Failed to disclose the correct origination fee of \$3,850.00 (\$866.25  
7                   disclosed) to one (1) borrower;
- 8                   vii. Preliminary truth in lending statements were not issued to two (2)  
9                   borrowers; and
- 10                  viii. A borrower was charged two (2) origination fees, one by the Petitioners  
11                  and one by the lender on one (1) loan;
- 12                  m. Made a false promise or misrepresentation or concealed an essential or material fact  
13                  in the course of the mortgage banker business; specifically:
- 14                      i. Petitioners failed to disclose the correct annual percentage rates (APRs) to  
15                      eight (8) borrowers; specifically:
- 16                      ii. The APRs quoted to four (4) borrowers on initial Truth-in Lending  
17                      disclosures were the same as the interest rates on the Good Faith Estimates  
18                      (GFEs) provided; and
- 19                      iii. Petitioners failed to add the fees to the loan amount, thus lower APRs  
20                      were presented to the borrowers, misrepresenting the actual APRs the  
21                      borrowers would eventually pay;
- 22                  n. Failed to ensure that the Responsible Individual maintained a position of active  
23                  management and failed to ensure that the Responsible Individual was knowledgeable  
24                  about Arizona activities, specifically, Petitioners' Responsible Individual:
- 25                      i. Has not been given sufficient authority to ensure compliance with Arizona  
26                      laws; and



- 1 d. A.R.S. § 6-943(O) and A.A.C. R20-4-102 by failing to conduct the minimum  
2 elements of reasonable employee investigations before hiring employees;
- 3 e. A.R.S. § 6-947(B) and A.A.C. R20-4-102 by contracting with or paying  
4 compensation to unlicensed, independent contractors;
- 5 f. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B) by failing to maintain correct and  
6 complete records of their mortgage banking business;
- 7 g. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(A) by failing to obtain the  
8 Superintendent's permission to maintain records on computer files of their mortgage  
9 banking business;
- 10 h. A.A.C. R20-4-1806(B)(9) by failing to maintain a complete organizational file;
- 11 i. A.A.C. R20-4-1806(B)(1) by failing to maintain a list of all executed loan  
12 applications;
- 13 j. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B)(6) by failing to maintain originals or  
14 copies of all loan transactions;
- 15 k. A.R.S. § 6-947(A) and A.A.C. R20-4-1808 by allowing borrowers to sign regulated  
16 documents containing blank spaces;
- 17 l. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e) by failing to comply with the  
18 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.  
19 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§  
20 2601 through 2617), and the regulations promulgated under these acts;
- 21 m. A.R.S. § 6-947(L) by making a false promise or misrepresentation or concealing an  
22 essential or material fact in the course of the mortgage banker business;
- 23 n. A.R.S. § 6-943(F) and A.A.C. R20-4-102 by failing to ensure that the Responsible  
24 Individual maintains a position of active management and failing to ensure that the  
25 Responsible Individual is knowledgeable about Arizona activities;
- 26 o. A.R.S. § 6-946(A) by maintaining records outside of Arizona without the

1 Superintendent's approval; and

2 p. A.R.S. § 6-946(C) by failing to comply with Arizona law by using an unlawful  
3 appraisal disclosure.

4 3. The violations, set forth above, constitute grounds for: (1) the issuance of an order  
5 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to  
6 take the appropriate affirmative actions, within a reasonable period of time prescribed by the  
7 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and  
8 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the  
9 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-945; and (4) an order or any  
10 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage  
11 bankers pursuant to A.R.S. §§ 6-123 and 6-131.

12 **ORDER**

13 1. MLS and Mr. Hubers shall immediately cease the violations set forth in the Facts and  
14 Conclusions of Law. MLS and Mr. Hubers:

- 15 a. Shall not engage in unlicensed activity by making, negotiating, or offering to make or  
16 negotiate mortgage loans at a branch office before first obtaining a branch office  
17 license from the Superintendent;
- 18 b. Shall not engage in unlicensed activity at a branch location;
- 19 c. Shall not solicit and transact business using an unlicensed name;
- 20 d. Shall conduct the minimum elements of reasonable employee investigations before  
21 hiring employees;
- 22 e. Shall not pay compensation to unlicensed, independent contractors;
- 23 f. Shall maintain correct and complete records of their mortgage banking business;
- 24 g. Shall obtain Superintendent's permission to maintain computer files of the mortgage  
25 banking business;
- 26 h. Shall maintain a complete organizational file;

- 1 i. Shall maintain a list of all executed loan applications;
- 2 j. Shall maintain originals or copies of loan transactions;
- 3 k. Shall not allow parties to mortgage loan transactions to sign regulated documents
- 4 containing blank spaces without prior written authorization;
- 5 l. Shall issue Federal Disclosure forms as required by law;
- 6 m. Shall not make a false promise or misrepresentation or conceal an essential or
- 7 material fact;
- 8 n. Shall ensure that the Responsible Individual maintains a position of active
- 9 management and ensures compliance with Arizona laws and regulations;
- 10 o. Shall not maintain records outside the state without the Superintendent's approval;
- 11 and
- 12 p. Shall not use unlawful appraisal disclosures that limits a borrower to 90 days in which
- 13 the borrower may request a copy of an appraisal for which the borrower has paid.

14 2. MLS and Mr. Hubers shall on July 13, 2007, pay to the Department a civil money  
15 penalty in the amount of **thirty thousand dollars (\$30,000.00)**. MLS and Mr. Hubers are jointly and  
16 severally liable for payment of the civil money penalty.

17 3. The provisions of this Order shall be binding upon MLS and Mr. Hubers, their  
18 employees, agents, and other persons participating in the conduct of the affairs of MLS.

19 4. This Order shall become effective upon service, and shall remain effective and  
20 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,  
21 or set aside.

22 SO ORDERED this 19th day of July, 2007.

23  
24 By: Felecia Rotellini  
25 Felecia A. Rotellini  
26 Superintendent of Financial Institutions



1 ORIGINAL of the foregoing filed this 19  
day of July, 2007, in the office of:

2 Felecia A. Rotellini  
3 Superintendent of Financial Institutions  
4 Arizona Department of Financial Institutions  
5 ATTN: June Beckwith  
6 2910 N. 44th Street, Suite 310  
7 Phoenix, AZ 85018

8 COPY mailed same date to:

9 Daniel Martin  
10 Administrative Law Judge  
11 Office of the Administrative Hearings  
12 1400 West Washington, Suite 101  
13 Phoenix, AZ 85007

14 Craig A. Raby, Assistant Attorney General  
15 Office of the Attorney General  
16 1275 West Washington  
17 Phoenix, AZ 85007

18 Robert Charlton, Assistant Superintendent  
19 Joan Doran, Senior Examiner  
20 Arizona Department of Financial Institutions  
21 2910 N. 44<sup>th</sup> Street, Suite 310  
22 Phoenix, AZ 85018

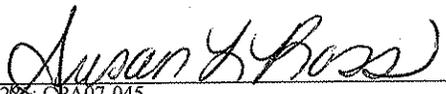
23 AND COPY MAILED SAME DATE by  
24 Certified Mail, Return Receipt Requested, to:

25 Mortgage Loan Specialists, Inc.  
26 Myles D. Huber, President  
8204 N. 32<sup>nd</sup> Avenue  
Phoenix, AZ 85051  
Petitioners

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1 Myles D. Hubers, President  
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