

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Loan Originator License of:

No. 14F-BD086-SBD

3 **JOEY DALE FONTENOT**

CONSENT ORDER

4 8864 E. Aster Drive
5 Scottsdale, Arizona 85260

Respondent.

6
7 On March 28, 2014, the Arizona Department of Financial Institutions (“Department”) issued
8 an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order
9 (“Cease and Desist Order”), alleging that Respondents had violated Arizona law. Wishing to resolve
10 this matter in lieu of an administrative hearing, Respondent consents to the following Findings of
11 Fact and Conclusions of Law, and consent to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. On or about December 4, 2012, the Department initiated examination of Amerifirst
14 Financial, Inc. (“Amerifirst”), an Arizona corporation, authorized to transact business in Arizona as
15 a mortgage banker, license number BK-013635.

16 2. Respondent Joey Dale Fontenot (“Mr. Fontenot” or “Respondent”) was employed by
17 Amerifirst as a loan originator, NMLS #251748.

18 3. During the examination, it was revealed that in the course of performance of his
19 duties as a loan originator, Mr. Fontenot retained the services of a non-affiliated third party, James
20 Gappa (“Mr. Gappa”), to contact and solicit potential borrowers to submit their loan applications to
21 Mr. Fontenot in violation of Amerifirst’s policies.

22 4. From the period starting on or before August 2012 until February 2013, Mr. Fontenot
23 and Mr. Gappa coordinated their efforts and engaged in business practices that were improper and
24 violated the requirements of A.R.S. § 6-991 *et seq.* Specifically:

- 25 a. With Mr. Fontenot’s direct or implied approval, Mr. Gappa solicited borrowers using
26 a mimic email domain address of “amerifirstaz.com”, which is similar to Amerifirst’s

1 email domain of "amerifirst.us", and represented himself as an employee of
2 Amerifirst such as "Loan Coordinator," "Director of Client Services," "Client
3 Services Manager," and "New Client Services Manager."

4 b. Mr. Fontenot also permitted Mr. Gappa to use his company's email and provided Mr.
5 Gappa with his logon information.

6 c. Mr. Gappa is not and was not, at any time material herein, authorized to act as a loan
7 originator in Arizona. Mr. Gappa was not exempt from licensure as a loan originator
8 pursuant to A.R.S. § 6-991.01. Even though Mr. Gappa was not licensed to act as a
9 loan originator, Mr. Fontenot allowed Mr. Gappa to communicate with prospective
10 borrowers as if he had authority to negotiate loan terms. For example, in an email
11 dated October 10, 2012, Mr. Gappa explained to the potential borrower, Leroy W.,
12 that because he had "good credit standing . . . [he was] in a great starting position,"
13 and that "FHA loan limits in Maricopa county [are] \$236,250.000," further stating:
14 "Contact me or [Mr. Fontenot] anytime and let's get this started so you can get into
15 your home as soon as possible."

16 d. Mr. Fontenot also permitted Mr. Gappa to collect and/or have access to potential
17 borrowers' confidential information such as copies of social security cards, pay stubs,
18 and bank account statements.

19 5. Mr. Fontenot reports that he has ceased all improper business activities and any and all
20 contact with Mr. Gappa following the issuance of the Cease and Desist Order.

21 6. These Findings of Fact shall also serve as Conclusions of Law.

22 CONCLUSIONS OF LAW

23 1. Pursuant to A.R.S. § 6-991 *et seq.*, the Superintendent has the authority and duty to
24 regulate all persons engaged in the activities of a loan originator and with the enforcement of
25 statutes, rules and regulations relating to loan originators.

26 2. By the conduct set forth in the Findings of Fact, Respondent violated the following:

1 a. A.R.S. § 6-991.02(I), which states: “A loan originator shall not make a false
2 promise or misrepresentation or conceal an essential or material fact in the course
3 of the mortgage broker or mortgage banker business.”

4 b. A.R.S. § 6-991.02(K), which states: “A loan originator shall not engage in illegal
5 or improper business practices.”

6 3. The violations set forth above constitute grounds for: (1) the issuance of an order
7 pursuant to A.R.S. § 6-137 directing Mr. Fontenot to cease and desist from the violative conduct and
8 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
9 Superintendent to correct the conditions resulting from the unlawful acts, practices, and transactions;
10 (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132; and (3) an order or any
11 other remedy necessary or proper for the enforcement of statutes and rules regulating loan
12 originators pursuant to A.R.S. § 6-991 *et seq.*

13 **ORDER**

14 1. Respondent Joey Dale Fontenot shall comply with all Arizona statutes and rules
15 regulating Arizona loan originators (A.R.S. §§ 6-991 *et seq.*). Specifically, Mr. Fontenot shall not
16 make false promises or misrepresentations or conceal an essential or material fact in the course of
17 the mortgage broker or mortgage banker business in violation of A.R.S. § 6-991.02(I), or engage in
18 improper business practices in violation of A.R.S. § 6-991.02(K).

19 2. Mr. Fontenot shall immediately pay to the Department a civil money penalty in the
20 amount of **one thousand dollars (\$1,000.00)**.

21 3. The provisions of this Order shall be binding upon Respondent.

22 4. Failure to correct the violations set forth above in this Order or any future examination
23 findings of repeat violations shall result in disciplinary action which may include a greater civil
24 money penalty and suspension or revocation of your license.

25 5. This Order shall become effective upon service, and shall remain effective and
26 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated

1 or set aside.

2 SO ORDERED this 8 day of July, 2014.

3 Lauren Kingry
4 Superintendent of Financial Institutions

5 By [Signature]
6 Robert D. Charlton
7 Assistant Superintendent of Financial Institutions

7 **CONSENT TO ENTRY OF ORDER**

8 1. Respondent Joey Dale Fontenot acknowledges that he has been served with a copy of
9 the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has
10 read the same, is aware of his right to an administrative hearing in this matter, and has waived the
11 same.

12 2. Respondent admits the jurisdiction of the Superintendent and consents to the entry of
13 the foregoing Findings of Fact, Conclusions of Law, and Order.

14 3. Respondent states that no promise of any kind or nature has been made to induce her
15 to consent to the entry of this Order, and that he has done so voluntarily.

16 4. Respondent agrees to immediately cease and desist from engaging in the violative
17 conduct set forth above in the Findings of Fact and Conclusions of Law.

18 5. Respondent acknowledges that the acceptance of this Consent to Entry of Order by
19 the Superintendent is solely to settle this matter and does not preclude this Department, any other
20 agency or officer of this state or subdivision thereof from instituting other proceedings as may be
21 appropriate now or in the future.

22 6. Respondent waives all rights to seek judicial review or otherwise to challenge or
23 contest the validity of this Cease and Desist Order.

24 DATED this 7th day of July, 2014.

25 By: [Signature]
26 Joey Dale Fontenot

1 ORIGINAL OF THE CONSENT ORDER filed
2 this 9th day of July, 2014 in the office of:

3 Lauren W. Kingry, 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

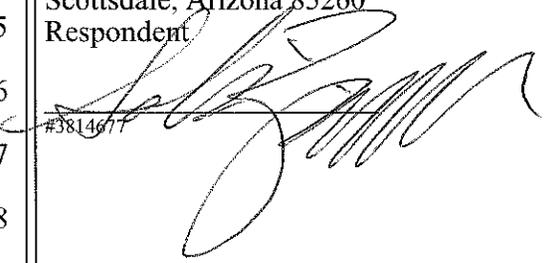
8 COPY of the foregoing mailed/delivered same date to:

9 Natalia A. Garrett, Assistant Attorney General
10 Arizona Attorney General's Office
11 1275 W. Washington Street
12 Phoenix, AZ 85007

13 Robert D. Charlton, Assistant Superintendent
14 Dawn Wismer, Examiner in Charge
15 Attn: Sabrina Zimmerman
16 Arizona Department of Financial Institutions
17 2910 N. 44th Street, Suite 310
18 Phoenix, AZ 85018

19 AND COPY mailed and emailed same date, to:

20 Joey Dale Fontenot
21 8864 E. Aster Drive
22 Scottsdale, Arizona 85260
23 Respondent

24 
25 #3814677