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BEFORE THE ARKANSAS SECURITIES COMMISSIONER,

2010 JAN -6 AM 8: 16

CASE NO. C-09-079

ARKANSAS SECURITIES DEP

IN THE MATTER OF:

ORDER NO. C-09-079-09-CO01

**BANKS & ASSOCIATES d/b/a
BA CONSULTANTS**

RESPONDENT

CONSENT ORDER

This Consent Order is entered pursuant to the provisions of the Fair Mortgage Lending Act ("Act"), Ark. Code Ann. §§ 23-39-501 through 23-39-518, the Rules of the Fair Mortgage Lending Act, and the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 through 25-15-218. Pursuant to Ark. Code Ann. § 23-39-514, this Consent Order is entered in lieu of a hearing of the above-referenced matter and in accordance with an agreement by and between the staff of the Arkansas Securities Department ("Staff") and Banks & Associates d/b/a BA Consultants ("Banks & Associates") in full settlement of all claims that could be brought against Banks & Associates by the Staff on the basis of the facts set forth herein.

Banks & Associates waives its rights to a formal hearing and consents to the entry of this order and agrees to abide by its terms.

FINDINGS OF FACT

1. Banks & Associates is a sole proprietor consulting firm located in North Little Rock, Arkansas. According to the Arkansas Securities Department's ("Department") records, Banks & Associates has never filed an application to become licensed under the Act in order to conduct mortgage loan activities in Arkansas.
2. Brooksher Banks ("Banks") is the owner and operator of Banks & Associates. According to the Departments records, Banks has never filed an application to become licensed as a

mortgage loan officer under the Act to in order to conduct mortgage loan activities in Arkansas.

3. The Staff is aware of two separate advertising campaigns initiated by Banks and Associates soliciting mortgage loan modifications in Arkansas.
4. The Staff is aware of three separate Arkansas consumers who compensated Banks and Associates for negotiating a mortgage loan modification of a mortgage loan secured by Arkansas real property.
5. In violation of Ark. Code Ann. § 23-39-503(a), Banks and Associates failed to obtain a mortgage broker license prior to soliciting and negotiating mortgage loan modifications in Arkansas. Additionally, in violation of Ark. Code Ann. § 23-39-503(a), Banks failed to obtain a loan officer license prior to soliciting and negotiating mortgage loan modifications in Arkansas.

LEGAL AUTHORITY

6. A mortgage broker is a person who for compensation or other gain or in the expectation of compensation or other gain solicits or offers to solicit an application for a mortgage loan, whether the acts are done directly or indirectly, by mail. Ark. Code Ann. § 23-39-502(15)(B).
7. It is unlawful for any person, other than an exempt person, to act or attempt to act as a mortgage broker without first obtaining a license under the Act. Ark. Code Ann. § 23-39-503(a).
8. The Act permits the informal disposition of an allegation by consent order. Ark. Code Ann. § 23-39-514(k).

CONCLUSIONS OF LAW

9. Banks and Associates solicited mortgage loan modifications from Arkansas consumers without holding a mortgage broker license from the Department as detailed in ¶¶ 1-5 in violation of Ark. Code Ann. § 23-39-503(a).
10. Banks and Associates negotiated mortgage loan modifications from Arkansas consumers without holding a mortgage broker license from the Department as detailed in ¶¶ 1-5 in violation of Ark. Code Ann. § 23-39-503(a).
11. Banks acted as a mortgage loan officer by accepting and negotiating mortgage loan modifications from Arkansas consumers without holding a mortgage loan officer license from the Department as detailed in ¶¶ 1-5 in violation of Ark. Code Ann. § 23-39-503(a).

UNDERTAKING

In settlement of this matter, but without admitting or denying the findings of fact made above, Banks and Associates agrees to pay a fine in the amount of \$1,000.00. In addition, Banks and Associates agrees to obtain an Arkansas mortgage broker license prior to soliciting, accepting, or negotiating mortgage loans in Arkansas, and Banks agrees to obtain an Arkansas mortgage loan officer license prior to soliciting, accepting, or negotiating mortgage loans in Arkansas.

ORDER

IT IS THEREFORE ORDERED that Banks and Associates pay a fine in the amount of \$1,000.00 within thirty days of the entrance of this Consent Order. In addition, Banks and Associates agrees to obtain an Arkansas mortgage broker license prior to soliciting, accepting, or negotiating mortgage loans in Arkansas.

WITNESS MY HAND AND SEAL on this 6th day of January, 200¹⁰9.

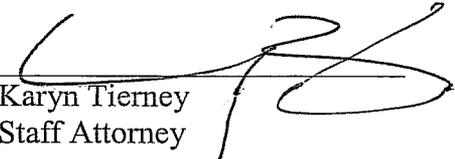

A. Heath Abshire
Arkansas Securities Commissioner

APPROVED AS TO FORM AND
CONTENT:

By: BAB
Brooksher Banks

Date: 12/16/2009

APPROVED AS TO FORM AND
CONTENT:

By: 
Karyn Tierney
Staff Attorney

Date: 1/6/2010