

**STATE OF ARKANSAS
SECURITIES DEPARTMENT**

IN THE MATTER OF

ORDER NO. C-02-029-03-CD02

JODY DAVIS

RESPONDENT

CEASE AND DESIST ORDER

On or about October 28, 2002, the staff of the Arkansas Securities Department commenced an investigation of Jody Davis, (hereinafter referred to as "Respondent"), of Siloam Springs, Arkansas, after having received information alleging possible violations of the Arkansas Mortgage Loan Company and Loan Broker Act, Ark. Code Ann. § 23-39-101 , *et. seq.*, (hereinafter referred to as the "Mortgage Loan Company and Loan Broker Act").

The staff of the Arkansas Securities Department, ("hereinafter referred to as the "Securities Department staff"), has obtained evidence indicating that Respondent has engaged in the business of a mortgage loan company or loan broker without having been duly registered or otherwise authorized to do business in Arkansas, in violation of the Mortgage Loan Company and Loan Broker Act.

FINDINGS OF FACT

1. On or about October 17, 2002, Ms. Janella Zamora (hereinafter referred to as the "Complainant") of Springdale, Arkansas submitted a complaint to the Arkansas Securities Department.
2. The complaint alleged that Complainant had contacted Respondent, d/b/a First American Mortgage and (sic) Securities of Arkansas for the purpose of securing a home loan.

3. The complaint alleged that on or about September 6, 2002, Complainant paid to Respondent the sum total of two thousand and two hundred dollars (\$2,200.00) in U.S. currency. By agreement, Respondent was to make payment on certain delinquent accounts on behalf of Complainant.
4. The complaint further alleged that on or about September 17, 2002, Complainant issued a personal check to Respondent in the sum of eight hundred dollars (\$800.00), that being check number 1389, drawn on the account of Janella C. Zamora, Arvest bank account number 61083671 made payable to "Jody Davis". Complainant alleged that the purpose of the payment was to pay additional debt needed to secure financing for a home loan.
5. The complaint alleged that at some time later, Respondent made representations to Complainant that the three thousand dollars (\$3,000.00) in funds had not been applied to the existing debt, and that the funds would be promptly refunded.
6. The complaint alleges that as of October 16, 2002, the three thousand dollars (\$3,000.00) in funds had not been refunded to Complainant, despite numerous requests, with Respondent offering a variety of explanations for his failure to refund the money in a timely manner.
7. On or about October 21, 2002 Securities Department staff mailed a letter to Respondent. The letter contained a copy of the complaint submitted by Complainant, and requested a response to the allegations contained therein.

8. On or about November 6, 2002, Respondent contacted the Arkansas Securities Department by telephone. According to Charles F. Handley, Assistant Securities Commissioner, Respondent acknowledged that a refund was owed to Complainant in the amount claimed by her. In the same conversation, Respondent represented that he would refrain from conducting mortgage loan transactions until such time as the matter is resolved. According to Mr. Handley, Respondent indicated that he would be submitting a written response to the Arkansas Securities Department letter dated October 21, 2002. As of this date, Respondent has not responded to the letter.
9. In late November or early December, 2002, Respondent refunded the three thousand dollars (\$3,000.00) owed to Complainant.
10. Respondent has at all pertinent times held out his company to be in the business of brokering mortgage loans under the name of "First American Mortgage Securities" a/k/a "FAMS of Arkansas", located at 1270 Highway 412 West, Siloam Springs, Benton County, Arkansas.
11. A thorough review of filings with the Arkansas Securities Department indicates that "First American Mortgage Securities of Arkansas" located at the above address is not registered or otherwise authorized by the Commissioner to engage in mortgage loan or loan brokering activities.

12. Respondent has failed and refused to respond to the complaint of Complainant, has failed and refused to furnish specific documents requested by Securities Department staff, and has failed and refused to show cause why he should otherwise be exempt from compliance with the Mortgage Loan Company and Loan Broker Act.
13. Securities Department staff have identified six (6) mortgage loans that Respondent or Respondent's company have brokered or have attempted to broker within a time period beginning with May 3, 2002 and ending September 9, 2002, exclusive of Complainant's attempted loan.

CONCLUSIONS OF LAW

14. The Arkansas Securities Commissioner ("hereinafter referred as "the Commissioner") shall exercise general supervision and control over mortgage loan companies and loan brokers doing business in Arkansas. **Ark. Code Ann. § 23-39-201.**
15. It is unlawful for any person to transact business in Arkansas, either directly or indirectly, as a mortgage loan company without first filing an application with and obtaining a registration certificate from the Commissioner. **Ark. Code Ann. § 23-39-301.**
16. The Commissioner may conduct an investigation when it appears that any person is engaging in the mortgage loan business in Arkansas without being registered. **Ark. Code Ann. § 23-39-202(a).**

17. Whenever it appears, upon sufficient grounds or evidence satisfactory to the Commissioner, that a mortgage loan company has engaged in any act or practice in violation of the Mortgage Loan Company and Loan Brokers Act, the Commissioner may order the company to cease and desist from the act or practice. **Ark. Code Ann. § 23-39-202(b)(1)(B).**
18. Upon the entry of a Cease and Desist order, the Commissioner may, in his discretion, apply to the Circuit Court of Pulaski County, Arkansas to enjoin the act or practice which is the subject of the order. Upon proper showing, the Court shall enter an injunction or restraining order. The Court may also order the appointment of a receiver or conservator for the defendant or the defendant's assets. **Ark. Code Ann. § 23-39-202(b)(1)(B) and 23-39-202(b)(2).**

OPINION

19. This matter is properly before the Commissioner pursuant to **Ark. Code Ann. § 29-39-201.**
20. Securities Department staff have conducted an investigation of the alleged mortgage loan activities of Respondent. Securities Department staff represent that Respondent is not registered to transact the business of a mortgage loan company in Arkansas. Securities Department staff reports that to the best of its knowledge, Respondent is not acting on the behalf of any duly registered mortgage loan company or broker.

21. Based upon the evidence referenced herein, the Commissioner finds that Respondent is not registered as a mortgage loan company or loan broker. The Commissioner finds that First American Mortgage Securities of Arkansas located at 1270 Highway 412 West, Siloam Springs, Benton County, Arkansas is not registered as a mortgage loan company or loan broker authorized to do business in Arkansas.
22. The Commissioner finds that satisfactory evidence exists that Respondent has engaged in the business of a mortgage loan company or loan broker in Arkansas.
23. The Commissioner is duly authorized to summarily order the mortgage loan company or loan broker, or person engaged in the act or practice, to cease and desist from the unlawful activity. The Commissioner may compel the attendance of persons to be examined under oath regarding the conduct and affairs of the person or company subject to the Act, and relevant to the inquiry. **Ark. Code Ann. § 23-39-203(a)(1 and (3)).** The Commissioner may also seek injunctive relief through the Pulaski County Circuit Court, or to enforce compliance with the Act by judicial decree. **Ark. Code Ann. 23-39-203(a)(1) and (3).**

ORDER

IT IS HEREBY ORDERED that Respondent shall immediately CEASE and DESIST from transacting the business of a mortgage loan company or loan broker, or otherwise engaging in mortgage loan or loan brokering activities in Arkansas.

Securities Department staff is hereby authorized to monitor Respondent's compliance with this Order, and promptly report any violations. Securities Department legal counsel is authorized to conduct sworn examinations of any persons who may have information relevant to this inquiry. Respondent is admonished that any violations of this Order will result in the initiation of legal proceedings before the Circuit Court of Pulaski County by Securities Department legal counsel.

Respondent may request a hearing before the Commissioner. Any request for a hearing must be made in writing within twenty (20) days of Respondent's receipt of the Cease and Desist Order. If no hearing is requested within twenty (20) days, this Order shall become final.

IT IS SO ORDERED:



MICHAEL B. JOHNSON
ARKANSAS SECURITIES COMMISSIONER

MARCH 4, 2003
DATE