

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

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ASD CASE NO. C-08-077

ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:

C-08-077-08-AC01

**LANDAN K. MITCHELL,
LICENSE NO. 15250**

RESPONDENT

REQUEST FOR REVOCATION OF LICENSE AND HEARING

Comes now the Staff of the Arkansas Securities Department (“Department”), by and through its attorney, Alexandra N. Stephens, and for its Request for Revocation of License and Hearing, states:

Administrative Authority

This matter concerns the revocation of license to conduct business as a loan officer pursuant to the Arkansas Fair Mortgage Lending Act (“Act”), Ark. Code Ann. §§ 23-39-501 through 23-39-518, and is therefore properly before the Arkansas Securities Commissioner (“Commissioner”).

Respondent

1. Landan K. Mitchell (“Mitchell”) is a former licensed loan officer under license number 15250. Mitchell was licensed as a loan officer of Boardwalk Mortgage Group, LLC (f/k/a Benton Mortgage Group, LLC) (“Boardwalk”) with the Department from February 3, 2006 until November 28, 2007. Mitchell’s loan officer license was cancelled on November 28, 2007 by Boardwalk.

Facts to be Presented by Securities Department Staff

2. On or about October 10, 2005, a complaint was filed in the Circuit Court of Pulaski County, Arkansas, Case No. CV 2005-12575, Block 2 Limited Partnership d/b/a Block 2 Lofts, Plaintiff vs. Landan Mitchell, Defendant vs. Arvest Bank, Third-

party Defendant alleging theft, forgery, and fraud against Mitchell. A copy of the Complaint is attached hereto as “Exhibit A”.

3. On or about November 3, 2005, Mitchell filed an Answer to the Complaint denying allegations of theft, forgery, and fraud. A copy of the Answer is attached hereto as “Exhibit B”.

4. On or about December 15, 2005, Mitchell filed FMLA Form 014, “Application for Managing Principal, Branch Manager, or Loan Officer” with the Department requesting a loan officer license. Mitchell listed his employer as Benton Mortgage Group, license number 28263. A copy of the application is attached hereto as “Exhibit C”.

5. In his application, Mitchell answered a series of questions regarding his business background, specifically Questions 3(a) through 3(f). Mitchell provided a negative response for Question 3(f) which states,

“Have you been named as a defendant in any pending civil court proceeding in which a complaint alleges fraud, dishonesty, misrepresentation, theft, misappropriation, bad faith, deceptive trade practices, or predatory lending practices?”

Mitchell answered “No.”

6. Mitchell signed the application in the presence of a notary public on December 8, 2005. The application contains the following language in bold type for emphasis directly above the notarized signature of Mitchell: “I hereby swear or affirm that I have reviewed this application and the accompanying information submitted herein, and that that (sic) the information contained therein is true, accurate, correct and

complete to the best of my knowledge. I understand that the submission of false information to the Arkansas Securities Commissioner could result in the revocation or suspension of my license. I understand that it is unlawful pursuant to Section 23-39-516(a) of the Arkansas Fair Mortgage Lending Act for any person to make or cause to be made, in any document filed with the Arkansas Securities Commissioner, any statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect. Further, I understand that making or causing to be made a false or misleading statement as described above, if made willfully in a document filed with the Arkansas Securities Commissioner, is a Class B felony pursuant to Ark. Code Ann. Section 23-39-516(b), and carries a penalty of imprisonment of not less than five (5) years nor more than twenty (20) years imprisonment.”

7. Arkansas Securities Department Staff (“Staff”) reviewed Mitchell’s loan officer license application submitted December 15, 2005 and, based upon the information provided by Mitchell, the application was approved February 3, 2006 with an expiration date of February 28, 2007. Mitchell was issued loan officer license number 15250.

8. On or about December 11, 2006, Mitchell filed FMLA Form LO-003, “Loan Officer License Renewal Application” with the Department requesting renewal of his loan officer license. Mitchell listed his employer as “Boardwalk Mortgage Group”, license number 28263 (formerly known as Benton Mortgage Group). A copy of the renewal application is attached hereto as “Exhibit D”.

9. In his application, Mitchell answered a series of questions regarding his business background, specifically Questions 2(a) through 2(f). Mitchell provided a negative response for Question 2(f), which states,

“Have you been named as a defendant in any pending civil court proceeding in which a complaint alleges fraud, dishonesty, misrepresentation, theft, misappropriation, bad faith, deceptive trade practices, or predatory lending practices?”

Mitchell answered “No.”

10. Mitchell signed the application in the presence of a notary public on December 6, 2006. The application contains the following language in bold type for emphasis directly above the notarized signature of Mitchell: “I hereby swear or affirm that I have reviewed this application and the accompanying information submitted herein, and that that (sic) the information contained therein is true, accurate, correct and complete to the best of my knowledge. I understand that the submission of false information to the Arkansas Securities Commissioner could result in the revocation or suspension of my license. I understand that it is unlawful pursuant to Section 23-39-516(a) of the Arkansas Fair Mortgage Lending Act for any person to make or cause to be made, in any document filed with the Arkansas Securities Commissioner, any statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect. Further, I understand that making or causing to be made a false or misleading statement as described above, if made willfully in a document filed with the Arkansas Securities Commissioner, is a Class B felony pursuant to Ark. Code Ann. Section 23-39-516(b), and carries a penalty of imprisonment of not less than five (5) years nor more than twenty (20) years imprisonment.”

11. The Staff reviewed Mitchell’s loan officer license renewal application submitted December 11, 2006 and, based upon the information provided by Mitchell, the

renewal application was approved December 14, 2006 with an expiration date of February 28, 2008. Mitchell's loan officer license was cancelled by Boardwalk on November 28, 2007.

Legal Authority

12. The Act allows for pursuit of revocation of license notwithstanding a surrender or termination of the license and acceptance of same by the Commissioner, if within one (1) year following the effective date of the surrender or termination of a licensee or any person acting on behalf of the licensee has knowingly violated any provision of the Act or any rule or order promulgated or issued under the Act. The Commissioner may enter an order revoking the license as of a date before the acceptance of the surrender or termination. Ark. Code Ann. § 23-39-505(n)(3)(A)-(B).

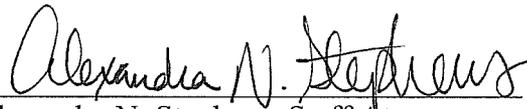
13. The Commissioner may by order deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant if the Commissioner finds that the order is in the public interest and the licensee, or any loan officer or managing principal has violated or failed to comply with any provision of the Act, including filing an application for license that, as of its effective date or as of any date after filing, contained any omission or statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact. Ark. Code Ann. § 23-39-514(a)(1) and (a)(2)(A).

14. The Commissioner by order may impose a civil penalty that shall not exceed \$10,000.00 for each violation by a loan officer upon a licensee or any partner, officer, director, member, manager, or other person occupying a similar status or

performing a similar function on behalf of a licensee for any violation of the Act. Ark. Code Ann. § 23-39-514(b)(1)-(2).

Summary

For the reasons set forth herein, the Department requests that a hearing be held to consider whether the loan officer license of Landan K. Mitchell should be revoked for failing to comply with the Act by filing applications for licensure as a loan officer that, as of its effective date, contained any omission or statement that in light of the circumstances under which it was made is false or misleading with respect to any material fact pursuant to Ark. Code Ann. § 23-39-514(a)(2)(A).



Alexandra N. Stephens, Staff Attorney
Arkansas Securities Department
201 East Markham Street, Suite 300
Little Rock, Arkansas 72201-1692
Arkansas Bar No. 2001047
Telephone No. 501-324-9260