

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2
3 In the Matter of the Revocation of the Mortgage
Broker License of:

4 **GOLD KEY MORTGAGE, INC. AND CRAIG M.**
5 **HATTING, PRESIDENT/OWNER**
3303 East Elmwood Place
6 Chandler, AZ 85249

Respondents.

No. 08F-BD061-BNK

**SUPERINTENDENT'S FINAL
DECISION AND ORDER**

7
8 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
9 record in this matter, and the Administrative Law Judge Decision attached and incorporated herein
10 by this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of Law and
11 Recommended Order.

12 ORDER

13 **IT IS ORDERED** that Respondents' Mortgage Broker License Number MB 0906185 is
14 revoked effective as of the date of this Order.

15 **IT IS FURTHERED ORDERED** that Respondents shall pay a civil money penalty in the
16 amount of \$10,000.

17 **IT IS FURTHERED ORDERED** that Respondents shall pay the examination fee of
18 \$10,680 and a late payment penalty of \$50.00 per day for every day the examination fee has not
19 been paid beginning on June 23, 2008 and continuing until the examination fee is paid in full.

20 NOTICE

21 The parties are advised that this Order becomes effective immediately and the provisions of
22 this Order shall remain effective and enforceable except to the extent that, and until such time as,
23 any provision of this Order shall have been modified, terminated, suspended, or set aside by the
24 Superintendent or a court of competent jurisdiction.

25 DATED this 3rd day of September, 2008.



26 Felicia Rotellini
27 Superintendent of Financial Institutions
28

1 ORIGINAL filed this 4th day of
Sept, 2008 in the office of:

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

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

10 Michael G. Wales, Administrative Law Judge
11 Office of Administrative Hearings
12 1400 West Washington, Suite 101
13 Phoenix, AZ 85007

14 Erin O. Gallagher, 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, Financial Institution Examiner Sr.
20 Arizona Department of Financial Institutions
21 2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018

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

25 Craig M. Hatting
26 President/Owner
27 Gold Key Mortgage, Inc.
28 3033 East Elmwood Place
Chandler, AZ 85249

BY: June Beckwith

1 STATE OF ARIZONA

2 IN THE OFFICE OF ADMINISTRATIVE HEARINGS

3
4 In the Matter of the Revocation of the
Mortgage Broker License of:

5
6 GOLD KEY MORTGAGE, INC. AND
7 CRAIG M. HATTING,
PRESIDENT/OWNER

8 Respondents.

No. 08F-BD061-BNK

ADMINISTRATIVE
LAW JUDGE DECISION

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10
HEARING: July 2, 2008

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12 **APPEARANCES:** Assistant Attorney General Erin O. Gallagher appeared on
13 behalf of the Arizona Department of Financial Institutions. Respondents did not
14 appear at the hearing.

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16 **ADMINISTRATIVE LAW JUDGE:** Michael G. Wales

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18 **FINDINGS OF FACT**

19 1. Gold Key Mortgage, Inc. ("Gold Key") is an Arizona corporation,
20 incorporated in 2003, authorized to transact business in Arizona as a mortgage broker,
21 pursuant to license no. MB 0906185, issued by the Arizona State Banking Department
22 on March 29, 2004. As a mortgage broker, Gold Key either directly makes, negotiates
23 or offers to make or negotiate a mortgage loan secured by Arizona Real property within
24 the meaning of Arizona Revised Statutes ("A.R.S.") § 6-901(6).

25 2. Craig M. Hatting ("Mr. Hatting") is the sole owner, executive officer and
26 Responsible Individual of Gold Key and is authorized to transact business in Arizona as
27 a mortgage broker as outlined at A.R.S. § 6-906(E); no license number for Mr. Hatting
28 was provided to the hearing record.

29 3. Neither Gold Key nor Mr. Hatting are exempt from licensure as a
30 mortgage broker within the meaning of A.R.S. §§ 6-901(6) and 6-902.

4. On July 24, 2007, the Arizona State Banking Department ("Department")

1 commenced an examination of Gold Key's business activities pursuant to A.R.S. § 6-
2 122(B)(3).¹ The examination concluded on October 19, 2007. As a result of the
3 examination, the Department discovered the following activities or failures which
4 occurred on multiple dates in 2006 and 2007:

5 a. Gold Key and Mr. Hatting failed to include Gold Key's license number, as
6 issued by the Department, on its internet advertising webpage
7 "www.goldkeymtgloans.com" (Exhibit 2) and failed to display the correct license
8 designation on its Harkins Theatre Movie Brochure (Exhibit 2), each in violation of
9 A.R.S. § 6-903.M;

10 b. Gold Key and Mr. Hatting failed to conduct the minimum statutorily
11 required elements of employee investigations before hiring, and failed to maintain
12 required records of fourteen (14) current and former employees (Exhibit 3), in violation
13 of A.R.S. § 6-903(N) and A.A.C. R20-4-102(20);

14 c. Gold Key and Mr. Hatting failed to maintain an organizational file including
15 the organizational documents for the legal entity; all meeting minutes; and records of
16 stock ownership, in violation of A.A.C. R20-4-917(B)(9);

17 d. Gold Key and Mr. Hatting failed to maintain the required information for
18 loan applications, specifically the disposition of the application, and the disposition date,
19 in its list of all executed loan applications, in violation of A.A.C. R20-4-917(B)(1)
20 (Exhibit 4);

21 e. Gold Key and Mr. Hatting permitted parties to mortgage loan transactions
22 to sign regulated documents, including loan origination agreements, anti-coercion
23 statements, and servicing disclosure statements, without benefit of properly completed
24 written authorizations to complete blank spaces and further failed to correctly complete
25 eleven separate and distinct written authorizations to complete blank spaces by failing
26 to indentify the document and blank spaces to be completed, in violation of A.A.C. R20-
27 4-921 (Exhibit 5);

28 f. Gold Key and Mr. Hatting concealed and misrepresented material facts
29 from lenders in violation of A.R.S. § 6-909(L) by presenting twelve separate and distinct

30 ¹ A.R.S. § 6-122(B)(3) which requires an examination of the business and affairs of each such financial institution at least once in a five year period.

1 loan applications of Mr. Chester Engleking for twelve separate and distinct properties to
2 lenders when Gold Key and/or Mr. Hatting had reason to know that Mr. Engleking
3 omitted material and essential facts in his applications, specifically in regards to Mr.
4 Engleking's financial obligations on other mortgages (Exhibits 6-17);

5 g. Gold Key and Mr. Hatting failed to have Gold Key's financial statements
6 prepared on an accrual basis rather than on a cash basis, in violation of A.R.S. § 6-
7 906(B) and A.A.C. R20-4-102(14) (Exhibit 18);

8 h. Gold Key and Mr. Hatting failed to ensure proper execution of fee
9 agreements by all parties in four separate cases in violation of A.R.S. § 6-906(C)
10 (Exhibit 19);

11 i. Gold Key and Mr. Hatting failed to ensure that a/the Responsible
12 Individual maintained a position of active management of the activities of Gold Key at
13 all times in violation of A.R.S. § 6-903(E) and A.A.C. R20-4-102(1); and

14 j. Gold Key and Mr. Hatting used appraisal disclosures that included
15 unlawful 90-day limits on the amount of time a borrower could request an appraisal for
16 which the borrower had paid in violation of A.R.S. 6-906(C) (Exhibit 20).

17 5. As a result of its examination, on May 21, 2008, the Department issued
18 and served upon Gold Key and Mr. Hatting a Notice of Hearing and Complaint as well
19 an invoice in the amount of \$10,680.00, the statutory fee for the examination pursuant
20 to A.R.S. § 6-125 (Exhibit 22). Personal service of the Notice of Hearing and
21 Complaint, as well the invoice was affected on Craig Hatting personally, and as
22 statutory agent for service of process for Gold Key, on May 23, 2008 (Exhibit 21).

23 6. The matter was not resolved informally, and was subsequently referred for
24 an administrative hearing. The Department's May 21, 2008 Notice of Hearing set the
25 matter for hearing on July 2, 2008 before the Office of Administrative Hearings, an
26 independent state agency. The Department's Notice of Hearing set forth the
27 allegations for which the Department maintained that Gold Key, and Mr. Hatting, were
28 in violation of certain banking statutes and rules.

29 7. Pursuant to Arizona Administrative Code ("A.A.C.") R20-4-1209, noticed
30 licensees are required to file a written answer within twenty days of the issuance of the
Notice of Hearing; the Department's Notice of Hearing was issued on May 21, 2008,

1 and a written response was due on June 12, 2008. Pursuant to A.A.C. R20-4-1209(D),
2 licensees who fail to comply with the answer requirement may be deemed to be in
3 default, and the Department may deem the allegations admitted and take whatever
4 action is appropriate, including the denial of a license. The hearing record does not
5 contain any written answer from Gold Key of Mr. Hatting, however, the Department did
6 not take action to deem the allegations admitted.

7 8. At hearing, the Department's examiner Joan S. Doran² testified at length
8 with regard to her examination, as was reflected in her examination report, and
9 indicated the existence of the violations as alleged. See Exhibit 1.

10 9. Also at hearing, the Department indicated that it had not received a
11 response from Gold Key or Mr. Hatting to the examination report and had not received
12 payment of the examination fee. The Department indicated that it sought a revocation
13 of the license, a civil penalty in the amount of \$10,000.00, payment of the examination
14 fee; and a \$50.00 per day late fee pursuant to A.R.S § 6-125(Defendant) for every day
15 after June 23, 2008 that the examination fee had not been paid.

16 10. As indicated above, neither Mr. Hatting, nor any other representative of
17 Gold Key, attended the hearing, despite being personally served with the Notice of
18 Hearing.

19 CONCLUSIONS OF LAW

20 1. The Superintendent of the Department has the authority to regulate all
21 persons engaged in the mortgage business and enforce the applicable statutes and
22 rules. See A.R.S. Title 6, Chapter 9, Article 2.

23 2. A.R.S. § 6-132 provides that the Superintendent of the Department may
24 assess a monetary civil penalty of not more than \$5,000.00 against a person for a
25 knowing violation of applicable statute or rule or order adopted or issued under state
26 banking laws. The law specifically provides that "[e]ach day of violation constitutes a
27 separate offense."
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29

30 ² Joan S. Doran is a Senior Examiner with the Arizona Department of Financial Institutions. She has been
conducting mortgage broker compliance examinations for the Department for seven years.

1 3. The Department adopted administrative rules further defining or setting
2 forth practice and procedure applicable to licenses which were granted under the
3 Department's authority. See A.A.C. R20-4-101 *et. seq.* and R20-4-901 *et. seq.*

4 4. As a result of Ms. Doran's investigation, the Department charged that
5 Gold Key's actions and failures, as well as those of its principal, owner, and
6 Responsible Individual, Mr. Hatting, were violations of Arizona statutes and rules as
7 follows:

8 a. A violation of A.R.S. § 6-903(M) by failing to comply with disclosure
9 requirements within all regulated advertising or solicitations for mortgage brokers,
10 specifically by failing include its license number, as issued by the Department, on its
11 internet advertising webpage "www.goldkeymtgloans.com" and failing to display the
12 correct license designation on its Harkins Theatre Movie Brochure;

13 b. A violation of A.R.S. § 6-903(N) and A.A.C. R20-4-102(20) by failing to
14 conduct the minimum statutorily required elements of employee investigations before
15 hiring fourteen employees;

16 c. A violation of A.A.C. R20-4-917(B)(19) by failing to maintain an
17 organizational file including the organizational documents for the legal entity; all
18 meeting minutes; and records of stock ownership;

19 d. A violation of A.A.C. R20-4-917(B)(1) by failing to maintain the required
20 information for loan applications, specifically the disposition of the application, and the
21 disposition date, in its list of all executed loan applications;

22 e. A violation of A.A.C. R20-4-921 by permitting parties to mortgage loan
23 transactions to sign regulated documents, including loan origination agreements, anti-
24 coercion statements, and servicing disclosure statements, without benefit of properly
25 completed written authorizations to complete blank spaces and further failing to
26 correctly complete eleven separate and distinct written authorizations to complete blank
27 spaces by failing to indentify the document and blank spaces to be completed;

28 f. A violation of A.R.S. § 6-909(L) by presenting twelve separate and distinct
29 loan applications of Mr. Chester Engleking for twelve separate and distinct properties to
30 lenders when Gold Key and Mr. Hatting had reason to know that Mr. Engleking omitted

1 material and essential facts in his applications, specifically in regards to Mr. Engleking's
2 financial obligations on other mortgages;

3 g. A violation of A.R.S. § 6-906(B) and A.A.C. R20-4-102(14) by failing to
4 have Gold Key's financial statements prepared on an accrual basis rather than on a
5 cash basis;

6 h. A violation of A.R.S. § 6-906(C) by failing to ensure proper execution of
7 fee agreements by all parties in four separate cases;

8 i. A violation of A.A.C. R20-4-917(B)(4) by failing to ensure that a/the
9 Responsible Individual maintained a position of active management of the activities of
10 Gold Key at all times³; and

11 j. A violation of A.R.S. § 6-906(C) by using appraisal disclosures that
12 included unlawful 90-day limits on the amount of time a borrower could request an
13 appraisal for which the borrower had paid.

14 5. The Department bears the burden to prove each of those charges by a
15 preponderance of the evidence. See Arizona Administrative Code R2-19-119. A
16 preponderance of the evidence is "such proof as convinces the trier of fact that the
17 contention is more probably true than not." Morris K. Udall, ARIZONA LAW OF EVIDENCE §
18 5 (1960).

19 6. With regard to the Department's allegations, the Department provided
20 credible and reliable evidence of all of the alleged violations with its thorough
21 examination. Additionally, of great weight was the examiner's testimony regarding the
22 thoroughness of her examination, the presentation of exhibits documenting her finding;
23 and her testimony that Mr. Hatting admitted the violations to Ms. Doran when
24 questioned about many of the acts and omissions described above.

25 7. The Administrative Law Judge concludes, based on the hearing evidence,
26 that the Department has met its burden to show that Gold Key and Mr. Hatting violated
27 applicable statutes and rules as alleged in the Notice of Hearing, and as stated herein in
28 Finding of Fact No. 4 and Conclusion of Law No. 4. Therefore, the Administrative Law
29 Judge concludes that the determined acts, practices and transactions of Gold Key and

30 ³ See also A.A.C. R20-4-915, Requirements for a Person Intended to Oversee a Branch Office.

1 Mr. Hatting violated the stated applicable Arizona statues and rules: A.R.S. §§ 6-903, 6-
2 906, 6-909 and A.A.C. R20-4-102, R20-4-917, and R20-4-921.

3 8. Taking all of the foregoing into consideration, the Administrative Law
4 Judge concludes that the requested license revocation by the Superintendent of the
5 Department is clearly appropriate, and the imposition of a monetary civil penalty is
6 equally appropriate.

7 **RECOMMENDED ORDER**

8 Based on the foregoing, the Administrative Law Judge recommends that the
9 Superintendent of the Department find that the acts, practices and transactions (as
10 were examined and as were determined herein) to be violations of A.R.S. §§ 6-903, 6-
11 906, 6-909 and A.A.C. R20-4-102, R20-4-917 and R20-4-921.

12 Based on the above, the Administrative Law Judge further recommends that
13 the Superintendent issue the following Order:

14 On the effective date of the Order entered in this matter, Respondents' Arizona
15 mortgage broker's license shall be revoked;

16 Pursuant to A.R.S. § 6-132, a civil penalty shall be imposed upon Respondents
17 in the amount of \$10,000.00 for the violations of A.R.S. §§ 6-903, 6-906, 6-909 and
18 A.A.C. R20-4-102, R20-4-917 and R20-4-921;

19 Pursuant to A.R.S. § 6-125, Respondents shall reimburse the Department in the
20 amount of the exam fee of \$10,680.00; and

21 Pursuant to A.R.S. § 6-125(D) Respondents shall pay a late payment penalty of
22 \$50.00 per day for every day the examination fee has not been paid beginning on June
23 23, 2008, and continuing until the examination fee is paid in full.

24 Done this day, August 6, 2008.

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26 Office of Administrative Hearings

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29 Michael G. Wales
30 Administrative Law Judge

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Original transmitted by mail this
7 day of August, 2008, to:

Arizona Department of Financial Institutions
Felecia Rotellini, Director
ATTN: Susan L. Ross
2910 North 44th Street, Suite 310
Phoenix, AZ 85018

By Chris Fumalada