

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD071-BNK

3 **SUSAN MEANS SILVER DBA SILVER**
4 **FINANCIAL**
5 20417 N. 30th Street
6 Phoenix, AZ 85050-4717

**SUPERINTENDENT'S FINAL
DECISION AND ORDER OF
REVOCATION**

7 Respondent.

8 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the
9 record in this matter, including the Administrative Law Judge Decision attached and incorporated
10 herein by this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of
11 Law and recommended decision as follows:


12 ORDER

13 IT IS ORDERED that Respondent's Mortgage Broker License Number MB 0908105 is
14 revoked effective as of the date of this Order.

15 NOTICE

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

20 DATED this 19th day of August, 2009.

21 
22 Felecia Rotellini
23 Superintendent of Financial Institutions

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1 ORIGINAL filed this 19th day of August, 2009 in the office of:

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

5 COPY of the foregoing mailed/hand delivered
6 This same date to:

7 Lewis D. Kowal, Administrative Law Judge
8 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

9 Erin O. Gallagher, Assistant Attorney General
10 Office of the Attorney General
1275 West Washington
11 Phoenix, AZ 85007

12 Richard Fergus, Licensing Division Manager
13 Robert Charlton, Assistant Superintendent
Arizona Department of Financial Institutions
14 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

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

16 Susan Means Silver
17 DBA Silver Financial
20417 N. 30th Street
18 Phoenix, AZ 85050-4717

19 Susan Means Silver
20 DBA Silver Financial
15255 N. Frank Lloyd Wright Blvd., Unit 2089
Scottsdale, AZ 85260

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23 BY: June Beckwith
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1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

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

No. 09F-BD071-BNK

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5 **SUSAN MEANS SILVER DBA SILVER**
6 **FINANCIAL**
7 20417 N. 30th Street
Phoenix, AZ 85050-4717

**ADMINISTRATIVE
LAW JUDGE DECISION**

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10 **HEARING: July 22, 2009**

11 **APPEARANCES:** Assistant Attorney General Erin O. Gallagher appeared on
12 behalf of the Arizona Department of Financial Institutions; Susan Means Silver did not
13 appear at the hearing.

14 **ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal**

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16 **FINDINGS OF FACT**

- 17 1. Susan Means Silver doing business as Silver Financial ("Silver Financial") is a
18 corporation authorized to transact business in Arizona as a mortgage broker, license
19 number MB-0908105.
- 20 2. At all times material to this matter, Susan Means Silver was the owner of Silver
21 Financial.
- 22 3. On March 6, 2009, the Arizona Department of Financial Institutions
23 ("Department") was notified by RLI Insurance Company that Silver Financial's surety
24 bond in the amount of \$10,000.00 would be canceled as of 30 days from March 3,
25 2009, the date of receipt of the notice.
- 26 4. On March 9, 2009, the Department sent a letter to Silver Financial informing it
27 that the Department had received a Notice of Bond Cancellation regarding Silver
28 Financial's surety bond and requested that documentation showing a reinstatement
29 bond or a new original surety bond be provided to the Department. The letter also
30 notified Silver Financial that a lapse in bond coverage is a serious violation and that

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 administrative enforcement action will ensue if the requested information is not
2 provided within five business days of receipt of the letter.

3 5. The letter was returned to the Department with the envelope marked by the
4 United States Service "Moved left no address".

5 6. On May 20, 2009, the Superintendent of the Department issued an Order of
6 Summary Suspension and Notice of Hearing to Revoke ("Order") immediately
7 suspending Silver Financial's mortgage broker's license based on its failure to maintain
8 the required surety bond. The Order was sent to Silver Financial by certified mail,
9 return receipt requested. The Department received a signed green card evidencing
10 receipt of the Order.

11 7. The Department researched the trade name Silver Financial with the Arizona
12 Secretary of State's Office and found that the name was registered by A G Holdings,
13 LLC. The Arizona Corporation Commission's records show that Susan M. Silver is a
14 member of A G Holdings, LLC. The Department sent the Order to the address of
15 record the Department had for Silver Financial and also sent the Order to the address
16 that the Arizona Corporation Commission had in its file for A G Holdings LLC for file for
17 Susan M. Silver. Both envelopes containing the Order were returned to the Department
18 as undeliverable by the United States Postal Service.

19 8. Richard Fergus ("Mr. Fergus"), who is in charge of supervising the Financial
20 Services Division of the Department, testified that the Department's records reflect that
21 Silver Financial's cancelled bond has not been replaced. Mr. Fergus also testified that
22 prior to the hearing date, the Department had not received any information that showed
23 Silver Financial had obtained a replacement surety bond or that the bond had been
24 renewed.

25 9. Mr. Fergus testified as to the legal requirement for a mortgage broker to maintain
26 a surety bond and the necessity for issuance of the summary suspension of Silver
27 Financial's mortgage broker's license for the public's protection.
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2 **CONCLUSIONS OF LAW**

3 1. The Superintendent of the Department is vested with the authority to regulate
4 persons engaged in the mortgage broker business and has the duty to enforce statutes
5 and rules relating to mortgage brokers. See A.R.S. § 6-901 *et seq.*

6 2. The Department bears the burden to prove by a preponderance of the evidence
7 that Silver Financial has violated State laws pertaining to mortgage brokers. See
8 A.A.C. R2-19-119. A preponderance of the evidence is "such proof as convinces the
9 trier of fact that the contention is more probably true than not." Morris K. Udall, ARIZONA
10 LAW OF EVIDENCE § 5 (1960).

11 3. Credible evidence established that Silver Financial failed to maintain its surety
12 bond as required by A.R.S. § 6-903(G) in the amount required pursuant to A.R.S. § 6-
13 903(H).

14 4. By failing to maintain the required surety bond, Silver Financial failed to conduct
15 its mortgage broker business in accordance with the law and violated the provisions of
16 Title 6, Chapter 9 and rules relating thereto, which constitute grounds for revocation of
17 the license pursuant to A.R.S. § 6-905(A)(3).

18 5. Pursuant to A.R.S. § 41-1092.11, the Superintendent has the authority to
19 suspend Silver Financial's mortgage broker's license if emergency action is required to
20 protect the health, safety and welfare of the public.

21 6. Based on the above, grounds existed for the issuance of the Order of Summary
22 Suspension of Silver Financial's mortgage broker's license.


23 7. Based on the above, grounds exist for the revocation of Silver Financial's
24 mortgage broker's license pursuant to A.R.S. § 6-905.

25 **ORDER**

26 Silver Financial's mortgage broker's license summary suspension is upheld and,
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1 on the effective date of the Order entered in this matter, Silver Financial's mortgage
2 broker's license shall be revoked.

3 Done this day, August 7, 2009.
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7 _____
8 Lewis D. Kowal
9 Administrative Law Judge

10 Original transmitted by mail this
11 11 day of August, 2009, to:
12

13 Felecia A. Rotellini, Superintendent
14 Arizona Department of Financial Institutions
15 ATTN: Susan Longo
16 2910 N. 44th Street, Suite 310
17 Phoenix, AZ 85018

18
19 By 
20 _____