

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD075-BNK

3 **GEORGE MARCUS**  
4 **DBA LIBERTY NATIONAL MORTGAGE**  
5 19209 N. 83<sup>rd</sup> Avenue, Suite 104  
6 Peoria, AZ 85382

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

Respondent.

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

11 ORDER

12 IT IS ORDERED that Respondent's Mortgage Broker License Number MB 0901902 is  
13 revoked effective as of the date of this Order.

14 NOTICE

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

19 DATED this 6th day of August, 2009.

20 

21 Felecia Rotellini  
22 Superintendent of Financial Institutions

23 ...  
24 ...  
25 ...  
26 ...  
27 ...

1 ORIGINAL filed this 16<sup>TH</sup> 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  
5 2910 North 44th Street, Suite 310  
6 Phoenix, Arizona 85018

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

9 Kay Abramssohm, Administrative Law Judge  
10 Office of Administrative Hearings  
11 1400 West Washington, Suite 101  
12 Phoenix, AZ 85007

13 Erin Gallagher, Assistant Attorney General  
14 Office of the Attorney General  
15 1275 West Washington  
16 Phoenix, AZ 85007

17 Richard Fergus, Licensing Division Manager  
18 Robert Charlton, Assistant Superintendent  
19 Arizona Department of Financial Institutions  
20 2910 N. 44th Street, Suite 310  
21 Phoenix, AZ 85018

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

23 George Marcus  
24 DBA Liberty National Mortgage  
25 19209 N. 83<sup>rd</sup> Avenue, Suite 104  
26 Peoria, AZ 85382

27 George Marcus  
28 DBA Liberty National Mortgage  
6197 W. Pontiac Drive  
Glendale, AZ 85308

BY: June Beckwith

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

127  
AC

**IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

In The Matter of the Mortgage Broker  
License of:

**No. 09F-BD075-BNK**

GEORGE MARCUS  
dba LIBERTY NATIONAL MORTGAGE  
19209 N. 83rd Avenue, Suite 104  
Peoria, AZ 85382

**ADMINISTRATIVE  
LAW JUDGE DECISION**

---

**HEARING:** Convened on June 3, 2009; hearing record held open for court reporter's transcript and concluded on July 7, 2009.

**APPEARANCES:** Petitioner George Marcus failed to appear. Assistant Attorney General Erin O. Gallagher represented the Arizona Office of Financial Institutions.

**ADMINISTRATIVE LAW JUDGE:** Kay A. Abramsohn

---

The question presented by this case is whether grounds exist to revoke the Mortgage Broker License issued to George Marcus. Based on the evidence of record, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law and Order:

**FINDINGS OF FACT**

1. Pursuant to Arizona Revised Statutes ("A.R.S.") § 6-901 *et seq.*, the Arizona Office of Financial Institutions (the "Department") is the duly constituted authority for licensing and regulating mortgage practice in the State of Arizona.

2. Petitioner George Marcus ("Mr. Marcus") is the holder of Mortgage Broker License No. MB0901902 issued by the Department. See Exhibit 1. A.R.S § 6-903(G) provides that all Arizona licensed mortgage brokers are required to hold a current surety bond in the amount required by A.R.S. § 6-903(H).

3. On December 1, 2008, the Department received notice that Great American Insurance Company would cancel Mr. Marcus' surety bond effective December 31, 2008 for reason of his failure to renew. See Exhibit 2.

1 4. By notice dated December 3, 2008, the Department notified Mr. Marcus  
2 that a lapse in the bond coverage was a violation for which administrative action would  
3 proceed in the absence of certain evidence of bond renewal. See Exhibit 3.

4 5. On May 20, 2009, the Department issued to Mr. Marcus an Order of  
5 Summary Suspension and Notice of Hearing to Revoke ("Order and Notice"), setting  
6 forth the above facts and the background in support of its suspension of Mr. Marcus'  
7 license. See Exhibit 5. The Order and Notice further informed Mr. Marcus that a  
8 hearing was set in the matter in which the Department intended to request that his  
9 license be revoked. The Oder and Notice was sent to two addresses, one of which was  
10 the address of record, on file with the Department.

11 6. Pursuant to A.R.S. §§ 6-138 and 41-1092.01 *et seq.*, the administrative  
12 hearing in this matter was scheduled through the Arizona Office of Administrative  
13 Hearings, a state agency independent of the Department.

14 7. At the time set for hearing, Mr. Marcus failed to appear. For fifteen  
15 minutes after the time the hearing was scheduled to convene, Mr. Marcus did not arrive  
16 for the hearing. With a failure to appear and present any evidence to the contrary or in  
17 possible mitigation to the allegations, Mr. Marcus would be unable to demonstrate that  
18 the Department's allegations of violations were inaccurate or erroneous.

19 8. At hearing, the Department indicated that its Order and Notice had been  
20 returned to the Department from the two addresses. The Department indicated that it  
21 had not received any notification from Mr. Marcus of any different address.

22 9. At hearing, the Department offered evidence in support of the above facts  
23 and offered the legal justification for revoking the license.

24 10. At hearing, the Department requested that the court reporter's transcript  
25 be designated as the official record of the hearing.

#### 26 CONCLUSIONS OF LAW

27 1. The Superintendent of Financial Institutions has authority to suspend or  
28 revoke the mortgage broker license at issue in this matter pursuant to A.R.S. § 6-905.

29 2. In this proceeding, the Department bears the burden to prove, by a  
30 preponderance of the evidence, that grounds exist to revoke Mr. Marcus' license. See  
A.A.C. R2-19-119. A preponderance of the evidence is "such proof as convinces the

1 trier of fact that the contention is more probably true than not." Morris K. Udall, ARIZONA  
2 LAW OF EVIDENCE § 5 (1960).

3 3. A.R.S. § 6-903(G) and (H) provide that the licensee must obtain and  
4 maintain a surety bond in a certain amount as a condition of licensure. A.R.S. § 6-  
5 903(G) provides that the Department must have on deposit every licensee's surety  
6 bond; this is a condition of licensure. A.R.S. § 6-905(A)(3) authorizes the  
7 Superintendent of Financial Institutions to suspend or revoke a license for violation of  
8 any applicable law or rule. Therefore, the Administrative Law Judge concludes that the  
9 Department is authorized to revoke a mortgage broker license for a violation of the  
10 surety bond requirement(s).

11 4. Arizona Administrative Code ("A.A.C.") R20-4-916 requires a licensee to  
12 notify the Department within five days of a change of address of its principal place of  
13 business (or of any branch office).

14 5. The hearing record demonstrated that Mr. Marcus' surety bond was being  
15 canceled effective December 31, 2008 and that the Department did not receive from  
16 Mr. Marcus any evidence of a bond renewal (or a new bond). The evidence at hearing  
17 established that Mr. Marcus violated the applicable statutes and administrative rule by  
18 failing to maintain a surety bond and by failing to timely notify the Department of a  
19 change of address.

20 6. Based upon the determined violation to maintain a current surety bond,  
21 the Administrative Law Judge concludes that Mr. Marcus' license should be revoked.

22 **RECOMMENDED DECISION**

23 Based upon the foregoing considerations, the undersigned Administrative Law  
24 Judge hereby recommends that the Department revoke Mr. Marcus' Mortgage Broker  
25 License No. MB0901902.

26 Done this day, July 24, 2009

27 OFFICE OF ADMINISTRATIVE HEARINGS

28 

29 Kay A. Abramsohn  
30 Administrative Law Judge

1 Original transmitted by mail this 27 day of July, 2008, to:

2 Arizona Department of Financial Institutions  
3 Felecia A. Rotellini  
4 ATTN: Susan Longo  
5 2910 N. 44th Street, Suite 310  
6 Phoenix, AZ 85018

7  
8 By Chin Fiskled