

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

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

No. 09F-BD001-BNK

**CONSENT ORDER**

4 **GEORGE MARCUS DBA LIBERTY**  
5 **NATIONAL MORTGAGE**  
6 19209 North 83<sup>rd</sup> Avenue, Suite 104  
7 Peoria, Arizona 85382

Respondent.

8 On July 31, 2008, the Arizona Department of Financial Institutions (“Department”) issued a  
9 Notice of Hearing alleging that Respondent had violated Arizona law. Wishing to resolve this  
10 matter in lieu of an administrative hearing, Respondent does not contest the following Findings of  
11 Fact and Conclusions of Law, and consents to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Respondent George Marcus dba Liberty National Mortgage (“Liberty National  
14 Mortgage”) is authorized to transact business in Arizona as a mortgage broker, license number MB  
15 0901902, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of Respondent’s business is  
16 that of making, negotiating, or offering to make or negotiate mortgage loans secured by Arizona real  
17 property within the meaning of A.R.S. § 6-901(6).

18 2. An examination of Liberty National Mortgage conducted by the Department on July 23,  
19 2007 revealed that Respondent:

- 20 a. Failed to notify the Superintendent in writing and within five (5) business days of the  
21 occurrence of the change of address of the principal place of business;
- 22 b. Failed to use the license number as issued on its principal place of business license,  
23 and failed to include the required disclosures within regulated advertising in at least  
24 two (2) advertisements and/or solicitations, specifically:
  - 25 i. Respondent’s license number is missing from its “We’ll Finance the Dream!”  
26 advertisement; and
  - ii. Respondent’s “1.75” advertisement is missing the terms and conditions and

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- failed to present the Annual Percentage Rate in the same size type as the rate;
- c. Failed to conduct the minimum elements of reasonable employee investigations prior to hiring employees, specifically:
  - i. Respondent failed to obtain completed and dated "I9" forms (Employment Eligibility Verification Form) prior to hiring four (4) employees;
  - ii. Respondent failed to conduct further investigation of two (2) employees with derogatory credit reports; and
  - iii. Respondent failed to correct this violation from its previous examination;
- d. Failed to maintain correct and complete records, specifically:
  - i. Respondent could not provide any back-up documentation to the examiner during the examination, specifically: deposit slips/receipts for deposits made and bills/invoices for checks written;
- e. Failed to maintain a complete loan application list, specifically:
  - i. Respondent's loan application list failed to include applications that were declined, withdrawn, or cancelled;
  - ii. Respondent's loan application list failed to include all closed loans; and
  - iii. Respondent's loan application list failed to include all loans in process;
- f. Failed to maintain originals or copies of loan transactions, specifically:
  - i. Respondent failed to maintain mortgage loan applications for two (2) borrowers;
- g. Allowed borrowers to sign regulated documents containing blank spaces without completing an authorization form to do so, specifically:
  - i. Four (4) borrowers' truth-in-lending statements were incomplete;
- h. Failed to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated

1 under these acts, specifically:

- 2 i. Respondent failed to provide complete truth-in-lending statements to four (4)
- 3 borrowers; and
- 4 ii. Respondent failed to disclose the yield spread premium on the good faith
- 5 estimate to three (3) borrowers;

6 i. Failed to use a statutorily correct written fee/document agreement signed by all

7 parties, specifically:

- 8 i. Four (4) mortgage loan files were missing written agreements; and
- 9 ii. Respondent does not have a written agreement form;

10 j. Failed to use proper appraisal disclosures, specifically:

- 11 i. Respondent has used a disclosure entitled "NOTICE TO APPLICANT OF
- 12 RIGHT TO RECEIVE A COPY OF APPRAISAL REPORT" that includes a
- 13 ninety (90) day limit on the amount of time in which an applicant may request
- 14 the appraisal; and

15 k. George Marcus ("Mr. Marcus"), Respondent's Responsible Individual, failed to be in

16 active management of Respondent's activities as governed by A.R.S. Title 6, Chapter

17 9, Article 1, specifically:

- 18 i. Mr. Marcus has failed to supervise Respondent's compliance with A.R.S.
- 19 Title 6, Chapter 9 as it relates to the licensee and other applicable rules, as
- 20 evidenced by the eleven (11) violations of law and Mr. Marcus' lack of
- 21 proficiency with the computer systems used by Respondent.

22 3. Based on the above findings, the Department issued and served upon Respondent a

23 Notice of Assessment on January 15, 2008.

24 4. A copy of the Department's Report of Examination ("Report") accompanied the Notice

25 of Assessment served upon Respondent. Page seventeen (17) of the Report states, "Within 30 days

26 of the cover letter accompanying this report of examination, [Respondent] must advise the

1 Superintendent of the actions taken to correct the violations of laws, and the measures implemented  
2 to prevent future violations.”

3 5. The cover letter which accompanied the Report was dated January 15, 2008. Given five  
4 (5) days for mailing time, plus the thirty (30) day deadline, Respondent’s final date to respond to the  
5 Superintendent’s request for a response to the examination report was February 19, 2008.

6 6. Chris Dunshee (“Mr. Dunshee”), the Department’s examiner in charge of Respondent’s  
7 examination, contacted Respondent by telephone and left messages on the following dates: February  
8 26, 2008; May 6, 2008; May 9, 2008 and May 22, 2008. Throughout that time period, Mr. Dunshee  
9 spoke with Respondent on one (1) occasion. During the telephone conversation, Mr. Dunshee  
10 explained the importance of responding to the Superintendent’s request for information. Respondent  
11 claimed he had provided a response to the examination report; however, to date, the Department has  
12 no record of any response.

13 7. On or about May 9, 2008, Respondent contacted Robert Charlton, Assistant  
14 Superintendent at the Department, and advised that he would hand-deliver another copy of his  
15 response to the Department on May 12, 2008. To date, the Department has not received the  
16 requested response to Liberty’s examination report.

### 17 CONCLUSIONS OF LAW

18 1. Pursuant to A.R.S. §§ 6-901, *et seq.*, the Superintendent has the authority and duty to  
19 regulate all persons engaged in the mortgage broker business and with the enforcement of statutes,  
20 rules, and regulations relating to mortgage brokers.

21 2. By the conduct set forth in the Findings of Fact, George Marcus dba Liberty National  
22 Mortgage violated the following:

- 23 a. A.R.S. § 6-904(F) and A.A.C. R20-4-916, by failing to notify the Superintendent in  
24 writing and within five (5) business days of the occurrence of the change of address  
25 of the principal place of business;
- 26 b. A.R. S. §§ 6-903(M) and 6-906(D), by failing to use the license number as issued on

- 1 its principal place of business license, and failing to include the required disclosures
- 2 within regulated advertising in at least two (2) advertisements and/or solicitations;
- 3 c. A.R.S. § 6-903(N) and A.A.C. R20-4-102, by failing to conduct the minimum
- 4 elements of reasonable employee investigations prior to hiring employees;
- 5 d. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B), by failing to maintain correct and
- 6 complete records;
- 7 e. A.A.C. R20-4-917(B)(1), by failing to maintain a complete loan application list;
- 8 f. A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(6), by failing to maintain originals or
- 9 copies of loan transactions;
- 10 g. A.R.S. § 6-909(A) and A.A.C. R20-4-921, by allowing borrowers to sign regulated
- 11 documents containing blank spaces without completing an authorization form to do
- 12 so;
- 13 h. A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e), by failing to comply with the
- 14 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.
- 15 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§
- 16 2601 through 2617), and the regulations promulgated under these acts;
- 17 i. A.R.S. § 6-906(C), by failing to use a statutorily correct written fee/document
- 18 agreement signed by all parties;
- 19 j. A.R.S. § 6-906(C), by failing to use proper appraisal disclosures;
- 20 k. A.R.S. § 6-903(E) and A.A.C. R20-4-102, by the failure of the Responsible
- 21 Individual, Mr. Marcus, to be in active management of Respondent's activities as
- 22 governed by A.R.S. Title 6, Chapter 9, Article 1; and
- 23 l. A.R.S. §§ 6-123(3) and 6-124, by the failure of Respondent to timely respond to the
- 24 Superintendent's request for information.

25 3. Respondent's failure to respond to a request for information from the Superintendent  
26 constitutes violations of A.R.S. §§ 6-123(3) and 6-124, which constitute grounds to suspend or

1 revoke the mortgage broker license of George Marcus dba Liberty National Mortgage, number MB  
2 0901902, pursuant to A.R.S. § 6-905(A).

3 4. The violations of applicable laws, set forth above, constitute grounds to suspend or  
4 revoke Respondent's mortgage broker license, pursuant to A.R.S. § 6-905(A).

5 5. The violations, set forth above, constitute grounds for the pursuit of any other remedy  
6 necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona  
7 pursuant to A.R.S. §§ 6-123 and 6-131.

8 6. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes  
9 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation  
10 for each day.

11 **ORDER**

12 1. Respondent shall immediately stop the violations set forth above in the Findings of Fact  
13 and Conclusions of Law.

14 2. Respondent shall timely provide appropriate responses to the Superintendent.

15 3. Respondent shall immediately pay to the Department a civil money penalty in the amount  
16 of **two thousand, five hundred dollars (\$2,500.00)**.

17 4. Respondent shall immediately provide a response to the Report of Examination for  
18 George Marcus dba Liberty National Mortgage's July 23, 2007 examination.

19 5. The provisions of this Order shall be binding upon George Marcus dba Liberty National  
20 Mortgage, its employees, agents, and other persons participating in the conduct of the affairs of  
21 Liberty National Mortgage.

22 6. The provisions of this Order shall be binding upon Respondent, and resolves the Notice  
23 of Hearing, subject to compliance with the requirements of this Order. Should Respondent fail to  
24 comply with this Order, the Superintendent shall institute further disciplinary proceedings.

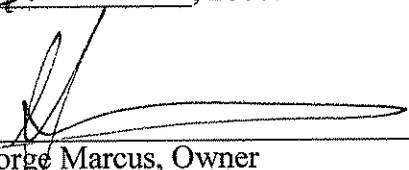
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1           6. Respondent waives all rights to seek judicial review or otherwise to challenge or  
2 contest the validity of this Consent Order.

3           DATED this 16<sup>th</sup> day of September, 2008.

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5           By   
6           George Marcus, Owner  
7           George Marcus dba Liberty National Mortgage  
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11         ORIGINAL of the foregoing filed this 16<sup>th</sup>  
12         day of September, 2008, in the office of:

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

19         COPY mailed/delivered same date to:

20         Hon. Lewis Kowal  
21         Administrative Law Judge  
22         Office of the Administrative Hearings  
23         1400 West Washington, Suite 101  
24         Phoenix, AZ 85007

25         Erin O. Gallagher  
26         Assistant Attorney General  
27         Office of the Attorney General  
28         1275 West Washington  
29         Phoenix, AZ 85007

30         Robert D. Charlton, Assistant Superintendent  
31         Chris Dunshee, Examiner In Charge  
32         Arizona Department of Financial Institutions  
33         2910 N. 44th Street, Suite 310  
34         Phoenix, AZ 85018

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



1 George Marcus dba Liberty National Mortgage  
Attn: George Marcus, Owner  
2 19209 N. 83<sup>rd</sup> Ave., Ste. 104  
3 Peoria, AZ 85382  
Respondent

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*Ausan Longo*  
290989; PHX-AGN-2008-0483

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