

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD039-BNK

3 **CHILD MORTGAGE CORPORATION AND
ADAM W. CHILD, PRESIDENT**

CONSENT ORDER

4 9044 East Los Gatos Drive
5 Scottsdale, Arizona 85255

6 Respondents.

7 On October 28, 2008, the Arizona Department of Financial Institutions ("Department")
8 issued an Order of Summary Suspension and Notice of Hearing to Revoke, alleging that
9 Respondents had violated Arizona law. Wishing to resolve this matter in lieu of an administrative
10 hearing, Respondents consent to the following Findings of Fact and Conclusions of Law, and
11 consent to the entry of the following Order.

12 FINDINGS OF FACT

13 1. Respondent Child Mortgage Corporation ("Child Mortgage") is an Arizona corporation
14 authorized to transact business in Arizona as a mortgage broker, license number MB 0901645
15 approved October 1, 1997, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of Child
16 Mortgage's business is that of making, negotiating, or offering to make or negotiate loans secured by
17 Arizona real property, within the meaning of A.R.S. § 6-901(6).

18 2. Respondent Adam W. Child, ("Mr. Child") is the President and one hundred percent
19 (100%) owner of Child Mortgage. Mr. Child is authorized to transact business in Arizona as a
20 mortgage broker within the meaning of A.R.S. § 6-903(E).

21 3. Neither Child Mortgage nor Mr. Child are exempt from licensure as a mortgage broker
22 within the meaning of A.R.S. § 6-902.

23 4. A review of nine (9) complaints filed with the Department against Child Mortgage
24 reveal:

25 a. Complaint #4008386 (2005): On December 1, 2004, the Department received this
26 complaint. On December 13, 2004, a letter was sent to Child Mortgage requesting a

1 response to the complaint within ten (10) days of the date of the request. On January
2 27, 2005, a follow-up letter was sent, requesting Mr. Child immediately respond to
3 the complaint. On February 14, 2005, a message was left for Mr. Child, as the
4 Department had not received a response to the complaint. On March 2, 2005, a
5 message was left on Mr. Child's voicemail to contact the Department, as a response
6 to the complaint had not been received. On or about March 14, 2005, the Department
7 received a response to complaint #4008386, approximately ninety one (91) days after
8 the Department's initial request;

9 b. Complaint #4010457 (2006): On May 1, 2006, the Department received this
10 complaint. On May 24, 2006, a letter was sent to Child Mortgage requesting a
11 response to the complaint within ten (10) days of the date of the request. On June 21,
12 2006, a call was made to Mr. Child regarding the status of the response. Mr. Child
13 stated during the telephone call that the loan officer was not available until now and
14 the response was on his desk for review which Mr. Child would send by courier that
15 week. On August 2, 2006, the Department received a facsimile from Mr. Child. On
16 the facsimile cover, Mr. Child stated, "First, my apology for getting this to you so
17 late. Attached is my LO's response. I will get you my formal response next week."
18 On September 1, 2006, a message was left for Mr. Child, as a formal response to the
19 complaint was never received. Child Mortgage provided a response from its loan
20 officer approximately seventy (70) days after the Department's initial request.
21 Furthermore, Mr. Child never provided a formal written response for this complaint
22 as he stated to the Department on August 2, 2006; and

23 c. Complaint #4013069 (2008): On February 1, 2008, the Department received a
24 complaint alleging Child Mortgage owed two thousand, seven hundred nine dollars
25 (\$2,709.00) to Valley View Appraisal ("Complainant"), for payment of seven (7)
26 individual residential appraisal services. The complaint included the following:

1 i. A Request for Appraisal dated April 2, 2007. Child Mortgage's Operations
2 Manager requested an appraisal be completed for a property located in
3 Scottsdale, Arizona, on behalf of Child Mortgage;

4 1. An invoice dated April 4, 2007 for the property located in Scottsdale,
5 Arizona. The appraisal fee is six hundred dollars (\$600.00) with a late
6 fee of forty dollars (\$40.00). The balance due is six hundred forty
7 dollars (\$640.00);

8 ii. A Request for Appraisal dated April 5, 2007. Child Mortgage's Sales
9 Manager requested an appraisal be completed for a property located in
10 Gilbert, Arizona, on behalf of Child Mortgage;

11 1. An invoice dated April 6, 2007 for the property located in Gilbert,
12 Arizona. The appraisal fee is three hundred fifty dollars (\$350.00)
13 with a late fee of forty dollars (\$40.00). The balance due is three
14 hundred ninety dollars (\$390.00);

15 iii. A Request for Appraisal dated May 21, 2007. Child Mortgage's Sales
16 Manager requested an appraisal be completed for a property located in
17 Scottsdale, Arizona, on behalf of Child Mortgage;

18 1. An invoice dated May 22, 2007 for the property located in Scottsdale,
19 Arizona. The appraisal fee is eight hundred dollars (\$800.00) with a
20 late fee of forty dollars (\$40.00). The balance due is eight hundred
21 forty dollars (\$840.00);

22 iv. A Request for Appraisal dated June 20, 2007. Child Mortgage's Operations
23 Manager requested an appraisal be completed for a property located in
24 Phoenix, Arizona, on behalf of Child Mortgage;

25 1. An invoice dated June 21, 2007 for the property located in Phoenix,
26 Arizona. The appraisal fee is three hundred fifty dollars (\$350.00)

1 with a late fee of forty dollars (\$40.00). The balance due is three
2 hundred ninety dollars (\$390.00);

3 v. A Request for Appraisal dated August 28, 2007. Child Mortgage's Sales
4 Manager requested an appraisal be completed for a property located in
5 Phoenix, Arizona, on behalf of Child Mortgage;

6 1. An invoice dated August 28, 2007 for the property located in Phoenix,
7 Arizona. The appraisal fee is one hundred dollars (\$100.00) with a
8 late fee of forty dollars (\$40.00). The balance due is one hundred forty
9 dollars (\$140.00);

10 vi. A Request for Appraisal dated August 31, 2007. Child Mortgage's
11 Operations Manager requested an appraisal be completed for a property
12 located in Gilbert, Arizona, on behalf of Child Mortgage;

13 1. An invoice dated August 31, 2007 for the property located in Gilbert,
14 Arizona. The appraisal fee is three hundred fifty dollars (\$350.00)
15 with a late fee of forty dollars (\$40.00). The invoice lists a deposit of
16 two hundred seventy five dollars (\$275.00). The balance due is one
17 hundred fifteen dollars (\$115.00); and

18 vii. A Request for Appraisal dated October 10, 2007. Child Mortgage's
19 Operations Manager requested a recertification of the value on an appraisal
20 that was completed in May 2007 for a property located in Scottsdale, Arizona,
21 on behalf of Child Mortgage; and

22 1. An invoice dated October 11, 2007 for the property located in
23 Scottsdale, Arizona. The fee for the recertification of the value is one
24 hundred fifty dollars (\$150.00) with a late fee of forty dollars (\$40.00).
25 The balance due is one hundred ninety dollars (\$190.00).

26 On February 12, 2008, the Department mailed a letter to Mr. Child requesting a

1 response to the complaint within ten (10) days of the request. Mr. Child failed to
2 respond within ten (10) days as required. On March 24, 2008, the Department faxed
3 a letter with an additional copy of the complaint to Mr. Child requesting an
4 immediate response. On March 28, 2008, Mr. Child telephoned the Department and
5 stated that he would respond to the complaint by the first of the week. Child
6 Mortgage responded to the complaint approximately fifty eight (58) days after the
7 Department's initial request.

8 5. On April 11, 2008, the Department received a response to complaint #4013069 from Mr.
9 Child, who stated, in part, "The following is in response to the above complaint. The short answer to
10 the complaint is – yes, we owe the money due and will pay in full within 30 days... There is no
11 dispute here and we will get them paid in full promptly."

12 6. On May 13, 2008, the Department received notice from the complainant stating Mr.
13 Child failed to remit payment as promised in his April 11, 2008 letter to the Department.

14 7. On May 14, 2008, the Department sent a letter to Mr. Child requesting an explanation for
15 the appraisal fees that remained unpaid.

16 8. On June 11, 2008, a message was left for Mr. Child, as the Department did not receive a
17 response to the May 14, 2008 letter.

18 9. On June 20, 2008, Mr. Child called the Department and stated he was out of the office.
19 Mr. Child informed the Department that he would send evidence of a resolution to complaint
20 #4013069.

21 10. On July 11, 2008, a telephone call was placed to Mr. Child, who stated that he would
22 obtain a copy of the first check payment next week. Mr. Child would respond to the Department in
23 writing and provide a copy of the payment instrument.

24 11. On August 6, 2008, a message was left for Mr. Child, as evidence of payment for the past
25 due appraisal fees was not received by the Department.

26

1 12. On August 20, 2008, Mr. Child called the Department and spoke with Tammy Seto,
2 Senior Examiner. Mr. Child stated that the files in question were purged out of Child Mortgage's
3 2007 budget. The first check payment would be sent to the complainant on August 22, 2008. The
4 second check payment would be sent to the complainant on September 19, 2008. Mr. Child agreed
5 to provide a copy of each payment instrument to the Department.

6 13. As of September 10, 2008, Mr. Child had still failed to remit payment to the complainant
7 as promised in his April 11, 2008 letter to the Department and the verbal statement made on August
8 20, 2008.

9 14. On September 10, 2008, the Department hand-delivered a subpoena to Mr. Child
10 demanding copies of all paid invoices to Valley View Appraisals.

11 15. On September 15, 2008, the Department received the items demanded in the September
12 10th subpoena. Mr. Child included a letter stating, in part, "...I simply do not have the resources to
13 currently meet all required obligations. Therefore I regret to inform you I am now unable to settle
14 the above matter."

15 16. On or about September 4, 2007, the Department received a Cancellation Notice from
16 Contractors Bonding and Insurance Company ("CBIC") stating that Child Mortgage Corporation's
17 surety bond, number AH9379, in the amount of ten thousand dollars (\$10,000.00) would be
18 cancelled, effected November 18, 2007.

19 17. On September 19, 2008, the Department verbally contacted Mr. Child and requested a
20 copy of Child Mortgage's bond information.

21 18. On September 23, 2008, The Department received an e-mail from Mr. Child, who
22 provided bond information for policy #AH9379 issued by CBIC. However, the Department was
23 able to verify with CBIC that Child Mortgage's policy #AH9379 was cancelled on November 18,
24 2007.

25 19. On September 23, 2008, the Department sent Mr. Child an e-mail request for evidence of
26 an active surety bond demonstrating adequate coverage beginning November 18, 2007. The

1 Department gave Mr. Child an opportunity to respond by September 24, 2008, as the original
2 arrangement Mr. Child made with the Department was to provide evidence of the surety bond by
3 September 22, 2008.

4 20. On September 24, 2008, the Department received from Mr. Child the following, via e-
5 mail:

6 a. A response from Mr. Child, who stated, in part, “[My bonding company] are saying
7 my bond was cancelled November 18, 2007. I/we have never received this notice”;
8 and

9 b. A copy of a bond cancellation notice for Child Mortgage Corporation dated August
10 31, 2007, cancellation effective November 18, 2007.

11 21. On October 3, 2008, Child Mortgage’s license was suspended by the Department for non-
12 renewal, pursuant to A.R.S. § 6-904(B). The Department informed Child Mortgage of the
13 suspension by letter dated October 3, 2008.

14 22. On October 3, 2008, the Department received a request from Mr. Child to close the
15 license of Child Mortgage.

16 23. Mr. Child failed to provide the Department with current surety bond information.

17 24. Mr. Child failed to obtain new surety bond coverage following the November 18, 2007
18 expiration.

19 25. Mr. Child does not have the required surety bond in order to conduct business as a
20 mortgage broker.

21 26. The conduct described above constitutes an immediate threat to the public health, safety,
22 and welfare warranting immediate suspension of Respondents’ mortgage broker license because
23 Respondents are conducting business in Arizona as a licensed mortgage broker without the required
24 surety bond.

25 27. The conduct described above constitutes grounds for revocation of Respondents’
26 mortgage broker license.

1 **CONCLUSIONS OF LAW**

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

5 2. By the conduct set forth above in the Complaint, Child Mortgage and Mr. Child
6 violated the following:

7 a. A.R.S. §§ 6-909(M) and 6-909(L), by Mr. Child's statement to the Department that
8 Child Mortgage does owe the unpaid appraisal fees, would pay the entire balance due
9 in thirty (30) days, and subsequent failure to remit payment;

10 b. A.R.S. § 6-909(N), by failing to respond to the Department's requests regarding the
11 complaints in a timely fashion and failing to remit payment for the unpaid appraisal
12 fees Mr. Child agrees are due; and

13 c. A.R.S. § 6-903(G) by failing to maintain the required surety bond.

14 3. Respondents have not conducted business in accordance with the law and violated
15 Title 6, Chapter 9 and the rules relating to this chapter, which are grounds for the suspension or
16 revocation of Respondents' license pursuant to A.R.S. § 6-905(A)(3).

17 4. Respondents are insolvent, as defined under A.R.S. § 47-1201, which is grounds for
18 suspension or revocation of Respondents' license pursuant to A.R.S. § 6-905(A)(1).

19 5. Respondent Mr. Child is not a person of honesty, truthfulness and good character, as
20 evidenced by the false and misleading statements made to the Department regarding payment of
21 obligations occurring in the course of its business, which is grounds for the suspension or revocation
22 of Respondents' license pursuant to A.R.S. § 6-905(A)(2).

23 6. Respondents failed to provide information and documentation in the course of an
24 examination by the Department pursuant to A.R.S. § 6-124 within a reasonable time, which is
25 grounds for the suspension or revocation of Respondents' license pursuant to A.R.S. § 6-905(A)(4).

26 In regards to complaint #4010457, neither Child Mortgage nor Mr. Child formally provided a

1 response.

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

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

8 **ORDER**

9 1. Mortgage Broker License, Number MB 0901645, issued in the name Child Mortgage
10 Corporation, is hereby immediately revoked.

11 2. Child Mortgage Corporation and Adam W. Child shall pay restitution to resolve
12 Complaint Number 4013069 in the amount of **two thousand, seven hundred five dollars**
13 **(\$2,705.00)**. Respondents shall deliver to the Department a check for one-half of that amount, **one**
14 **thousand, three hundred fifty two dollars and fifty cents (\$1,352.50)** upon execution of this
15 Order, made payable to the order of Valley View Appraisal. Respondents shall deliver a check to
16 the Department for the balance of that amount, **one thousand, three hundred fifty two dollars and**
17 **fifty cents (\$1,352.50)**, made payable to the order of Valley View Appraisal, by January 15, 2009.

18 3. The provisions of this Order shall be binding upon Child Mortgage Corporation and
19 Adam W. Child, and resolves the Notice of Hearing, subject to Respondents' compliance with the
20 requirements of this Order. Should Respondents fail to comply with this Order, the Superintendent
21 shall initiate further disciplinary proceedings.

22 4. The provisions of this Order shall be binding upon Respondents, their employees, agents,
23 and other persons participating in the conduct of the affairs of Child Mortgage Corporation.

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26 ...

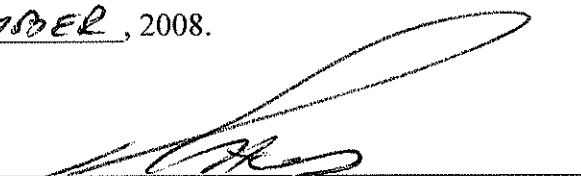
1 the validity of this Order.

2 DATED this 3 day of DECEMBER, 2008.

3

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By


Adam W. Child, President
Child Mortgage Corporation

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9 ORIGINAL of the foregoing filed this 3rd
day of December, 2008, in the office of:

10

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

14 COPY mailed same date to:

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

17

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

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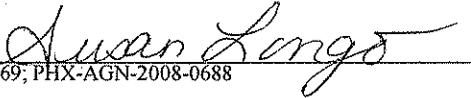
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1 Child Mortgage Corporation
Attn: Adam W. Child, President
2 9044 E. Los Gatos Dr.
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3 Respondents

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