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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES - CHAIRMAN
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

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ARIZONA CORPORATION COMMISSION
SECRET CONTROL

Arizona Corporation Commission

DOCKETED

NOV - 6 2009

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In the matter of:

Docket No. S-20703A-09-0461

SIR MORTGAGE & FINANCE OF ARIZONA, INC., an Arizona corporation,

GREGORY M. SIR (a/k/a "GREG SIR"), and ERIN M. SIR, husband and wife,

Respondents.

RESPONDENTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to the Rules of Practice before the Arizona Corporation Commission, A.A.C. R14-3-101 et seq., Respondents Sir Mortgage & Finance of Arizona, Inc., Gregory M. Sir and Erin M. Sir (the "Respondents" or "Sir") request that the documents or things designated in the list labeled "Documents to be Produced" be produced for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

Time: No later than twenty (20) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Place: Roshka DeWulf and Patten, PLC, One Arizona Center, 400 East Van Buren Street, Suite 800, Phoenix, Arizona 85004.

The list labeled "Documents to be Produced" sets forth the items to be produced, either by individual item or by category; describes each item and category with reasonable particularity; and specifies the reasonable time, place and manner of making the production and performing the related acts in connection with each item.

The party upon whom this Request is served shall satisfy or object to it in writing within twenty (20) days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

1 certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or
2 use of real or personal property, valuation estimates of any kind, financial data, *pro formas*,
3 estimates, financial projections, statements, credit and loan applications, accounting records and
4 worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books,
5 feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences,
6 notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped
7 interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts,
8 prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone
9 records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts,
10 data card programs or other input or output of data processing systems, photographs (positive print,
11 slides or negatives), microfilm or microfiche, or other data compilations from which information
12 can be obtained or translated through detection devices into reasonably usable form, whether
13 originals or copies, altered or unaltered, made by any means. The terms "document" and
14 "documents" also include all copies which are, in any manner, not identical in content to the
15 originals. Any comment or notation appearing on any document, and not a part of the original text,
16 is to be considered a separate "document." Any draft, or any other preliminary form of any
17 document, is also to be considered a separate "document."

18 7. The term "all documents" means every document, as defined above, known to you
19 and every document which can be located or discovered by reasonably diligent efforts.

20 8. The terms "writing" or "written" are intended to include, but not necessarily be
21 limited to, the following: handwriting, typewriting, printing, photographing and every other means
22 of recording upon any tangible thing, any form of communication later reduced to a writing or
23 confirmed by a letter.

24 9. The term "communication" means any oral, written, electronic, graphic,
25 demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more
26 individuals or entities, regardless of the medium by which such communication occurred, and shall
27 include, without limitation, written contact by such means as letters, memoranda, telegrams, telex,

1 or any documents, and oral contact by such means as face to face meetings and telephone
2 conversations.

3 10. The terms "concerns" or "concerning" include referring to, alluding to, responding
4 to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about,
5 regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing,
6 constituting, evidencing or pertaining to.

7 11. The term "person(s)" shall mean any natural person, corporation, partnership, sole
8 proprietorship, joint venture, association, limited liability company, governmental or other public
9 entity, or any other form of organization or legal entity, and all of their officials, directors, officers,
10 employees, representatives, attorneys and agents.

11 12. The terms "meeting" and "meetings" mean any coincidence of presence of two or
12 more persons between or among whom some communication occurs, whether or not such
13 coincidence of presence was by chance or prearranged, formal or informal, or in connection with
14 some other activity.

15 **INSTRUCTIONS FOR USE**

16 A. In producing documents and things, indicate the particular request to which a
17 produced document or thing is responsive.

18 B. In producing documents and things, furnish all documents or things known or
19 available to you, regardless of whether such documents or things are possessed directly by you or
20 your directors, officers, agents, employees, representatives and investigators or by your attorneys or
21 their agents, employees, representatives or investigators.

22 C. If any requested document or thing cannot be produced in full, produce each such
23 document to the extent possible, specifying each reason for your inability to produce the remainder
24 and stating whatever information, knowledge or belief you have concerning the unproduced portion
25 and the expected dates on which full production can be completed.

26 D. If any documents or things requested were in existence but are no longer in
27 existence, then so state, specifying for each document or thing:

- 1 (1) The type of document or thing;
- 2 (2) The type(s) of information contained therein;
- 3 (3) The date upon which it ceased to exist;
- 4 (4) The circumstances under which it ceased to exist;
- 5 (5) The identity of each person or persons having knowledge or who had
- 6 knowledge of the contents thereof; and
- 7 (6) The identity of each person or persons having knowledge of the
- 8 circumstances under which each document or thing ceased to exist.

9 E. This Request for Production of Documents is deemed to be continuing. If, after
10 producing documents and things, you obtain or become aware of any further documents, things or
11 information responsive to this Request for Production of Documents, you are required to produce to
12 Respondents such additional documents and things, or provide Respondents with such additional
13 information.

14 F. Documents attached to each other should not be separated.

15 G. In lieu of producing originals or copies thereof responsive to this Request, you may,
16 at your option, submit legible photographic or other reproductions of such documents, provided
17 that the originals or copies from which such reproductions were made are retained by you until the
18 final disposition of this proceeding.

19 H. In the event that you seek to withhold any documents, things or information on the
20 basis that it is properly subject to some limitation on discovery, you shall supply Respondents with
21 a list of the documents and things for which limitation of discovery is claimed, indicating:

- 22 (1) The name of each author, writer, sender or initiator of such document or
- 23 thing, if any;
- 24 (2) The name of each recipient, addressee or party for whom such document
- 25 or thing was intended, if any;
- 26 (3) The name of the person in custody or charge or possession of each such
- 27 document;

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- (4) The date of each such document, if any, or an estimate thereof and so indicated as an estimate;
- (5) The general subject matter as described in each such document, or, if no such description appears, then such other description sufficient to identify said document;
- (6) The name, business address and position of each person who has seen, or has access to or knowledge of, the contents or nature of any such document; and
- (7) The claimed grounds for limitation of discovery (e.g., "attorney-client privilege").

DOCUMENTS TO BE PRODUCED

- 1. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of tapes and/or memoranda and/or notes and/or transcripts of sworn or unsworn testimony or interviews that in any way memorialize communications between the Securities Division on the one hand and (i) Respondents, (ii) employees/independent agents/representatives of Respondents, (iii) any of the Brodys, and (iv) any employees/independent agents/representatives of any of the Brodys, including any and all Examinations Under Oath, and all exhibits thereto.
- 2. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of sworn or unsworn testimony or interviews that that in any way memorialize communications between the Securities Division and any entity or individual interviewed and/or contacted in connection with the Securities Division's investigation of Respondents relating to the allegations set forth in the Notice. This includes all complaints, correspondence and Examinations under Oath, and all exhibits thereto.
- 3. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of sworn or unsworn testimony or interviews that in any way

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- memorialize communications between the Securities Division and any entity or individual interviewed and/or contacted in connection with the Securities Division's investigation of Respondents and relating to the allegations set forth in the Notice, and should include all complaints, correspondence and Examinations Under Oath, and all exhibits thereto.
4. All documents in the possession or under the control of the Securities Division relating to the Respondents.
 5. To the extent not included above, all documents in the possession or under the control of the Securities Division relating to the Brodys.
 6. To the extent not included above, all documents in the possession or under the control of the Securities Division relating to other lenders.
 7. All affidavits, questionnaires and statements provided by any and all individuals interviewed or contacted by the Securities Division relating to the allegations set forth in the Notice and/or relating to the Respondents.
 8. All correspondence regarding or referring to the Respondents.
 9. All documents or other information provided to the Securities Division by any individual or entity regarding any of the Respondents.
 10. All documents regarding or referring to any borrowers of Respondents.
 11. All documents evidencing telephone calls made by the Securities Division or anyone acting on its behalf to lenders, including, but not limited to, (i) documents sufficient to identify each telephone call made by the Securities Division, (ii) who authorized each telephone call, (iii) who placed the telephone calls, (iv) the scripts or outlines used by the individuals who placed or received these calls; and (v) any notes, transcripts, tapes or other memoranda memorializing the telephone calls.
 12. Documents referring, relating to and/or regarding the allegations in Paragraph 7 of the Notice that "from approximately January 7, 2000, to the present, Sir has been

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- offering and selling securities within and from Arizona in the form of notes and/or investment contracts.”
13. Documents referring, relating to and/or regarding the allegations in Paragraph 7 of the Notice that “from approximately September 4, 2002, to the present, SMFA has been offering and selling securities within and from Arizona in the form of notes and/or investment contracts.”
14. Documents referring, relating to and/or regarding the allegations in Paragraph 8 of the Notice that “respondents represent to offerees and investors that they are engaged in the business of originating and funding real estate loans.”
15. Documents referring, relating to and/or regarding the allegations in Paragraph 14 of the Notice that “respondents represent to offerees and investors that they use investor money to fund the Loans.”
16. Documents referring, relating to and/or regarding the allegations in Paragraph 14 of the Notice that respondents “fund a loan themselves and then sell their interest in the loan to one or more investors as investments.”
17. Documents referring, relating to and/or regarding the allegations in Paragraph 16 of the Notice that respondents “pool investor money together to fund a single loan, resulting in fractionalized notes, and fractionalized DOTs recorded in favor of multiple investors.”
18. Documents referring, relating to and/or regarding the allegations in Paragraph 16 of the Notice regarding the December 2006 loan in the amount of \$3,080,000.
19. Documents referring, relating to and/or regarding the allegations in Paragraph 17 of the Notice that respondents “sell and assign one hundred percent of their interest in a loan to one investor as an investment.”
20. Documents referring, relating to and/or regarding the allegations in Paragraph 17 of the Notice regarding the August 13, 2009, assignment of a \$40,000 residential loan.”

- 1 21. Documents referring, relating to and/or regarding the allegations in Paragraph 18 of
2 the Notice that “SMFA and/or Sir, through his family trust or one of his other
3 companies, retain a partial interest in a loan note and DOT.”
- 4 22. Documents referring, relating to and/or regarding the allegations in Paragraph 18 of
5 the Notice regarding a June 2005 loan in the amount of \$1,450,000.
- 6 23. Documents referring, relating to and/or regarding the allegations in Paragraph 19 of
7 the Notice regarding the \$550,000 loan.
- 8 24. Documents referring, relating to and/or regarding the allegations in Paragraph 20 of
9 the Notice regarding the \$550,000 loan.
- 10 25. Documents referring, relating to and/or regarding the allegations in Paragraph 21 of
11 the Notice, that “respondents further prepare, and require investors to execute a
12 standard form document called ‘Beneficiary Instructions and Authorizations.’”
- 13 26. Documents referring, relating to and/or regarding the allegations in Paragraph 22 of
14 the Notice regarding “interest participation fee.”
- 15 27. Documents referring, relating to and/or regarding the allegations in Paragraph 22 of
16 the Notice regarding the “Irrevocable Money Assignment.”
- 17 28. Documents referring, relating to and/or regarding the allegations in Paragraph 25 of
18 the Notice regarding each and every one of the “due diligence services performed by
19 respondents on behalf of investors for each loan” that “are extensive, often
20 documented in a detailed, customized ‘loan checklist’ prepared by respondents.”
- 21 29. Documents referring, relating to and/or regarding the allegations in Paragraph 25 (b)
22 of the Notice regarding the “case of an apartment-to-condo conversion loan.”
- 23 30. Documents referring, relating to and/or regarding the allegations in Paragraph 25(y)
24 of the Notice regarding the “detail regarding the apartment complex serving as loan
25 collateral.”
- 26 31. Documents referring, relating to and/or regarding the allegations in Paragraph 26 of
27 the Notice regarding the “prospectus” allegedly provided to investors.

- 1 32. Documents referring, relating to and/or regarding the allegations in Paragraph 27(A)
- 2 of the Notice regarding the \$510,000 loan.
- 3 33. Documents referring, relating to and/or regarding the allegations in Paragraph 27(B)
- 4 of the Notice regarding the \$80,000 loan.
- 5 34. Documents referring, relating to and/or regarding the allegations in Paragraph 28(A)
- 6 of the Notice regarding the \$510,000 loan.
- 7 35. Documents referring, relating to and/or regarding the allegations in Paragraph 28(b)
- 8 of the Notice regarding the \$80,000 loan.
- 9 36. Documents referring, relating to and/or regarding the allegations in Paragraph 29 of
- 10 the Notice regarding the “agency agreements” and each and every one of the
- 11 “myriad loan related tasks” discussed in Paragraph 29.
- 12 37. Documents referring, relating to and/or regarding the allegations in Paragraph 30 of
- 13 the Notice regarding the “agency agreements” and each and every one of the “tasks
- 14 performed for investors” discussed in Paragraph 30.
- 15 38. Documents referring, relating to and/or regarding the allegations in Paragraph 31 of
- 16 the Notice that “Sir or authorized SMFA representatives spoke to and/or personally
- 17 met with investors to educate them about the benefits, nature and status of the loans,
- 18 and to provide them with advice and guidance regarding loan related problems and
- 19 solutions”, including, but not limited to (a) the names of the investors; (b) the dates
- 20 and times of the conversations or meetings; (c) the loan or loans that were discussed;
- 21 (d) the place of the conversations or meetings; (e) who was present during the
- 22 conversations or at the meetings; and (f) the “advice and guidance” provided.
- 23 39. Documents referring, relating to and/or regarding the allegations in Paragraph 32 of
- 24 the Notice that “Sir emphasized to offerees and investors that success of the
- 25 investments depends primarily on his superior knowledge and skill in originating
- 26 and managing loans and his approximately twenty-six years of mortgage banking
- 27 and brokering experience”, including, but not limited to (a) the names of the offerees

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- and/or investors; (b) the dates and times of the conversations or meetings; (c) the loan or loans that were discussed; (d) the place of the conversations or meetings; and (e) who was present during the conversations or at the meetings.
40. Documents referring, relating to and/or regarding the allegations in Paragraph 33 of the Notice that “investors generally have no direct contact with Loan borrowers or with the often multiple other investors involved.”
41. Documents referring, relating to and/or regarding the allegations in Paragraph 36 of the Notice that respondents “sent borrower payment money directly to investors via letters explaining the nature, calculations and amount of the investment distribution, the status of the loans, including the management of things such as rental income, impound accounts and the sale of foreclosed collateral via real estate agents”, including, but not limited to: (a) the names of the lenders; (b) the dates and times of said payments; (c) the loan or loans that are referenced; (d) the letters that provide the referenced information; and (e) the information provided in the referenced letters.
42. Documents referring, relating to and/or regarding the allegations in Paragraph 36 of the Notice that “loan borrowers also have sent loan money directly to respondents, including, without limitation, loan extension and document fees”, including, but not limited to: (a) the names of the loan borrowers; (b) the dates and times of said payments; (c) the loan or loans that are referenced; and (d) the identification of and amounts of said loan money.
43. Documents sufficient to identify each of the “at least one-hundred fifty-one” lenders referenced in Paragraph 38 of the Notice.
44. Documents received from or sent to each of the “at least one-hundred fifty-one” lenders referenced in Paragraph 38 of the Notice.
45. Documents sufficient to identify the “approximately three-hundred ninety-seven loans” referenced in Paragraph 39 of the Notice.

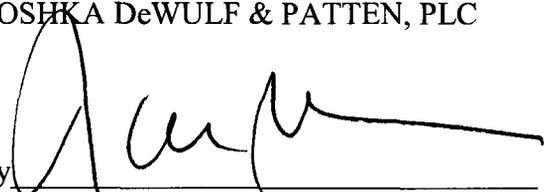
- 1 46. Documents referring, relating to and/or regarding the allegations in Example No. 1
2 discussed in Paragraphs 42, 43, 44, 45, 46, and 47 of the Notice, including, but not
3 limited to, (a) all documents obtained from the Brodys, and (b) any documents
4 obtained from an independent source.
- 5 47. Documents referring, relating to and/or regarding the allegations in Example No. 2
6 discussed in Paragraphs 48, 49, 50, and 51 of the Notice, including, but not limited
7 to, (a) all documents obtained from the Brodys, and (b) any documents obtained
8 from an independent source.
- 9 48. All subpoenas issued by the Securities Division in connection with the investigation
10 of Respondents in Investigative File no. 7844, all responses thereto, all
11 communications between the Securities Division and the recipient of the subpoenas,
12 and any supplemental responses.
- 13 49. All subpoenas issued by the Securities Division in connection with Docket No. S-
14 20703A-09-0461, all responses thereto, all communications between the Securities
15 Division and the recipient of the subpoenas, and any supplemental responses.
- 16 50. Copies of all other documents obtained during the Securities Division's
17 investigation that are not specifically referred to in Requests Nos. 1 through 49
18 (including all subparts) above.
- 19 51. Copies of all documents in the possession or under the control of the Securities
20 Division relating to the documents, investments or accounts of the "investors" or
21 "offerees" referred to in the Notice.
- 22 52. Copies of all documents provided by the Securities Division to other state securities
23 agencies, other state regulatory agencies (including without limitation the Arizona
24 Department of Financial Institutions), law enforcement organizations (including
25 without limitation the Arizona Attorney General's office, the FBI, and the United
26 States Department of Justice) regarding the Respondents, his independent agents,
27 employees and other representatives.

ROSHKA DeWULF & PATTEN, PLC
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- 53. Copies of any documents that concern or reflect any contacts or communications with other state securities agencies, other state regulatory agencies (including without limitation the Arizona Department of Financial Institutions), law enforcement organizations (including without limitation the Arizona Attorney General's office, the FBI, and the United States Department of Justice) regarding the Respondents, their independent agents, employees and other representatives, the Other Respondents, including their independent agents, employees and other representatives, and the Related Entities.
- 54. Copies of all documents provided to, reviewed by or prepared by any expert or Securities Division employee who the Securities Division intends to call as a witness at the hearing, all drafts of those documents, and all notes or other documents in the possession of such expert that relate to this matter.
- 55. To the extent not covered in the preceding Requests, documents evidencing all communication between the Securities Division and any witness, their independent agents, employees and other representatives.
- 56. Copies of all documents that the Securities Division relied upon in determining that the public welfare required immediate action and the issuance of a temporary order to cease and desist within the meaning of A.A.C. R14-4-307.

RESPECTFULLY SUBMITTED this 6th day of November, 2009.

ROSHKA DeWULF & PATTEN, PLC
By 
Paul J. Roshka, Jr., Esq.
Timothy J. Sabo, Esq.
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
602-256-6100 (telephone)
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Attorneys for Respondents

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ORIGINAL and thirteen copies of the foregoing
filed this 6th day of November, 2009 with:

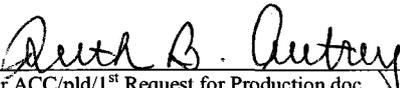
Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Copy of the foregoing hand-delivered
this 6th day of November, 2009 to:

Marc E. Stern, Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mark Dinell
Assistant Director of Securities
Securities Division
Arizona Corporation Commission
1300 West Washington Street, 3rd Floor
Phoenix, Arizona 85007

Michael Dailey, Esq.
Staff Attorney
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