

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

2009 DEC 30 A 10:15

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

DEC 30 2009

DOCKETED BY [Signature]

In the matter of:
Morgan Financial, L.L.C., an Arizona limited liability company,
Jimmy Hartgraves Jr. and Laurie Hartgraves, husband and wife,
Respondents.

DOCKET NO. S-20719A-09-0583
NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, FOR ADMINISTRATIVE PENALTIES AND FOR OTHER AFFIRMATIVE ACTION

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents Morgan Financial, LLC and Jimmy Hartgraves Jr. have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. Pursuant to the public records of the Commission, Morgan Financial, LLC ("MF") is a limited liability company organized in the state of Arizona on July 15, 1996.

3. Management of the limited liability company is reserved to the Members of MF.

1 4. Pursuant to public records of the Commission, Jimmy Hartgraves Jr. (“Hartgraves”) is
2 a member of MF. Hartgraves conducted business individually and/or did business as and through
3 MF, as member of MF and is a controlling person of MF.

4 5. MF and Hartgraves may be referred to collectively as “Respondents.”

5 6. Laurie Hartgraves was at all relevant times the spouse of Respondent Hartgraves and
6 may be referred to as “Respondent Spouse.” Respondent Spouse is joined in this action under A.R.S.
7 § 44-2031(C) solely for purposes of determining the liability of the marital community.

8 7. At all times relevant, Respondent Hartgraves was acting for his own benefit and for the
9 benefit or in furtherance of his and Respondent Spouse’s marital community.

10 **III.**

11 **FACTS**

12 8. From October 1996 through July 2008, MF was a licensed mortgage broker, MB
13 #0018094, with the Arizona Department of Financial Institutions (“DFI”).

14 9. On or about July 10, 2008, MF obtained a Mortgage Banker’s license from DFI,
15 home office #0910120.

16 10. From at least February 2006 through June 2008, MF executed documents titled
17 promissory notes (“Notes”) with at least twenty Arizona residents (“investors”). Hartgraves signed
18 the Notes on behalf of MF as its member.

19 11. Some investors were made aware of the investment opportunity by an existing
20 investor and contacted Hartgraves for further details, prior to investing.

21 12. MF is identified as the Borrower on the Notes and the investor is identified as the
22 Maker. The Notes were provided to investors in exchange for monies received from investors.

23 13. The Notes promised to pay monthly interest payments to the investors at annual
24 rates of interest of 15% to 20%.

25 14. In general, the Notes stated that only interest payments are payable. In addition, the
26 Notes state that “[it] is a demand Note and the entire principal balance and accrued interest shall be

1 due and payable within one-hundred eighty (180) days following notice from Holder to Maker.”

2 Some notes had a demand timeline of ninety (90) days.

3 15. Pursuant to MF’s audited financial statement for the year ended December 31, 2007,
4 MF reported that it had Notes payable in an amount of \$4,803,314.

5 16. MF acted as a mortgage broker engaged in originating and marketing residential
6 mortgage loans in Arizona. MF used the investor funds evidenced by the notes to originate and
7 market residential mortgage loans.

8 17. In addition, MF used the investor funds evidenced by the notes to originate and
9 market hard money loans, which are asset-based loan financings through which a borrower
10 receives funds and the repayment obligations are secured by the specifically referenced collateral,
11 generally real estate, of the borrower.

12 18. Third party brokers and/or members of the public would contact MF for loan
13 requests. Hartgraves would determine which residential or hard money loan request to originate
14 and fund. The investors’ monies were not directed by the investors to a specific loan or property as
15 they did not have any input in such determination.

16 19. In general, for a residential and/or hard money loan originated by MF, a deed of
17 trust would be executed and recorded to secure the residential and/or hard money loan. The deed of
18 trust identified MF as the beneficiary.

19 20. Investors were not named as beneficiaries on the deed of trust nor secured in any
20 other manner. The terms of the Notes issued to investors stated that the Notes were subordinated
21 and unsecured.

22 21. The Notes are not registered with the Commission.

23 22. At all times relevant, MF was not a registered dealer and Hartgraves was not a
24 registered salesman with the Commission.

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IV.

VIOLATION OF A.R.S. § 44-1841

(Offer or Sale of Unregistered Securities)

23. From on or about February 2006, Respondents offered or sold securities in the form of Notes, within or from Arizona.

24. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

25. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

26. Respondents offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

27. This conduct violates A.R.S. § 44-1842.

VI.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;

2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions pursuant to A.R.S. § 44-2032;

3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order that the marital community of Hartgraves and Respondent Spouse be subject to any order of administrative penalties or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

1 5. Order any other relief that the Commission deems appropriate.

2 **VII.**

3 **HEARING OPPORTUNITY**

4 Each respondent, including Respondent Spouse, may request a hearing pursuant to A.R.S.
5 § 44-1972 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing,**
6 **the requesting respondent must also answer this Notice.** A request for hearing must be in writing
7 and received by the Commission within 10 business days after service of this Notice of Opportunity
8 for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona
9 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be
10 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
11 <http://www.azcc.gov/divisions/hearings/docket.asp>.

12 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin
13 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the
14 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission
15 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of
16 Opportunity for Hearing.

17 Persons with a disability may request a reasonable accommodation such as a sign language
18 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
19 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
20 Requests should be made as early as possible to allow time to arrange the accommodation.

21 **VIII.**

22 **ANSWER REQUIREMENT**

23 Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing,
24 the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for
25 Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix,
26 Arizona 85007, within 30 calendar days after the date of service of this Notice. Filing instructions

1 may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet
2 web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

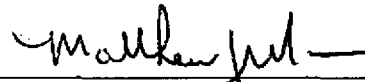
3 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
4 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
5 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
6 addressed to Phong (Paul) Huynh.

7 The Answer shall contain an admission or denial of each allegation in this Notice and the
8 original signature of the answering respondent or respondent's attorney. A statement of a lack of
9 sufficient knowledge or information shall be considered a denial of an allegation. An allegation
10 not denied shall be considered admitted.

11 When the answering respondent intends in good faith to deny only a part or a qualification
12 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
13 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

14 The officer presiding over the hearing may grant relief from the requirement to file an
15 Answer for good cause shown.

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18 Dated this 30 day of December, 2009.

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22 Matthew J. Neubert
23 Director of Securities
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