

FEB 08 2010

J. DAVID NAVARRO, Clerk
By INGA JOHNSON
DEPUTY

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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY**

STATE OF IDAHO, DEPARTMENT
OF FINANCE, SECURITIES
BUREAU,

Plaintiff,

vs.

DEREK F. C. ELLIOTT, JAMES B.
CATLEDGE, et al,

Defendants.

Case No. CV OC 09-03323

**JUDGMENT UPON DEFAULT
REGARDING DEFENDANT DAVID
BRIMLEY**

THIS MATTER having come before the court on Plaintiff's Verified Complaint, it appears to the court that Defendant David Brimley, was duly served with process and failed to appear and plead or answer Plaintiff's Verified Complaint, and that default was duly entered. It appears from Plaintiff's affidavit filed in this matter that Defendant David Brimley is not in the military service of the United States or is incompetent, and that the allegations of Plaintiff's

Verified Complaint are true, and that Plaintiff is entitled to judgment against Defendant David Brimley as prayed for;

IT FURTHER APPEARS that Defendant David Brimley, pursuant to I.R.C.P. 11(b)(3), failed to serve an additional written appearance either in person or through a newly appointed attorney within twenty (20) days after being served with the order of withdrawal of counsel on or about December 1, 2009. Such failure is sufficient ground for entry of default and default judgment against Defendant David Brimley, with prejudice and without further notice;

WHEREAS the Court finds that Defendant David Brimley engaged in unlicensed mortgage loan origination activity as described in the Verified Complaint;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff is entitled to judgment against Defendant David Brimley as follows:

1. That Defendant David Brimley is adjudged to have violated Idaho's Residential Mortgage Practices Act, Idaho Code § 26-3102 *et seq.*, as to Count Seven of Plaintiff's Verified Complaint.

2. That Defendant David Brimley is permanently enjoined from engaging in any act or practice violating any provision of Idaho's Residential Mortgage Practices Act, pursuant to Idaho Code § 26-3106, and in particular, that he is enjoined from, in the state of Idaho or with an Idaho resident, soliciting, accepting, or offering to accept an application for a residential mortgage loan; assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application; and from negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower.

3. That Defendant pay Plaintiff the amount of five thousand dollars for each violation, for a total of twenty-five thousand dollars (\$25,000), constituting civil penalties for

violations of Idaho's Residential Mortgage Practices Act, pursuant to Idaho Code § 26-3106(1)(b).

4. That Plaintiff is awarded attorney fees incurred in the preparation and prosecution of this action, pursuant to Idaho Code § 12-121, in the amount of one thousand dollars (\$1,000).

5. That Plaintiff is hereby awarded a money judgment against Defendant David Brimley in the amount of twenty-six thousand dollars (\$26,000), which sum includes and is the total of the awards for civil penalties and attorney fees.

DATED this 7 day of Feb, 2010.

RONALD J. WILPER

Judge Wilper
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 8 day of Feb, 2010 I caused to be served an accurate copy of the JUDGMENT UPON DEFAULT REGARDING DEFENDANT DAVID BRIMLEY upon all parties of record in the proceeding to the following, in the manner indicated below:

Curtis McKenzie [] U.S. mail, postage prepaid
AUGUSTINE & McKENZIE, PLLC [] certified mail
1004 West Fort Street [] overnight mail
Boise, ID 83702 [] fax: (208) 947-0014
[] email: cdm@amlawidaho.com

Trevor Walker [] U.S. mail, postage prepaid
611 Ensign Drive [] certified mail
Ammon, ID 83406 [] overnight mail
[] email: cornerstone10@gmail.com

David Brimley [] U.S. mail, postage prepaid
5168 Cottonwood Lane [] certified mail
Hollady, UT 84117 [] overnight mail
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Monte N. Stewart [] U.S. mail, postage prepaid
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J. DAVID NAVARRO
INGA JOHNSON **SEAL**

Clerk