

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of the Activities Engaged in  
While Participating in the Conduct of the  
Affairs of a Mortgage Banker of:

**FRANCINE BALAGAT**

16767 W. Weymouth Road  
Surprise, AZ 85374

**Respondent.**

**No. 21A-035-FIN**

**ORDER**

On February 3, 2022, the Office of Administrative Hearings, through Administrative Law Judge Jenna Clark, issued an Administrative Law Judge Decision (“Recommended Decision”). The Director of the Arizona Department of Insurance and Financial Institutions (“Director”) received the Recommended Decision on the same date, a copy of which is attached and incorporated by reference. The Director has reviewed the Recommended Decision and enters the following:

1. The Director ADOPTS the Recommended Findings of Fact, except to correct the following:

Page 3, lines 5 and 6, should read “**Mr. Penez**” and not Mr. Mepez.

2. The Director ADOPTS the Recommended Conclusions of Law, and adds the following:

**The Amended Notice of Hearing and Complaint to Prohibit Francine Balagat From Participating in Any of the Affairs of Any Financial Institutions or Enterprise, filed by the Department in this matter, was personally served on Francine Balagat, via process server, on November 24, 2021.**

3. The Director ADOPTS the Recommended Order, and ORDERS the following:

a. Pursuant to A.R.S. § 6-161, Francine Balagat is immediately prohibited from

1 participating in any of the affairs of any financial institution or enterprise for a  
2 period of **thirty (30) years**.

- 3 b. This Order shall not be vacated until thirty (30) years from its effective date and  
4 sufficient proof is provided to the Department that Francine Balagat fulfilled the  
5 terms of the Promissory Note she signed on April 07, 2021.

6 **NOTIFICATION OF RIGHTS**

7 Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may  
8 request a rehearing or review with respect to this Order by filing a written motion with the  
9 Director within 30 days after the date of this Order, setting forth the basis for relief under  
10 Arizona Administrative Code R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not  
11 necessary to request a rehearing before filing an appeal to the Superior Court.

12 Respondent may appeal the final decision of the Director to the Superior Court of  
13 Maricopa County for judicial review, pursuant to A.R.S. § 6-139. A party filing an appeal  
14 must notify the Office of Administrative Hearings of the appeal within ten days after filing the  
15 complaint commencing the appeal, pursuant A.R.S. § 12-904(B).

16 DATED and EFFECTIVE this 16th day of February, 2022.

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18 \_\_\_\_\_  
19 Evan G. Daniels, Director  
20 Arizona Department of Insurance and  
21 Financial Institutions  
22  
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1 **COPY** of the foregoing electronically transmitted  
this 23rd day of February, 2022, to:

2 Jenna Clark, Administrative Law Judge  
3 Office of Administrative Hearings  
4 <https://portal.azoah.com/submission>

5 **COPY** of the foregoing mailed by U.S. Certified Mail,  
Electronic Receipt Requested, same date to:

6 Francine Balagat  
7 16767 W. Weymouth Road  
8 Surprise, AZ 85374  
Respondent 9489 0090 0027 6139 7889 69

9 Francine Balagat  
10 Fairway Mortgage  
5229 N. 7th Avenue Suite, 108  
11 Phoenix., AZ 85013 9489 0090 0027 6139 7889 52

12 **COPY** of the foregoing electronically delivered same date to:

13 Deian Ousounov, Assistant Director  
14 Ana Starcevic, Paralegal Project Specialist  
15 Tammy Seto, Assistant Director  
16 Gabriela Macias, Chief Financial Examiner  
17 Marilyn Alexander, Examiner  
18 Steven Fromholtz, Division Manager  
19 Linda Lutz, Legal Assistant  
Michelle Castaneda, Licensing Supervisor  
Arizona Department of Insurance and Financial Institutions  
100 North 15th Avenue, Suite 261  
Phoenix, Arizona 85007

20 **COPY** sent same date via electronic mail to:

21 Francine Balagat  
[francinebalagat@icloud.com](mailto:francinebalagat@icloud.com)  
22 Respondent

23 Lynette Evans, Assistant Attorney General  
[Lynette.Evans@azag.gov](mailto:Lynette.Evans@azag.gov)  
24 Attorney for the Arizona Department of Insurance and Financial Institutions

25 *Ana Starcevic*  
26

**IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

In the Matter of

No. 21A-035-FIN

Balagat, Francine,  
Respondent.

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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**HEARING:** January 18, 2022 at 1:30 PM.

**APPEARANCES:** Assistant Attorney General Lynette Evans, Esq., appeared on behalf of the Department of Insurance and Financial Institutions ("Department") with Jodi Bohr, Esq., Mirza Penez, and Richard Fergus as witnesses. No appearance(s) by or on behalf of Francine Balagat ("Respondent").

**ADMINISTRATIVE LAW JUDGE:** Jenna Clark.

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Having heard the evidence and testimony and having considered the record in this matter, the undersigned Administrative Law Judge hereby makes the following Findings of Fact and Conclusions of Law and issues the following RECOMMENDED ORDER to the Director of the Department.

**FINDINGS OF FACT**

**BACKGROUND AND PROCEDURE**

1. The Department was created and enabled by the State of Arizona to administer enumerated State laws by protecting the public interest through licensure and regulation of the consumer lender profession.<sup>1</sup>

2. Quick Source Capital LLC ("QSC") is a financial enterprise licensee of the Department. On May 16, 2013, the Department issued License No. BK-0923515 to QSC.<sup>2</sup> The license is currently active, in good standing, and renewed through December 31, 2022.<sup>3</sup>

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<sup>1</sup> See Arizona Revised Statutes ("ARIZ. REV. STAT.") §§6-121 and 6-601 *et seq.*

<sup>2</sup> See Department Exhibit 1.

<sup>3</sup> *Id.*

1           3. On March 24, 2013, Respondent was hired by QSC as a Bookkeeper.<sup>4</sup>  
 2 Respondent was terminated on March 25, 2021, after her employer discovered  
 3 Respondent's embezzlement of approximately \$294,000.00 between April 2019 and  
 4 March 2021.<sup>5</sup>

5           4. After the Department was notified of Respondent's conduct, an  
 6 investigation was opened to determine the confirmable facts.

7           5. On September 23, 2021, the Department referred this matter to the Office  
 8 of Administrative Hearings ("OAH"), an independent state agency, for an evidentiary  
 9 hearing on November 17, 2021.<sup>6</sup> Per the October 06, 2021, NOTICE OF HEARING the issues  
 10 to be determined are whether grounds exist to prohibit Respondent from participating in  
 11 any of the affairs of any financial institution or enterprise and to order any other remedy  
 12 necessary or proper for the enforcement of statutes and rules relating to financial  
 13 institutions and enterprises in the State of Arizona pursuant to ARIZ. REV. STAT. §§ 6-123  
 14 and 6-131.

#### 15   HEARING EVIDENCE

16           6. The Department called Jodi Bohr, Mirza Penez, and Richard Fergus as  
 17 witnesses and submitted Exhibits 1-8. The NOTICE OF HEARING was also admitted as its  
 18 own exhibit. The substantive evidence of record is as follows:

- 19           a. QSC is a private mortgage bank that specializes in hard money loans. Its  
 20 clientele is exclusively comprised of real estate property "flippers."

#### 21   Embezzlement of Money Orders

- 22           b. On or about March 24, 2021, while Respondent was away on vacation, one  
 23 of QSC's administrators discovered two (2) money orders from separate  
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25 <sup>4</sup> Respondent was also hired as an Administrative Assistant for AZ Real Holdings LLC ("ARH"), a property  
 26 management company owned by Mr. Penez.

27 <sup>5</sup> See Departments Exhibit 6-7.

28 <sup>6</sup> On November 12, 2021, the above-captioned matter was continued and reset for January 18, 2022,  
 29 whereby it was heard. Notably, pursuant to Arizona Administrative Code ("ARIZ. ADMIN. CODE") R4-46-  
 30 303.01 and R20-4-1209 Respondent was required to submit a written ANSWER to the Department within  
 twenty (20) days from the issuance of the NOTICE OF HEARING. Because no response was received by or  
 on behalf of Respondent, Respondent is therefore deemed to admit all allegations and waived all defenses  
 applicable to this proceeding.

1 QSC borrowers in Respondent's desk.<sup>7</sup> Respondent's name was written on  
2 the "Pay to the Order of line" on both money orders, and her signature was  
3 endorsed on each as well.<sup>8</sup> Both money orders belonged to QSC.<sup>9</sup>

- 4 c. Upon investigation it was discovered that neither money order had been  
5 deposited into any bank account owned by QSC. After QSC's owner, Mr.  
6 Mepez, and corporate counsel, Ms. Bohr, were notified, a full scale  
7 investigation was launched to uncover the depth of Respondent's conduct.  
8 d. On March 25, 2021, when Respondent returned to work, she was  
9 confronted with the money orders and admitted to depositing the money  
10 into her personal bank account. Respondent initially claimed her  
11 embezzlement began in 2021, but later admitted it started in 2018.  
12 e. Respondent provided her employer with bank statements from January  
13 2018 through March 2021.  
14 i. Upon review, QSC discovered that Respondent had deposited no  
15 less than 658 of its money orders into her personal checking account  
16 during that time period totaling \$411,252.17  
17 ii. Based on additional missing money orders, Respondent was also  
18 presumed to have stolen approximately \$73,673.60 from QSC.

19 **Embezzlement of Cash**

- 20 f. On March 25, 2021, while Ms. Bohr was interviewing Respondent about her  
21 theft of QSC's money orders, a renter from one of Mr. Penez's commercial  
22 properties, Fuad Dogic, came to the QFC office to pay his rent. Although  
23 Respondent normally collected rental payment in the course of her duties,  
24 Mr. Penez met with Mr. Dogic because Respondent was otherwise  
25 indisposed. It was at that time Mr. Penez was first informed that for the past  
26 two years Respondent had instructed all of Mr. Penez's renters to make  
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28 <sup>7</sup> See Department Exhibit 2.

29 <sup>8</sup> *Id.*

30 <sup>9</sup> *Id.*

1 their monthly payments in cash, even though it was company policy to only  
2 accept payments electronically.<sup>10</sup>

- 3 g. Mr. Penez confronted Respondent with Mr. Dogic's cash payment. After  
4 initially denying any cash theft, Respondent admitted that she did not  
5 always deposit cash rental payments into ARH's bank account(s).  
6 h. Ultimately, it was determined that in just under two years Respondent stole  
7 approximately \$20,200.00 in cash payments from ARH.

8 **Promissory Note**

- 9 i. On April 07, 2021, Respondent signed a Promissory Note for the repayment  
10 of \$290,000.00 to QSC for "theft, embezzlement, and fraud."<sup>11</sup>  
11 j. Although Respondent promised to make monthly \$500.00 payments to  
12 QSC beginning June 05, 2021, and relinquish all State and Federal tax  
13 returns until the debt was repaid in full, Respondent has made no such  
14 payment(s) to date.

15 **Department's Additional Concerns**

- 16 k. Although the Arizona Attorney General's office was notified of Respondent's  
17 conduct on or about September 22, 2021, it remains unclear whether there  
18 are any criminal charges pending against Respondent.<sup>12</sup>  
19 l. Respondent is currently employed by another mortgage banker that is a  
20 licensee of the Department. Respondent possess a serious risk to her new  
21 employer, and may also pose a risk to the public.  
22 m. Although none of QSC's or ARH's customers were negatively impacted by  
23 Respondent's conduct, Mr. Penez's company suffered a loss of over  
24 \$500,000.00 due to Respondent's actions.  
25 n. Respondent has not had any contact with Mr. Penez, QSC, or ARH in an  
26 attempt to honor the Promissory Note she signed, or make alternative  
27 repayment arrangements.

28 <sup>10</sup> See Department Exhibit 4.

29 <sup>11</sup> See Department Exhibit 8.

30 <sup>12</sup> See Department Exhibit 3.

1 7. In closing, the Department asked the Tribunal to issue a decision banning  
2 Respondent from participating in any of the affairs of any financial institution or enterprise  
3 under its jurisdiction for the next thirty (30) years, through and until 2052.

#### 4 CONCLUSIONS OF LAW

5 1. The Department was created and enabled to administer certain laws of the  
6 State of Arizona by protecting the public interest through the regulation of financial  
7 institutions and enterprises.<sup>13</sup>

8 2. The Director of the Department is vested with the authority to regulate all  
9 persons engaged in mortgage banking and has the duty to enforce statutes and rules  
10 relating to these activities.<sup>14</sup> The matter was properly brought before OAH for  
11 adjudication.<sup>15</sup>

12 3. The NOTICE OF HEARING the Department mailed to Respondent's address of  
13 record is sufficient, and Respondent is deemed to have received notice of the hearing in  
14 this matter.<sup>16</sup> Because the Department mailed all correspondence to Respondent in the  
15 same manner and failed to receive any mail returned as undeliverable, Respondent is  
16 deemed to have received all correspondence regarding this matter from the Department  
17 as well.

18 4. The Department bears the burden of proof to establish that cause to sanction  
19 Respondent's license by a preponderance of the evidence.<sup>17</sup> Respondent bears the burden  
20 to establish factors in mitigation of the penalty and affirmative defenses by the same  
21 evidentiary standard.<sup>18</sup>

22 5. "A preponderance of the evidence is such proof as convinces the trier of fact  
23 that the contention is more probably true than not."<sup>19</sup> A preponderance of the evidence is  
24 "[t]he greater weight of the evidence, not necessarily established by the greater number of

25 <sup>13</sup> See ARIZ. REV. STAT. § 6-110.

26 <sup>14</sup> See ARIZ. REV. STAT. § 6-941 *et seq.*

27 <sup>15</sup> See ARIZ. REV. STAT. §§6-123, 6-131, 6-138 and 41-1092 *et seq.*

28 <sup>16</sup> See ARIZ. REV. STAT. §§ 41-1092.04, 41-1092.05(D), and 41-1061(A).

<sup>17</sup> See ARIZ. REV. STAT. § 41-1092.07(G)(2); ARIZ. ADMIN. CODE R2-19-119; *see also Vazzano v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

29 <sup>18</sup> See Arizona Administrative Code ("ARIZ. ADMIN. CODE") R2-19-119(B)(2).

<sup>19</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).



1 witnesses testifying to a fact but by evidence that has the most convincing force; superior  
2 evidentiary weight that, though not sufficient to free the mind wholly from all reasonable  
3 doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than  
4 the other.”<sup>20</sup>

5 6. ARIZ. REV. STAT. § 6-161 provides, in pertinent parts, that the Department  
6 has the authority to prohibit a person from participating in any of the affairs of any financial  
7 institution or enterprise if the person engages in any of the following conduct:

8 (1) Any act, omission or practice in any business transaction which demonstrates  
9 personal dishonesty or unfitness to continue in office or participate in the conduct  
\* \* \* of the affairs of the financial institution or enterprise.

10 (4) A conviction of a crime, an essential element of which is fraud,  
11 misrepresentation or deceit.  
\* \* \*

12 (6) Any violation of this title relative to the financial institution or enterprise.

13 (7) Any act, practice or transaction that in any way would jeopardize the safety and  
14 soundness of the financial institution.

15 7. ARIZ. REV. STAT. § 6-947 provides, in pertinent parts, as follows:

16 (L) A mortgage banker shall not make a false promise or misrepresentation or  
17 conceal an essential or material fact in the course of the mortgage banker  
business.

18 (M) A mortgage banker shall not fail to truthfully account for the monies belonging  
19 to a party to a mortgage loan or mortgage banking loan transaction or fail to  
disburse monies in accordance with his agreements.

20 8. The material facts in this case are undisputed.

21 9. It is undisputed that Respondent was permitted to engage in mortgage  
22 banking activities under her employer QSC’s license,<sup>21</sup> and that while doing so she  
23 converted or misappropriated over \$500,000.00 in funds intended for QSC and/or ARH  
24 for her own personal use without her employer’s permission. It is also undisputed that  
25 when originally presented with evidence of her wrongdoing, Respondent did not tell the  
26 truth and take accountability for her actions. It is further undisputed that Respondent has  
27 not remit any payments pursuant to her signed Promissory Agreement.

28  
29 <sup>20</sup> BLACK’S LAW DICTIONARY at page 1220 (8<sup>th</sup> ed. 1999).

30 <sup>21</sup> See ARIZ. REV. STAT. § 6-943(F).

1 10. Respondent's refusal to participate in this duly noticed hearing is a factor in  
2 aggravation, and evinces her unwillingness to submit to regulation by the Department.

3 11. Respondent's dishonest conduct demonstrates her unfitness to participate  
4 in the affairs of any financial institution or enterprise within the State of Arizona. It also  
5 poses the potential for great harm to her current and future employers.

6 12. Because the Department has established violation(s) of ARIZ. REV. STAT. §  
7 6-161, they have also established grounds to prohibit Respondent from participating in  
8 any of the affairs of any financial institution or enterprise in the State of Arizona.

9 13. However, due to the severity of Respondent's conduct and the lack of  
10 remorse she displayed throughout the course of QSC's investigation, as well as a lack of  
11 mitigating evidence in the record, the undersigned is not inclined to grant the  
12 Department's request to bar Respondent from participating in any of the affairs of any  
13 financial institutions or enterprises for thirty (30) years.

#### 14 **RECOMMENDED ORDER**

15 Based on the foregoing,

16 **IT IS RECOMMENDED** that on the effective date of the FINAL ORDER in this matter,  
17 Respondent Francine Balagat be immediately and indefinitely prohibited from  
18 participation in the affairs of any financial institution or enterprise within the State of  
19 Arizona.

20 **IT IS FURTHER RECOMMENDED** that this FINAL ORDER shall not be vacated until  
21 thirty (30) years from its effective date and sufficient proof is provided to the Department  
22 that Respondent fulfilled the terms of the Promissory Note she signed on April 07, 2021.

23 *In the event of certification of the Administrative Law Judge Decision by the*  
24 *Director of the Office of Administrative Hearings, the effective date of the FINAL ORDER*  
25 *will be 40 days from the date of that certification.*

26 Done this day, February 03, 2022.

27 Office of Administrative Hearings

28 /s/ Jenna Clark  
29 Administrative Law Judge

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Transmitted electronically to:

Evan G. Daniels, Director  
c/o Deian Ousounov, Regulatory Legal Affairs Officer  
Department of Insurance and Financial Institutions - Financial