

**BEFORE THE
UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

2 Executive Campus, Suite 450
Cherry Hill, New Jersey 08002

ARB CASE No. 06-033
ALJ CASE NO. 2005-SOX-93

WILLIAM J. McCLOSKEY,

Complainant

v.

AMERIQUEST MORTGAGE COMPANY,

Respondent

DECLARATION OF DIANE TIBEREND IN SUPPORT OF
PRELIMINARY RESPONSE TO ORDER TO SHOW CAUSE WHY
DEFAULT JUDGMENT SHOULD NOT BE ENTERED AGAINST
RESPONDENT

DECLARATION OF DIANE TIBEREND

I, Diane Tiberend, hereby declare and state as follows:

1. I am employed as Senior Vice President and Counsel for ACC Capital Holdings Corporation. My job duties and responsibilities generally include, among other things, overseeing and managing employment related claims against Ameriquest Mortgage Company ("Ameriquest"). Except where stated on information and belief, the following facts are true of my personal knowledge and, if called upon to testify to the truth thereof, I could and would competently do so under oath.

2. In my capacity as a Senior Vice President and Counsel, I have custody, supervision and/or control of Ameriquest's personnel and business records. I have reviewed Ameriquest's files concerning this matter and I am familiar with their contents. Based thereon, I make the following Declaration.

3. The records and documents referred to in this Declaration constitute writings taken or made in the regular or ordinary course of business of Ameriquest at or near the time of the act, condition or event to which same relate. I further state from my own knowledge that any such records or documents were prepared in the ordinary course of Ameriquest's business by a person employed by Ameriquest who has personal knowledge of the event being recorded and who has a business duty to so record such event accurately.

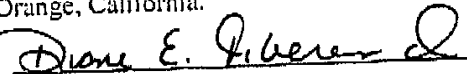
4. Ameriquest employed Complainant William McCloskey ("Complainant") as an Account Executive from December 1, 2004 to March 1, 2005, at which time he was terminated for poor production.

5. At no time prior to the Administrative Law Judge's entry of default, was Ameriquest properly served with Complainant's Complaint, the Secretary's Findings, the Notice of Hearing, or the September 28, 2005 Order to Show Cause. In fact, Ameriquest did not receive notice of the Complaint until March 2006.

6. No Ameriquest corporate officers or attorneys were ever employed in the Berwyn, Pennsylvania branch location. Ameriquest's corporate headquarters are in Orange, California.

7. Ameriquest is not a publicly traded company. Neither Ameriquest nor its parent, ACC Capital Holdings Corporation, has a class of securities registered under section 12 of the Securities Exchange Act of 1934, or is required to file reports under section 15(d) of the Securities Exchange Act of 1934.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct and that this Declaration was executed this 23 day of May, 2008 at Orange, California.


DIANE TIBEREND

OFFICE OF ADMINISTRATIVE LAW JUDGES

CERTIFICATE OF SERVICE

CASE NAME : William J. McCloskey v. Ameriquest Mortgage Company

ARB CASE NO. : 06-033

ALJ CASE NO. : 2005-SOX-93

DOCUMENT : **DECLARATION OF DIANE TIBEREND IN SUPPORT OF PRELIMINARY RESPONSE TO ORDER TO SHOW CAUSE WHY DEFAULT JUDGMENT SHOULD NOT BE ENTERED AGAINST RESPONDENT**

A copy of the above-referenced document was sent to the following persons on May 23, 2008 via Overnight Mail.

Constance M. Hilbur

William J. McCloskey 4335 Deerpath Lane Philadelphia, PA 19154	Hon. Ralph A. Romano Administrative Law Judge Office of Administrative Law Judges 2 Executive Campus, Suite 450 Cherry Hill, NJ 08002
Directorate of Enforcement Programs U.S. Department of Labor, OSHA Room N-3603, FPB 200 Constitution Ave., N.W. Washington, D.C. 20210	Regional Administrator Region 3 U.S. Department of Labor, OSHA The Curtis Center, Suite 740 West 170 S. Independence Mall West Philadelphia, PA 19106-3309
Regional Solicitor U.S. Department of Labor The Curtis Center, Suite 630 East 170 S. Independence Mall West Philadelphia, PA 19106-3306	Associate Solicitor Division of Fair Labor Standards U.S. Department of Labor Room N-2716, FPB 200 Constitution Ave., N.W. Washington, DC 20210