

ESTTA Tracking number: **ESTTA544365**

Filing date: **06/21/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	American Financial Resources, Inc.		
Entity	Corporation	Citizenship	NJ
Address	9 Sylvan Way Parsippany, NJ 07054 UNITED STATES		

Attorney information	John Baldini McHattie Law Firm 550 West Main Street Boonton, NJ 07005 UNITED STATES jbaldini@mchattielaw.com Phone:973.402.5505		
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**Registration Subject to Cancellation**

Registration No	3305416	Registration date	10/09/2007
Registrant	First States Group, L.P. 610 Old York Road, Suite 300 Jenkintown, PA 19046 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 036. First Use: 2006/10/18 First Use In Commerce: 2006/10/18 All goods and services in the class are cancelled, namely: Real estate investment services
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**Grounds for Cancellation**

False suggestion of a connection	Trademark Act section 2(a)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	85870142	Application Date	03/07/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AFR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1998/01/01 First Use In Commerce: 1998/01/01 Mortgage banking services, namely, origination, acquisition, servicing,		

	securitization and brokerage of mortgage loans; Mortgage brokerage; Mortgage lending; Mortgage procurement for others; Mortgage refinancing; Mortgage services, namely, buyer pre-qualification of mortgages for mortgage brokers and banks; Providing an on-line searchable database featuring financial information about mortgage loan programs and providing on-line mortgage services, namely, originating, acquiring, servicing, securing and brokering of mortgage loans; Providing on-line financial calculators
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Attachments	PETITION TO CANCEL AFR REALTY.pdf(39358 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jackbaldini/
Name	John Baldini
Date	06/21/2013

**THE MCHATTIE LAW FIRM**  
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Boonton, New Jersey 07005  
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Attorneys for Petitioner  
American Financial Resources, Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 3,305,416  
Date of Issue: October 9, 2007

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American Financial Resources, Inc.	:	
	:	
Petitioner,	:	Cancellation No.: Not Yet Assigned
	:	
v.	:	Mark(s):
	:	
	:	
First States Group, L.P. and	:	
First States Group, LLC	:	AFR AMERICAN FINANCIAL REALTY TRUST
Registrant.	:	

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**PETITION FOR CANCELLATION**

Petitioner, American Financial Resources, Inc. (“Petitioner” or “American”), a New Jersey corporation having its principal place of business at 9 Sylvan Way, Parsippany, New Jersey, 07054, believes that it is or will be damaged by the above identified registration, and hereby petitions to cancel same.

Registrant’s United States Registration No. 3,305,416 (the “‘416 Registration”) was filed on October 30, 2006, for the mark , and registered on the Principal Register in

International Class 036 in connection with, “real estate investment services” claiming first use on October 18, 2006 and registered October 9, 2007.

As grounds for this Petition, it is alleged that:

1. Petitioner has standing to bring this request for cancellation based upon: (a) citation of Registrant’s ‘416 Registration against Petitioner’s United States Trademark Application Serial No. 85/870,142 (the “‘142 Application”); and (b) because Petitioner has priority of use of its “AFR” mark.

2. Petitioner submits that cancellation is warranted based upon Petitioner’s long standing prior use of the mark AFR in connection with, “mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage brokerage; Mortgage lending; Mortgage procurement for others; Mortgage refinancing; Mortgage services, namely, buyer pre-qualification of mortgages for mortgage brokers and banks; Providing an on-line searchable database featuring financial information about mortgage loan programs and providing on-line mortgage services, namely, originating, acquiring, servicing, securing and brokering of mortgage loans; Providing on-line financial calculators” in light of the Examining Attorney’s refusal to register the mark as applied for in the ‘142 Application because of the existence of the ‘416 Registration.

3. Upon information and belief, Registrant is a limited partnership of Delaware with First States Group, LLC a Delaware limited liability company as sole general partner, with an address at 610 Old York Road, Suite 300, Jenkintown, Pennsylvania 19046.

4. Upon information and belief, Registrant filed an application to register the mark



in connection with, “real estate investment service” on October 30, 2006 and the Registration issued October 9, 2007.

5. Upon information and belief, Petitioner has priority of use of its AFR mark having been using its mark continuously since at least as early as January 1, 1998, i.e., at least eight (8) years prior to Registrant adopting its mark.

6. If the Registration complained of herein is not cancelled, Petitioner's *prima facie* exclusive right to use AFR in commerce in connection with its services will be impacted.

7. If the Registration complained of is permitted to be maintained, a cloud will be placed on Petitioner's title in and to its AFR trademark, and derivations thereof, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its services, all to the great injury of Petitioner.

8. Furthermore, Petitioner is not able to obtain Registrations for its AFR mark as a result of the citation to the '416 Registration by the Examining Attorney in the '142 Application. Moreover, Petitioner would not be able to control the use of the AFR mark or monitor the quality of services being sold under that mark, which would dilute the value of the AFR brand and cause irreparable damage to Petitioner.

9. By reason of the foregoing, if Registration No. 3,305,416 is to remain on the Principal Register, it would constitute *prima facie* evidence of Registrant's exclusive right to use the term AFR, a right to which Registrant is not entitled, and the '416 Registration would interfere with and deprive Petitioner of the liberty to use such term or similar terms in connection with its services, and Petitioner will be irreparably harmed thereby.

Wherefore, Petitioner prays that this Petition for Cancellation be sustained and that Registration No. 3,305,416 for the mark  be cancelled and for all such further relief as the Trademark Trial and Appeal Board may deem necessary.

Dated: this June 21, 2013.

Respectfully submitted,

/s/ Jack Baldini

**JOHN B. BALDINI, ESQ.**

550 West Main Street

Boonton, New Jersey, 07005

Attorneys for Petitioner

American Financial Resources, Inc.

**CERTIFICATE OF SERVICE**

I, JACK B. BALDINI, hereby certify as follows:

On June 21, 2013, I served a copy of the foregoing Petition for Cancellation on Applicant at: Ms. Carole R. Klein, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, NW, Washington D.C. 20004, attorney of record for Registrant; and to Registrant at First States Group, LP, 610 Old York Road, Suite 300, Jenkintown, Pennsylvania 19046, via First Class Mail postage prepaid.

I declare under penalty of perjury that the foregoing statements are true and correct.

By: /s/ Jack Baldini

JOHN B. BALDINI, ESQ.