

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
2 DIVISION OF FINANCE AND CORPORATE SECURITIES
3 FINANCE SECTION
4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
5 STATE OF OREGON

Re-Numbered 0-99-0038

6 In the Matter of:
7 DR Thaut Inc.
8 dba First Security Financial

Order #O-99-0015

Consent to Entry of Order
Order to Cease and Desist
Order Assessing Civil Penalties

9 WHEREAS the Director of the Department of Consumer and Business Services has
10 conducted an investigation of DR THAUT INC. dba FIRST SECURITY FINANCIAL, and has
11 determined that DR THAUT INC. dba FIRST SECURITY FINANCIAL engaged in activities
12 constituting violations of ORS 59.840 through 59.965 (hereinafter "the Oregon Mortgage
13 Lender Law"); and

14 WHEREAS DR THAUT INC. dba FIRST SECURITY FINANCIAL wishes to resolve and
15 settle this matter with the Director;

16 NOW THEREFORE, as evidenced by the authorized signature(s) subscribed on this
17 Order, DR THAUT INC. dba FIRST SECURITY FINANCIAL hereby **CONSENTS** to entry of
18 this order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter:

FINDINGS OF FACT

19 The Director **FINDS** that:

- 20 1. DR THAUT INC. dba FIRST SECURITY FINANCIAL (herein "Respondent") is an
21 Oregon corporation formed August 23, 1989. Respondent has been licensed as a
22 mortgage banker/broker since January 27, 1994. Respondent's current mortgage
23 banker/broker license expires on September 26, 2000.
- 24 2. Respondent is located at 588 E 11th Avenue, Eugene, OR 97401, and can be served at
25 that location. Dennis R. Thaut is President and 100% owner of Respondent, and is
26 authorized to act on its behalf.
- 27 3. An examination of Respondent's business was performed by the Division of Finance
28 and Corporate Securities (herein "Division") on December 23, 1998.

1 4. At this examination, all five loan files funded by private investor dollars were reviewed.
2 In reviewing the loan files, the examiner could not find evidence that the investors were
3 given the disclosures required under OAR 441-865-0080 and 441-870-0050.

4 5. Also at the examination, it was discovered that Respondent collected a \$440 application
5 fee from the borrower. This fee is disclosed as \$400.00 for an appraisal, and \$40.00 for a
6 credit report. On both the GFE and HUD 1 statements, the credit report charge is listed as
7 \$40.00. When the billings from the credit reporting agency were reviewed, it was
8 discovered that Respondent is being billed only \$20.00 per credit report.

9 6. The client trust account records revealed that Respondent routinely transferred
10 "overages" ranging from \$5.00 to \$5496.00 from the client trust account to the general
11 account. These overages consisted of the extra \$20.00 Respondent billed consumers for
12 the credit reports.

13 7. Also during the review of the client trust account records, it was revealed that
14 Respondent had not reconciled the account according to the procedures required under
15 OAR 441-875-0040.

16 8. In response to the examination, Respondent indicated that they are no longer doing
17 business in private investor loans, and that the process of taking consumer monies up front
18 for appraisals and credit reports has ceased.

19

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CONCLUSIONS OF LAW

21 The Director **CONCLUDES** that:

22 1. Respondent violated ORS 59.860 by failing to make and keep records as delineated by
23 OAR 441-865-0080 and OAR 441-870-0050.

24 2. Respondent violated ORS 59.865(11) by failing to comply with the record keeping
25 requirements of ORS 59.860.

26 3. Respondent violated ORS 59.865(6) by failing to refund the overages received from
27 consumers for credit report costs.

28 4. Respondent violated ORS 59.935(9) by not reconciling the trust account according to

1 OAR 441-875-0040.

2 **ORDER**

3 The Director, pursuant to ORS 59.885(4) hereby **ORDERS** that Respondent will **CEASE**
4 **AND DESIST** from:

- 5 1. Violating any provisions of ORS 59.840 through 59.960;
6 2. Failing to keep records as is required by OAR 441-865-0080, 441-870-0050, and 441-
7 875-0040.

8 The Director, pursuant to ORS 59.996, hereby **ORDERS** Respondent to pay the
9 State of Oregon a civil penalty of \$1,500.00, \$500.00 for failing to disclose to investors the
10 items required by OAR 441-865-0080 and 441-870-0050, \$500.00 for failing to reconcile
11 the client trust account as is required by OAR 441-875-0040, and \$500.00 for violating
12 ORS 59.865(6).

13 The Director suspends payment of \$1,350.00 of the assessed civil penalty for a
14 three year period. If in the period from the date of the Order to three years from the date of
15 this Order, Respondent violates any provision of Oregon's Mortgage Lender Law, the
16 suspended portion of the assessed civil penalty will become immediately due and payable.
17 If no violation of Oregon's Mortgage Lender Law by Respondent occurs, in the three year
18 period, the suspended portion of the civil penalty is waived. The date of the Order is the
19 date the Director signs the Order.

20 The entry of this Order in no way limits further remedies which may be available to
21 the Director under Oregon law.

22 Dated this 25th day of June, 1999 at Salem, Oregon.

23
24 **MICHAEL GREENFIELD, DIRECTOR**
25 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

26 by 

27 **R.M. NOCKLEBY, ADMINISTRATOR**
28 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

1 **CONSENT TO ENTRY OF ORDER**

2 I, Dennis R. Thaut, state that I am the President and Owner of DR THAUT dba FIRST
3 SECURITY FINANCIAL, and I am authorized to act on its behalf; that I have read the
4 foregoing Order and that I know and fully understand the contents hereof; that DR THAUT
5 dba FIRST SECURITY FINANCIAL has been advised of its right to a hearing; that DR
6 THAUT dba FIRST SECURITY FINANCIAL admits the Findings of Fact contained herein,
7 voluntarily consenting to the entry of this Order without further hearing; that DR THAUT
8 dba FIRST SECURITY FINANCIAL understands that the Director reserves the right to
9 take further actions to enforce this Order or to take appropriate action upon discovery of
10 other violations of Oregon's Mortgage Lender Law; and that DR THAUT dba FIRST
11 SECURITY FINANCIAL will fully comply with Chapter 59 of Oregon's Mortgage Lender
12 Law and the terms of this Order.

13 I understand that this Consent Order is a public document.

14
15 Dated this 15th day of JUNE, 1999.

16
17 By DENNIS R. THAUT
(Printed Name)

PRESIDENT
(Office Held)

18
19 
(Signature)

20
21 **CORPORATE ACKNOWLEDGMENT**

22
23 There appeared before me this 15th day of JUNE, 1999, DENNIS R. THAUT
24 who was first duly sworn on oath, and stated that he was and is the PRESIDENT
25 of DR THAUT dba FIRST SECURITY FINANCIAL and he is authorized and empowered to
26 sign this Consent to Entry of Order on behalf of DR THAUT dba FIRST SECURITY
27 FINANCIAL and to bind DR THAUT dba FIRST SECURITY FINANCIAL to the terms
28 hereof.

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Notary Public in and for the State of:

Oregon

Carole Owens

Signature of Notary Public

My Commission expires:

3/4/02

