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DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
DIVISION OF FINANCE AND CORPORATE SECURITIES  
FINANCE SECTION

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
STATE OF OREGON

In the Matter of

) O-00-0041

) MORTGAGE CAPITAL RESOURCE  
) CORPORATION DBA KEENE  
) MORTGAGE GROUP DBA NEXUS  
) FUNDING

) ORDER BY DEFAULT - REVOCATION  
) OF MORTGAGE BANKER/BROKER  
) LICENSE AND IMPOSITION OF CIVIL  
) PENALTIES

To: Mortgage Capital Resource Corporation  
dba Keene Mortgage dba Nexus Funding  
2038 Iowa Ave Ste. 100  
Riverside CA 92507  
c/o CT Corporation System  
601 SW Second Ave Suite 2050  
Portland OR 97204

On November 20, 2000, certified true copies of a Cease and Desist Order and a Notice of Intent to Revoke Mortgage Banker/Broker License and to Impose Civil Penalties were served upon Mortgage Capital Resource Corporation dba Keene Mortgage dba Nexus Funding (hereinafter "Respondent") by certified mail. The certified mail for Respondent was signed for on November 22, 2000 by Respondent's Oregon Agent for Service of Process, CT Corporation System. This notice alleged that (1) Respondent failed to account to a consumer for money received from the consumer that should have been deposited into Respondent's clients' trust account; (2) Respondent failed to produce records required by the Director in response to an investigation of the consumer complaint; (3) Respondent failed to notify the Director within 30 days of a

1 change in control when Ken Ketner's ownership was liquidated; (4) Respondent failed  
2 to notify the Director within 30 days of a change of officers when Ken Ketner was  
3 removed as an officer; (5) Respondent provided a minimum value on an appraisal  
4 request which is an unfair or unethical practice or conduct in connection with the  
5 mortgage business; (6) Respondent failed to notify the Director of changes in the  
6 information contained in the application within 30 days when phone numbers were  
7 disconnected; (7) Respondent failed to notify the Director of a closure of a branch within  
8 30 days when the Respondent's Phoenix, Arizona branch closed; (8) Respondent failed  
9 to produce records required by the Director pursuant to a subpoena which required  
10 production on November 13, 2000 at 5 p.m; and (9) Respondent is either insolvent or  
11 is in such a financial condition that the company cannot continue with safety to  
12 customers. The Notice further granted to Respondent an opportunity for hearing, if  
13 requested within 21 days of service of the Notice. No such request for hearing has been  
14 received by the Director. The Notice designated the Division of Finance and Corporate  
15 Securities' file on this matter as the record for purposes of default.

16 NOW THEREFORE, after consideration of the records and files of the Division  
17 of Finance and Corporate Securities relating to this matter, the Director enters the  
18 following Order.

#### 20 FINDINGS OF FACT

21 1. Respondent is a corporation formed on March 11, 1996 in the State of  
22 California. Respondent engages in Oregon residential mortgage transactions.  
23 Respondent is owned by Kenneth Ketner (60%) and Randy Bristol (25%) according to  
24 the most recent application which was filed with the Director, Department of Consumer  
25 and Business Services (hereinafter "Director") in June 1999 by Respondent. A previous  
26 application revealed that the remaining 15% ownership was owned by a variety of

1 people who each owned less than 10% of the company. The Director issued a  
2 mortgage lender license to Respondent on June 14, 1996 and that license is due to  
3 expire on June 13, 2001.

4 2. On June 28, 2000, the Director received a consumer complaint from about the  
5 activities of Respondent under its dba Keene Mortgage Group. The consumer's  
6 complaint alleged that Respondent had collected \$400 earnest money from the  
7 consumer in connection with a mortgage transaction sometime in 1998. The transaction  
8 was never completed according to the consumer. When the transaction was cancelled,  
9 the complaint alleges that the consumer told Angela Keene, an employee of  
10 Respondent's, to continue to hold the money as he would look for a different house.  
11 According to the consumer, he subsequently attempted to contact Respondent for a  
12 refund of his \$400 but was not successful in obtaining his refund.

13 3. On June 28, 2000, the Director sent a copy of the consumer's complaint to  
14 Respondent with a letter requiring that Respondent provide a written response regarding  
15 the issues contained in the complaint and the relevant documents within two weeks.  
16 When the Director did not receive a response, the Director contacted the Respondent  
17 on several occasions to solicit the required response to the complaint from Respondent,  
18 however, was only able to leave voicemail messages for Beverly Fleming and Ken  
19 Ketner, employees of Respondent, requesting that they provide the required response.  
20 Despite the written request for the statement and several voice mail messages,  
21 Respondent never produced the requested documents.

22 4. On September 14, 2000, the Director received a letter from Ken Ketner, an  
23 owner of Respondent according to the June 1999 license application filed by  
24 Respondent, indicating that he liquidated his interest in Respondent in the early part of  
25 2000. The Director received no other notification of the change in control of Respondent.

26 5. The September 14, 2000 letter from Ken Ketner also indicated that the

1 Director should remove Ken Ketner as an officer of Respondent. The Director received  
2 no other notification of the change in officers of Respondent.

3 6. On September 22, 2000, the Director received a copy of a bond claim filed by  
4 an appraiser who had completed work for Respondent but had not been paid. The bond  
5 claim contained a copy of the appraisal request form used by Respondent. The request  
6 form contained a preprinted estimated market value. Underneath that was the  
7 handwritten statement "\$116,000 minimum."

8 7. Appraisers have professional ethical standards which prohibit them from  
9 determining an appraisal value that is not justified by the property for which they have  
10 appraised or accepting employment based upon providing a particular appraised value.

11 8. On September 26, 2000, the Director attempted to contact each of the five  
12 licensed locations of Respondent. The telephone number provided by Respondent for  
13 the principal location located at 2038 Iowa Ave, Suite 100, in Riverside, California was  
14 answered by a general answering machine type message despite the fact that it was  
15 during normal working hours. A message was left for someone there to call the Director.  
16 The telephone number provided for the branch located at 12715 Bel Red Rd Ste 100  
17 in Bellevue, Washington was disconnected. The telephone number provided for the  
18 branch located at 1000 Parkwood Circle 5th Floor in Atlanta, Georgia was answered  
19 by an answering machine despite it being during regular working hours for the branch  
20 location. A message was left for someone there to call the Director. The telephone  
21 number provided for the branch located at 97 S Main St Suite A in Brigham City, Utah  
22 was disconnected. As of the date of this Notice, the Director has not received a return  
23 phone call from either the California or Georgia locations.

24 9. On September 26, 2000, a call to the branch of Respondent located at 4715  
25 N 32nd St Suite 101 in Phoenix, Arizona revealed that this branch has been operated  
26 by another licensed mortgage lender since sometime in July 2000.



- 1 appraisal which appears to indicate that the appraiser must reach a minimum value,  
2 Respondent engaged in an unfair or unethical practice or conduct in connection with  
3 the mortgage business.
- 4 6. By failing to provide updated telephone numbers or notice of the disconnection of  
5 the telephone numbers, Respondent failed to notify the Director of changes in the  
6 information contained in the application within 30 days.
- 7 7. By failing to provide notice of the closure of the Phoenix, Arizona branch,  
8 Respondent failed to notify the Director of a closure of a branch within 30 days.
- 9 8. By failing to file a written statement in response to the September 29, 2000 request  
10 by the Director, Respondent failed to produce a written statement required by the  
11 Director.
- 12 9. By failing to respond to the subpoena, Respondent failed to produce records  
13 required by the Director.
- 14 10. Respondent is either insolvent or is in such a financial condition that the company  
15 cannot continue with safety to customers.

16  
17 **CONCLUSIONS OF LAW**

- 18 1. Respondent's failure to account to all persons interested for money received  
19 constitutes grounds for revocation of the license pursuant to ORS 59.865(6).
- 20 2. Respondent's failure to produce records required by the Director constitutes grounds  
21 to revoke the license pursuant to ORS 59.865(11).
- 22 3. By failing to notify the Director within 30 days of a change in control, Respondent  
23 violated OAR 441-860-0070(1)(f).
- 24 4. By failing to notify the Director within 30 days of a change in officers, Respondent  
25 violated ORS 59.950(3).
- 26 5. Respondent's use of an unfair or unethical practice or conduct in connection with the

1 mortgage business constitutes grounds to revoke a mortgage lender license  
2 pursuant to ORS 59.865(2).

3 6. By failing to notify the Director of changes in the information contained in the  
4 application within 30 days, Respondent violated OAR 441-860-0070(1)(h).

5 7. By failing to notify the Director of a closure of a branch within 30 days, Respondent  
6 violated OAR 441-860-0070(1)(g).

7 8. By failing to produce a written statement required by the Director, Respondent  
8 violated ORS 59.885(2).

9 9. Respondent's failure to produce records required by the Director constitutes grounds  
10 to revoke the license pursuant to ORS 59.865(11).

11 10. Respondent's financial insolvency or unsoundness constitutes grounds to revoke the  
12 license pursuant to ORS 59.865(1).

13  
14 **ORDER**

15 The Director, pursuant to ORS 59.865, hereby **REVOKES** the mortgage  
16 banker/broker license issued to Mortgage Capital Resource Corporation dba Keene  
17 Mortgage dba Nexus Funding.

18 In addition, the Director, pursuant to ORS 59.996, hereby **ORDERS** Mortgage  
19 Capital Resource Corporation dba Keene Mortgage dba Nexus Funding to pay the State  
20 of Oregon a civil penalty of \$3,000.00. The penalty of \$3,000.00 is based upon (1)  
21 \$500.00 for failing to account to an interested person for clients' trust account funds, (2)  
22 \$500.00 for failing to notify the Director of a change in control within 30 days, (3)  
23 \$500.00 for failing to notify the Director of a change in officers within 30 days, (4)  
24 \$500.00 for failing to notify the Director of a change in the information contained in the  
25 application within 30 days, (5) \$500.00 for failing to notify the Director of the closure of  
26 a branch within 30 days, and (6) \$500.00 for failure to produce a written statement

1 required by the Director.

2  
3 Dated this 18<sup>th</sup> day of December, 2000.

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7 Richard M. Nockley, Administrator  
8 Division of Finance and Corporate Securities

9 NOTICE: You are entitled to judicial review of this Order. Judicial review may be  
10 obtained by filing a petition for review within 60 days from the service of this Order.  
11 Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of  
12 Appeals.

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