

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

6 In the Matter of

7 D R THAUT INC DBA FIRST
8 SECURITY FINANCIAL

9 ORDER NO. O-02-0039

10 CEASE AND DESIST ORDER AND
11 CONSENT TO ISSUANCE OF A
12 CONDITIONAL LICENSE

13 To: D R Thaut Inc. dba First Security Financial
14 588 E. 11th Ave
15 Eugene, Oregon 97401

16 **WHEREAS** the Director of the Department of Consumer and Business Services
17 for the State of Oregon (hereinafter "the Director") conducted an investigation of D R
18 Thaut Inc. dba First Security Financial in connection with issuing a mortgage lender
19 license to the company and that there exist grounds to deny or condition a mortgage
20 lender license pursuant to ORS 59.865; and

21 **WHEREAS** D R Thaut Inc. dba First Security Financial wishes to resolve and
22 settle this matter with the Director;

23 **NOW THEREFORE**, as evidenced by the authorized signatures subscribed on
24 this order D R Thaut Inc. dba First Security Financial hereby **CONSENTS** to entry of this
25 order upon the Director's Findings of Fact and Conclusions of Law as stated
26 hereinafter:

FINDINGS OF FACT

The Director **FINDS** that:

1. D R Thaut Inc. dba First Security Financial (hereinafter "Respondent"),
incorporated in Oregon on August 23, 1989 engages in residential mortgage

1 transactions in Oregon or on Oregon real property in expectation of compensation.

2 2. Respondent first obtained an Oregon mortgage lender license from the
3 Director on January 27, 1994.

4 3. On or about September 25, 2002, the Director received a renewal application
5 for Respondent's mortgage lender license.

6 4. The Director reviewed the renewal application on or about September 26,
7 2002 and found that there was an open investigation of Respondent by the Securities
8 Enforcement Section of the Division of Finance and Corporate Securities (hereinafter
9 "Enforcement Section") and that several required application items were incomplete.

10 5. On or about September 26, 2002, the Director sent Respondent a letter
11 indicating that prior to licensing Respondent would have to submit: 1) an original Section
12 5 completed by any owner of 10% or more of the company, 2) a completed Section 6
13 of the application for any loan originator and 3) a completed Affidavit and Undertaking
14 or Notice of Clients' Trust Account and Authorization to Examine Clients' Trust Account.

15 6. The letter also noted that there was an open investigation by the Enforcement
16 Section and that investigation must be satisfactorily resolved prior to licensure.

17 7. The Enforcement Section investigation revealed that Respondent had been
18 accepting funds from consumers which were supposed to be placed in an investment
19 however Respondent was using the funds to support his business during slow periods.

20 8. Respondent asserts that the Harberts were at all times aware of the use of the
21 funds and accepted Respondent's use of the funds in exchange for the high interest to
22 be paid by Respondent.

23 9. Dennis R. Thaut personally guaranteed the debt of Respondent to the
24 Harberts and signed a personal promissory note to guarantee that debt.

25 10. Respondent was unable to repay the consumers, including Esther and
26 Norman Harberts, who provided the investment funds as promised.

1 11. On September 27, 2002, the Director received a fax from Respondent
2 indicating that Respondent had made a partial satisfaction of judgment for \$25,000 in
3 Esther and Norman Harberts versus D R Thaut Inc, Dennis R. Thaut dba First Security
4 Financial and First Security Financial of Oregon, Inc., case number 16-02-00754, filed
5 in the Circuit Court for the State of Oregon for Lane County.

6 12. Case number 16-02-00754 was the Harberts' attempt to recover funds lent to
7 Respondent pursuant to a promissory note for investment but not repaid as agreed.

8 13. In the September 27, 2002 facsimile was a letter from Frank Bocci, Jr. of
9 Luvaas, Cobb, Richards & Fraser PC, representing the Harberts, to Steven C. Baldwin
10 of Watkinson, Laird, Rubenstein, Lashway and Baldwin, representing Respondent,
11 outlining a payment schedule for the remaining balance of the judgment of
12 approximately \$32,990.40.

13 14. On September 30, 2002, the Director received a facsimile from Respondent
14 containing the incomplete items listed in the September 27, 2002 letter sent to
15 Respondent by the Director.

16 15. Among the items submitted by Respondent to complete the application were
17 financial statements that indicate that Respondent was making only a small profit.

18 16. On October 9, 2002, the Director received in the mail a letter from Respondent
19 transmitting a copy of a October 3, 2002 correspondence from Frank E. Bocci, Jr.,
20 attorney for the Harberts, to Respondent regarding the current status of the payment
21 arrangements to satisfy the judgment in case number 16-02-00754.

22 17. The October 3, 2002 correspondence indicates that while Respondent has
23 been paying toward the judgment, payments were not made in strict accordance with
24 the agreement, however, at the time of the correspondence, the next payment was not
25 due until October 25, 2002.

26 18. On October 14, 2002, the Enforcement Section indicated that it was

1 acceptable to issue an Oregon mortgage lender license to Respondent.

2 19. Respondent has paid the judgment from case number 16-02-00754 in full.

3 20. Respondent agrees that the findings of fact, conclusions of law and order
4 entered into in this matter shall be available to the Director to use as grounds for any
5 future order against Respondent.

6 **CONCLUSIONS OF LAW**

7 The Director **CONCLUDES** that:

8 1. Based upon Respondent's record of paying the judgment owed to the Harberts,
9 Respondent is insolvent in the sense that Respondent cannot meet its obligations as the
10 obligations mature which constitutes grounds pursuant to ORS 59.865(1) to condition
11 any Oregon mortgage lender license issued to Respondent.

12 2. Based upon Respondent's failure to repay the promissory note owed to the Harberts
13 and Respondent's record of payment of the judgment owed to the Harberts, Respondent
14 is insolvent in the sense that Respondent cannot continue in business with safety to its
15 customers which constitutes grounds pursuant to ORS 59.865(1) to condition any
16 Oregon mortgage lender license issued to Respondent.

17 3. Based upon Respondent's failure to invest consumer funds and repay them as
18 promised, Respondent has engaged in dishonest, fraudulent or illegal practices or
19 conduct in any business or unfair or unethical practices or conduct in connection with
20 the mortgage business which constitutes grounds pursuant to ORS 59.865(2) to
21 condition any Oregon mortgage lender license issued to Respondent.

22 **ORDER**

23 The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that D R Thaut Inc.
24 dba First Security Financial will **CEASE AND DESIST** from violating any provision of
25 Oregon Revised Statutes, Chapter 59 and any provision of the Oregon Mortgage Lender
26 Law, OAR 441-850-0005 through 441-885-0010 and any rule, order, or policy issued by

1 the Division.

2 The Director, pursuant to ORS 59.996 hereby **ORDERS** that the Oregon
3 mortgage lender license issued to D R Thaut Inc. dba First Security Financial shall be
4 subject to the following conditions: 1) D R Thaut Inc. dba First Security Financial shall
5 fully cooperate in any inquiry or investigation by Director; 2) D R Thaut dba First Security
6 Financial agrees that all the Findings of Facts, Conclusions of Law and Orders
7 contained herein will be available to the Director as basis for further action against
8 Respondent's license; 3) D R Thaut Inc dba First Security Financial shall not violate any
9 provision of Chapter 59 of the Oregon Revised Statutes; and 4) D R Thaut dba First
10 Security Financial agrees that any future violation of Chapter 59 shall be basis for the
11 revocation of Respondent's license pursuant to ORS 59.865.

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

14 Dated this 12th day of December, 2002.

15 **MARY C. NEIDIG, DIRECTOR**
16 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

17
18
19 by 
20 **FLOYD G. LANTER, ADMINISTRATOR**
21 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

22
23 **CONSENT TO ENTRY OF ORDER**

24 I, DENNIS R. THAUT, state that I am the
25 PRESIDENT of D R Thaut Inc. dba First Security Financial, and I am
26 authorized to act on its behalf; that I have read the foregoing Order and that I know and

1 fully understand the contents hereof; that D R Thaut Inc. dba First Security Financial
2 admits the findings of fact herein, voluntarily consents to the entry of this Order without
3 further hearing, expressly waiving any right to a hearing in this matter; that D R Thaut
4 Inc. dba First Security Financial understands that the Director reserves the right to take
5 further actions to enforce this order or to take appropriate action upon discovery of other
6 violations of Oregon Mortgage Lender Law; and that D R Thaut Inc. dba First Security
7 Financial will fully comply with Oregon Mortgage Lender Law.

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

9 Dated this 3RD day of DECEMBER, 2002.

10 By DENNIS R. THAUT PRESIDENT
11 (Office Held)

12 [Signature]
13 (Signature)

14 **CORPORATE ACKNOWLEDGMENT**

15 There appeared before me this 3RD day of DECEMBER, 2002,
16 DENNIS R. THAUT, who was first duly sworn on oath, and stated that s/he was
17 and is the PRESIDENT of D R Thaut Inc. dba First Security Financial and
18 HE is authorized and empowered to sign this Consent to Entry of
19 Order on behalf of D R Thaut Inc. dba First Security Financial and to bind D R Thaut Inc.
20 dba First Security Financial to the terms hereof.

21 [Signature]
22 Signature of Notary Public
23 Notary Public for the State of: Oregon
24 My Commission expires: 3/3/2006

