

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

4 In the Matter of:

M-05-0051

5 Citifunding, Inc.,

FINAL ORDER TO CEASE AND DESIST  
and  
ORDER ASSESSING CIVIL PENALTIES  
BY DEFAULT

6 Respondent.

7  
8 On August 18, 2005 the Director of the Department of Consumer and Business  
9 Services for the State of Oregon (hereafter the "Director"), acting by and pursuant to the  
10 authority of Oregon Securities Law, Chapter 59 of the Oregon Revised Statutes, and  
11 other applicable authority, issued Administrative Order No. M-05-0051 to Cease And  
12 Desist And Assessing Civil Penalties And Notice Of Right To Hearing (hereafter "the  
13 Order") against Respondent Citifunding, Inc.

14 On August 22, 2005, Respondent Citifunding, Inc. was duly served with a true  
15 copy of the Order and Notice by United States Mail, postage prepaid, and addressed to  
16 Respondent Citifunding, Inc. at the following last known address: 11601 Wilshire  
17 Boulevard Suite 1500 in Los Angeles, California, 90024. On September 9, 2005, the  
18 United States Post Office delivered this mailing, which was signed for by "Hermes  
19 Ayala."

20 On August 22, 2005, Respondent Citifunding, Inc. was duly served with a true  
21 copy of the Order and Notice by United States Mail, postage prepaid, and addressed to  
22 Respondent Citifunding, Inc. at the address for the branch in Portland listed on the  
23 application for approval with Choice Capital Funding, which was 10260 SW Greenburg  
24 Road, Suite 400, in Portland, Oregon 97223. The mailing was returned marked  
25 "undeliverable, commercial mail receiving agency, No authorization to receive mail for  
26 this addressee" on August 30, 2005.

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Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4140





1 On August 30, 2005, Respondent Citifunding, Inc. was duly served with a true  
2 copy of the Order and Notice by United States Mail, postage prepaid, and addressed to  
3 Respondent Citifunding, Inc. at the following last known address for the branch in  
4 Portland: 13248 SE 122<sup>nd</sup> Suite F3, Clackamas, Oregon 97015. On August 31, 2005,  
5 the United States Post Office delivered this mailing, which was signed for by "S.  
6 Williams."

7 Respondent Citifunding, Inc. has not made a written request for a contested case  
8 hearing in this matter and the time to do so has expired.

9 **NOW THEREFORE**, after consideration of the Investigation Report and  
10 accompanying exhibits submitted in this matter by Kirsten Anderson, Enforcement  
11 Officer, the Director hereby issues the following Findings of Fact, Conclusions of Law,  
12 and Final Order:

### 13 FINDINGS OF FACT

14 The Director **FINDS** that:

15 1. Citifunding, Inc. (hereinafter "Respondent") is a mortgage broker engaging in  
16 Oregon residential mortgage transactions at 11601 Wilshire Boulevard Suite 1500 in  
17 Los Angeles, California, 90024.

18 2. Respondent also engages in Oregon residential mortgage transactions from a  
19 location of 10260 SW Greenburg Road, Suite 400, in Portland, Oregon 97223.

20 3. The Director licensed Respondent to engage in Oregon residential mortgage  
21 transactions at a location of 10794 SE Highway 212 in Clackamas, Oregon from July  
22 26, 2002 through March 24, 2003, when Citifunding, Inc. moved to a new location at  
23 10121 SE Sunnyside Road Suite 300-D in Clackamas, Oregon. The Director licensed  
24 Respondent to engage in Oregon residential mortgage transactions at a location of  
25 10121 SE Sunnyside Road Suite 300-D in Clackamas, Oregon from March 24, 2003  
26 through March 10, 2004 when Respondent's license was cancelled for failure to



1 maintain its surety bond. Respondent was not licensed to engage in Oregon residential  
2 mortgage transactions at any other locations or any times other than those specified in  
3 this paragraph. Specifically, Respondent was not licensed by the State of Oregon to  
4 engage in Oregon residential mortgage transactions at 11601 Wilshire Boulevard Suite  
5 1500 in Los Angeles, California 90024 or 10260 SW Greenburg Road, Suite 400, in  
6 Portland, Oregon 97223.

7 4. On or about May 31, 2005, Respondent submitted a Broker Application to Choice  
8 Capital Funding in order to obtain approval from the company to submit residential  
9 mortgage loan applications for funding.

10 5. In the Broker Application, Respondent represented that: 1) Robert Emery owns  
11 Respondent; 2) Respondent operates from 11601 Wilshire Boulevard Suite 1500 in Los  
12 Angeles, California; 3) Respondent operates a branch location at 10260 SW Greenburg  
13 (hereinafter "the Branch Location"); 4) Bryan Emery is the contact for the branch  
14 location; and 5) Respondent is licensed in Washington, Oregon and California.

15 6. At the time that Respondent submitted the Broker Application to Choice Capital  
16 Funding, Respondent was a company that would be required to have a license to broker  
17 an Oregon residential mortgage.

18 7. At the time that Respondent submitted the Broker Application to Choice Capital  
19 Funding, Respondent did not have a license to broker an Oregon residential mortgage  
20 loan.

21 8. At the time that Respondent submitted the Broker Application to Choice Capital  
22 Funding, Respondent, by and through its agent Robert Emery and/or Bryan Emery,  
23 knew it did not have a license to broker an Oregon residential mortgage loan.

24 9. Choice Capital Funding considers the statement that Respondent is licensed in  
25 Oregon as contained on the Broker Application to be a material fact.

26 10. One May 31, 2005, Robert Emery signed a Broker Agreement as President of



1 Respondent.

2 11. The Broker Agreement was submitted to Choice Capital Funding.

3 12. The Broker Agreement provides that Respondent "...may submit to Choice  
4 Capital Funding, on behalf of prospective borrowers, applications for residential first and  
5 second mortgage loans...."

6 13. The Broker Agreement also provides that Respondent represents, covenants and  
7 warrants that it "has all licenses and permits to conduct its mortgage brokerage  
8 business within all states and jurisdictions in which it operates."

9 14. At the time that Respondent signed the Broker Agreement and submitted it to  
10 Choice Capital Funding, Respondent was a company that would be required to have a  
11 license to broker an Oregon residential mortgage.

12 15. At the time that Respondent signed the Broker Agreement and submitted it to  
13 Choice Capital Funding, Respondent did not have a license to broker an Oregon  
14 residential mortgage loan.

15 16. At the time that Respondent signed the Broker Agreement and submitted it to  
16 Choice Capital Funding, Respondent, by and through its agent Robert Emery and/or  
17 Bryan Emery, knew it did not have a license to broker an Oregon residential mortgage  
18 loan.

19 17. At the time that Respondent signed the Broker Agreement and submitted it to  
20 Choice Capital Funding, Respondent knew that the statement that it "has all licenses  
21 and permits to conduct its mortgage brokerage business within all states and  
22 jurisdictions in which it operates" was not true.

23 18. Choice Capital Funding considers whether or not Respondent had all licenses  
24 required to broker loans in Washington, Oregon and California to be a material fact.

25 19. Respondent provided Choice Capital Funding with a copy of an "Order to  
26 Transact Business Pursuant to the Provisions of ORS 59.840-59.865" showing that the

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1 company was licensed to conduct Oregon residential mortgage business in Oregon  
2 under the name Citifunding, Inc. at a location of 10260 SW Greenburg Road, Suite 400  
3 in Portland, Oregon (hereinafter "the Altered License") .

4 20. The Director did not issue the Altered License.

5 21. The Altered License was an alteration of an Order to Transact Business Pursuant  
6 to the Provisions of ORS 59.840-59.965 issued to Citifunding, Inc., as ML-2663, at a  
7 location of 10121 SE Sunnyside Road, Suite 300-D in Clackamas, Oregon (hereinafter  
8 "the Original License").

9 22. The Director cancelled the Original License, effective March 10, 2004, because  
10 Respondent failed to maintain a surety bond.

11 23. At the time that Respondent submitted the Altered License to Choice Capital  
12 Funding, Respondent knew that the Altered License was not legitimate.

13 24. Submitting the Altered License to Choice Capital Funding would operate to  
14 deceive Choice Capital Funding of the true state of Respondent's licensure in Oregon.

15 25. Respondent did not provide written notification to the Director that it intended to  
16 operate a branch location at least thirty days prior to opening the Branch Location.

17 26. Respondent did not provide the Director with the licensing fee for a branch  
18 location at least 30 days prior to opening the Branch Location.

19 27. At least 30 days prior to opening the Branch Location, Respondent did not  
20 provide the Director with address of the Branch Location, the telephone number of the  
21 branch location and the facsimile number of the Branch Location.

### 22 CONCLUSIONS OF LAW

23 The Director **CONCLUDES** that:

- 24 1. Respondent violated ORS 59.845(1) by engaging in Oregon residential mortgage  
25 transactions without a license from 11601 Wilshire Boulevard Suite 1500 in Los  
26 Angeles, California.



1 The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that Citifunding, Inc.  
2 will **CEASE AND DESIST** from violating any provision of Oregon Mortgage Lender Law,  
3 OAR 441-850-0005 through 441-885-0010 and any rule, order, or policy issued by the  
4 Division.

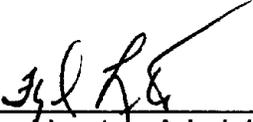
5 Pursuant to the authority of ORS 59.996, the DIRECTOR hereby **ASSESES** a  
6 **CIVIL PENALTY** in the amount of \$25,000 (twenty-five thousand dollars) against  
7 Respondent Citifunding, Inc. based upon \$5,000 for one violation of ORS 59.845(1),  
8 \$5,000 for one violation of ORS 59.845(1) or ORS 59.950(2) and OAR 441-860-0060,  
9 \$10,000 for two violations of ORS 59.930(2) and \$5,000 for one violation of ORS  
10 59.930(3).

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

13  
14 IT IS SO ORDERED.

15 Dated this 16th day of September, 2005, at Salem, Oregon.

16  
17 CORY STREISINGER, Director  
18 Department of Consumer and Business Services

19  
20   
21 Floyd Lanter, Administrator  
22 Division of Finance and Corporate Securities

23 **NOTICE:** You are entitled to judicial review of this Order. Judicial review may be  
24 obtained by filing a petition with the Court of Appeals in Salem, Oregon within 60 days  
25 from the service of this Order. Judicial review is pursuant to the provisions of ORS  
26 183.482 to the Oregon Court of Appeals.

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