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**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
MORTGAGE LENDING SECTION**

**BEFORE THE DIRECTOR OF THE DEPARTMENT
OF CONSUMER AND BUSINESS SERVICES**

In the Matter of:

DM-11-0038

US Mortgage Funding, Inc.

**Final Order to Cease and Desist Entered by
Default**

Respondent.

11 On March 13, 2012, the Director of the Department of Consumer and Business Services
12 for the State of Oregon (hereafter the “Director”), acting by and pursuant to the authority
13 contained in Oregon Revised Statutes (hereinafter “ORS”) ORS 86A.100 et seq. and Oregon
14 Administrative Rules 441-850-0005 through 441-885-0010 (collectively “Oregon Mortgage
15 Lender Law”) and ORS 697.602 to 697.842 and OAR 441-910-0000 through 441-910-0120
16 (hereinafter “the Oregon Debt Management Service Provider Law”), issued Administrative
17 Order No. DM-11-0038 - Order to Cease and Desist and Notice of Right to a Hearing
18 (hereinafter “the Order”) against US Mortgage Funding, Inc. (hereinafter “USMF” or
19 “Respondent”).

20 On March 17, 2012, USMF was duly served with true copies of the Order by regular,
21 first-class mail and by certified mail, postage prepaid, and addressed to the following: USMF at
22 700 West Hillsboro Boulevard, Suite 207, Building 3, Deerfield Beach, Florida 33441-1601 and
23 951 Broken Sound Parkway, Suite 200, Boca Raton, Florida 33487 and David Mahler, a
24 principal with USMF, at 8751 Horseshoe Lane, Boca Raton, Florida 33496. The mailings sent
25 to USMF were returned as not deliverable, the certified mailing sent to David Mahler was
26 returned unclaimed, but the regular mailing was not returned.



1 USMF has not made a written request for a contested case hearing in this matter, and the
2 time to do so has expired.

3 **FINDINGS OF FACT**

4 The Director FINDS that:

5 1. USMF is a Florida corporation located at 700 West Hillsboro Boulevard, Suite
6 207, Building 3, Deerfield Beach, Florida, 33441-1601.

7 2. USMF is not a licensed mortgage banker or mortgage broker in Oregon, is not
8 registered as a debt management service provider in Oregon, and is not registered with the
9 Oregon Secretary of State to do business in Oregon.

10 **I. Oregon Consumer Complaints**

11 3. At all times relevant to this matter, the individual consumers identified herein as
12 “GG,” “VG,” and “JN” (hereinafter “Consumers”) were Oregon residents and were parties to
13 home mortgage loans secured by real estate located in Oregon.

14 4. USMF marketed residential loan modification services through direct mail
15 solicitations.

16 5. On information and belief, when Consumers contacted USMF, USMF promised
17 to help the Consumers modify their residential mortgage loans to make their payments more
18 affordable, including, but not limited to, a reduction in the principal, interest, fees, or charges
19 associated with Consumers’ mortgage loans.

20 6. As instructed by USMF, Consumers submitted their personal nonpublic financial
21 information, including details about their mortgage loans and income, together with an advance
22 fee to USMF in exchange for a promise to receive loan modification assistance with negotiating
23 a change in the terms of their mortgage loans.

24 7. After Consumers paid USMF the advance fee for assistance modifying the
25 Consumers’ mortgage loan, USMF failed to answer or return Consumers’ telephone calls or
26 provide meaningful updates about the status of Consumers’ purported conversations with their





1 residential real mortgage lenders.

2 8. On February 24, 2010, Oregon consumer JN entered into a contract with USMF
3 for mortgage loan modification services for a loan secured by Oregon real property. The
4 contract provided that JN's fees paid would be refunded if the company failed to obtain a
5 modification.

6 9. As part of the agreement for loan modification services, JN paid \$600 to USMF by
7 check number 1714 on February 22, 2010, \$600 to USMF by check number 1717 on February
8 23, 2010, and \$600 to USMF by check number 1728 on March 18, 2010.

9 10. On March 15, 2010, Oregon consumers GG and VG entered into a contract with
10 USMF for mortgage loan modification services for a loan secured by their Oregon real property.
11 The contract provided that the Consumers' funds would be refunded if the company failed to
12 obtain a modification.

13 11. As part of the agreement for loan modification services, GG and VG paid \$800 to
14 USMF in the name of 1st Continental Mortgage by check number 8002.

15 12. After receiving the advance payments from Consumers, USMF stopped having any
16 regular or meaningful contact with them. Despite e-mails and telephone calls from
17 Consumers, USMF failed to respond to their inquiries concerning the status of negotiations with
18 their residential real estate mortgage lenders or servicers.

19 13. USMF has failed and refuses to perform on its promises, made in exchange for the
20 advance fees paid by Consumers to USMF, to negotiate a modification of their residential
21 mortgage loan including, but not limited to, securing a lower interest rate, principal reductions,
22 and a possible refund, or that if USMF was unsuccessful in obtaining the modification, it would
23 refund the Consumers' fees.

24 14. On information and belief, USMF has not conducted any substantive conversations
25 with Consumers' mortgage lenders or servicers that have resulted in a modification of their
26 residential real estate loan.



1 15. The Division of Finance and Corporate Securities (“Division”), on behalf of the
2 Director, notified USMF in writing that it was required to comply with the licensing
3 requirements of the Oregon Mortgage Lender Law or the registration requirements of the Debt
4 Management Service Providers Act to collect and retain fees in exchange for offering to assist
5 Oregon consumers in adjusting the terms of their residential real estate loans.

6 16. The Division requested, in writing, that USMF refund the fees collected from
7 Consumers because it did not perform on its promise to obtain a modification of the terms of
8 Consumers’ residential real loans.

9 17. Respondent has not refunded the fees that it collected from Consumers after
10 receiving written notice from the Director advising USMF that its loan modification activities
11 were in violation of Oregon law.

12 **II. Federal Trade Commission’s Civil Action**

13 18. On February 7, 2011, the Federal Trade Commission (hereinafter “FTC”) filed a
14 civil complaint for permanent injunctive relief and other equitable relief in the United States
15 District Court for the Southern District of Florida against USMF, other related corporate
16 defendants, and control persons David Mahler, John Incandela, and Jamen Lachs. The
17 complaint alleged violations of federal law, including the FTC Act and the Telemarketing and
18 Consumer Fraud and Abuse Prevention Act in connection with USMF’s marketing and sales of
19 mortgage loan modification or foreclosure rescue services.¹

20 19. The complaint reported that, in numerous instances in connection with the
21 advertising, marketing, promotion, offering for sale, or sale of mortgage loan modification or
22 foreclosure rescue services, the defendants of the FTC complaint (hereinafter “Defendants”)
23 [including USMF] have represented that Defendants:

- 24 i) generally will obtain for consumers loan modifications that will make their mortgage
25 payments substantially more affordable;

26

¹ FTC v U.S. Mortgage Funding, Inc., et al., US District Court Case No. 11-cv-80155-COHN.



1 when it offered to GG, VG, and JN to modify terms and conditions of an existing loan or
2 obligation in exchange for payment of an advance fee.

3 5. With regard to GG, VG and JN, USMF violated ORS 697.612(1)(a) when it
4 performed a debt management service without first registering with the Director under ORS
5 697.632.

6 6. USMF violated ORS 86A.154(2) when it knowingly made an untrue statement of
7 material fact by telling GG, VG and JN that USMF would attempt to negotiate a modification to
8 GG, VG and JN's residential real estate loan and would return all fees collected if no modification
9 was obtained when in reality USMF did not conduct any substantive conversations with GG, VG
10 and JN's mortgage lender that have resulted in modifications of GG, VG and JN's loans nor has
11 USMF returned the fees paid by GG, VG and JN.

12 7. The fees collected by USMF from GG, VG, and JN exceeded the amounts
13 permitted by ORS 697.692(1).

14 8. USMF violated ORS 697.662(7)(a) when USMF collected fees from GG, VG, and
15 JN that exceeded the amounts permitted by ORS 697.692(1).

16 **ORDER**

17 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDER:

18 The Director, pursuant to his authority under ORS 86A.127 and ORS 697.825, hereby
19 ORDERS Respondent to CEASE AND DESIST from violating Oregon's Mortgage Lender
20 Law and Oregon's Debt Management Service Providers law.

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

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Dated this 19th day of June, 2012.

Nunc Pro Tunc March 14, 2011.

PATRICK M. ALLEN, Director

Department of Consumer and Business Services

/s/ David Tatman

David C. Tatman, Administrator

Division of Finance and Corporate Securities

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

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

