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

In the Matter of:

**M-12-0065**

Gateway Funding Diversified Mortgage Services L.P., Thomas Peter Fox, and John Joseph Mikus Jr.,

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

Respondents.

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WHEREAS the Director of the Department of Consumer and Business Services for the State of Oregon (“Director”) conducted an investigation of Gateway Funding Diversified Mortgage Services L.P., Thomas Peter Fox, and John Joseph Mikus Jr., and determined that they engaged in activities constituting violations of Oregon Revised Statutes (“ORS”) 86A.100 *et seq.* and Oregon Administrative Rules (“OAR”) 441-850-0005 through 441-885-0010 (collectively “Oregon Mortgage Lender Laws and Rules”); and

WHEREAS Gateway Funding Diversified Mortgage Services L.P., Thomas Peter Fox, and John Joseph Mikus Jr., wish to resolve and settle this matter with the Director;

NOW THEREFORE, as evidenced by the authorized signature subscribed on this Consent Order, Gateway Funding Diversified Mortgage Services L.P., Thomas Peter Fox, and John Joseph Mikus Jr., hereby consent to entry of this order upon the Director’s Findings of Fact and Conclusions of Law as stated hereinafter:

**FINDINGS OF FACT**

The Director finds that:

1. Based on a search of the Pennsylvania Department of State (“Pennsylvania DOS”)





1 website on August 6, 2012, Gateway Funding Diversified Mortgage Services L.P. (“Gateway  
2 Funding”) is a domestic limited partnership (Entity No. 2589447) first filed with the  
3 Pennsylvania DOS on July 11, 1994 and is currently active.

4 2. Based on a search of the Oregon Secretary of State (“Oregon SOS”) Corporations  
5 Division website on August 6, 2012, Gateway Funding is a foreign limited partnership  
6 (Registry Nbr. 240386-97) first registered with the Oregon SOS on October 21, 2004 and  
7 currently active.

8 3. As of August 6, 2012, Gateway Funding is currently and has been licensed since  
9 February 16, 2005 with the Oregon Division of Finance and Corporate Securities (“Division”)  
10 to conduct business as a “mortgage broker”, as that term is defined in ORS 86A.100(5)(a)(C),  
11 in Oregon.

12 4. As of August 6, 2012, John Joseph Mikus Jr. (“Mikus”) is not currently and has not  
13 previously been licensed with the Oregon Division of Finance and Corporate Securities  
14 (“Division”) to conduct business through Gateway Funding as a “mortgage loan originator”,  
15 as that term is defined in ORS 86A.200(4)(a), in Oregon.

16 5. As of August 6, 2012, Thomas Peter Fox (“Fox”) is currently and has been licensed  
17 since July 31, 2010 with the Oregon Division of Finance and Corporate Securities  
18 (“Division”) to conduct business Gateway Funding as a “mortgage loan originator”, as that  
19 term is defined in ORS 86A.200(4)(a), in Oregon.

20 6. In approximately May 2011, John Joseph Mikus Jr. (“Mikus”) was the first  
21 Gateway Financial representative to have contact with Oregon consumer SCF.

22 7. In approximately May 2011 and during his first contact with SCF, Mikus offered to  
23 and entered into an agreement with SCF (“SCF Agreement”) whereby Mikus through  
24 Gateway Funding agreed to take an application and negotiate terms for SCF for a residential  
25 mortgage loan on residential real property located in Oregon.

26 ///



1           8. At no time from the initial contact between SCF and Mikus in May 2011 to the  
2 closing of SCF's reverse mortgage transaction did Mikus disclose to SCF that he was not  
3 licensed to act as a mortgage loan originator in Oregon for SCF.

4           9. In the spring or summer of 2011 and after SCF received new transaction paperwork  
5 related to the change in lenders to Genworth Financial Home Equity Access, Inc. that listed  
6 Fox as the mortgage loan originator for the transaction, SCF called Mikus and asked why Fox,  
7 someone she didn't know, was listed as her agent/originator for the transaction. Mikus  
8 responded "oh we do that all the time in this office".

9           10. In an email dated July 1, 2011 from Carolyn Meyers ("Meyers"), a loan processor  
10 for Gateway Financial, to SCF, stated "Jack [Mikus] is your loan officer and I am his loan  
11 processor".

12           11. At all times from SCF's initial contact with Mikus in approximately May 2011  
13 until the transaction closed, SCF believed that Mikus was the mortgage loan originator  
14 handling the transaction.

15           12. On April 26, 2012 in a telephone interview with a Division representative, Mikus  
16 indicated that, with regard to using Gateway Funding as the mortgage broker for SCF's  
17 reverse mortgage, SCF initially contacted him.

18           13. At no time from the initial contact between SCF and Mikus in May 2011 to the  
19 closing of SCF's reverse mortgage transaction did Fox have any communications with SCF.

20           14. In an attachment to a letter dated August 1, 2012, Mikus represented that Fox was  
21 the first Gateway Financial representative to have contact with Oregon consumer SCF.

22           15. In an attachment to a letter dated August 1, 2012, Fox represented that he was the  
23 first Gateway Financial representative to have contact with Oregon consumer SCF.

24           16. At no time from the initial contact between SCF and Mikus in May 2011 to  
25 August 1, 2012 when Gateway Financial provided a written response to the Division's  
26

1 inquiry, did Gateway Financial determine that Mikus had acted as a mortgage loan originator  
2 for SCF without properly being licensed.

3 **CONCLUSIONS OF LAW**

4 The Director CONCLUDES that:

5 17. Mikus violated ORS 86A.203(1) when he engaged in business as a “mortgage loan  
6 originator”, as that term is defined on ORS 86A.200(4)(a), without obtaining and maintaining  
7 a mortgage loan originator license from and with the Division.

8 18. Mikus violated ORS 86A.236(3) and ORS 86A.224(4)(a)(E) when he knowing  
9 made an untrue statement of a material fact to the Division by stating that Fox was the first  
10 Gateway Financial representative to have contact with SCF.

11 19. Mikus violated ORS 86A.236(4) and ORS 86A.224(4)(a)(F) when he filed, with  
12 the Director of the Department of Consumer and Business Services, a knowingly false  
13 statement stating that Fox was the first Gateway Financial representative to have contact with  
14 SCF.

15 20. Mikus violated ORS 86A.236(5) when he engaged in an unfair or deceptive  
16 practice toward another person by misleading SCF into believing that he was legally  
17 authorized to negotiate the terms of the mortgage loan for SCF.

18 21. Fox violated ORS 86A.236(3) and ORS 86A.224(4)(a)(E) when he knowing made  
19 an untrue statement of a material fact to the Division by stating that he was the first Gateway  
20 Financial representative to have contact with SCF.

21 22. Fox violated ORS 86A.236(4) and ORS 86A.224(4)(a)(F) when he filed, with the  
22 Director of the Department of Consumer and Business Services, a knowingly false statement  
23 stating that he was the first Gateway Financial representative to have contact with SCF.

24 23. Fox violated ORS 86A.236(5) when he engaged in an unfair or deceptive practice  
25 toward another person by allowing his name and number to be used on the SCF transaction  
26 documents without ever communicating with SCF regarding the transaction and not informing



1 SCF that Mikus was not licensed in Oregon to negotiate the mortgage loan transaction for  
2 SCF.

3 24. Gateway Funding violated ORS 86A.115(16) and Oregon Administrative Rule  
4 (“OAR”) 441-860-0040(3)(a) when it failed to ensure that Mikus was licensed as a mortgage  
5 loan originator prior to allowing him to act as a mortgage loan originator for SCF.

6 **ORDER**

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

8 A. Cease and Desist Order

9 25. Pursuant to ORS 86A.127(4) and ORS 86A.224(2)(a), the Director hereby orders  
10 Gateway Funding, Mikus, and Fox to cease and desist from violating the Oregon Mortgage  
11 Lender Laws.

12 B. Order Assessing Civil Penalty

13 26. The Director, pursuant to ORS 86A.992 and ORS 86A.224(3)(a), may assess a  
14 civil penalty of up to \$5,000 for each violation of the Oregon Mortgage Lender Law and  
15 Rules.

16 27. Pursuant to these provisions, the Director hereby orders that:

17 a. Mikus pay a \$15,000 civil penalty to the State of Oregon as follows:

- 18 i. \$5,000 for one violation of ORS 86A.203(1);
- 19 ii. \$5,000 for violations of ORS 86A.236(3), ORS 86A.224(4)(a)(E), ORS  
20 86A.236(4), and ORS 86A.224(4)(a)(F); and
- 21 iii. \$5,000 for one violation of ORS 86A.236(5).
- 22 iv. \$7,500 of this civil penalty shall be suspended for five (5) years from  
23 the date of the last signature on this order. Upon expiration of the five  
24 (5) years and so long as Mikus has not violated any provision of this  
25 order in the previous five (5) years, the suspended portion of this civil  
26 penalty shall be waived.





1 b.Fox pay a \$10,000 civil penalty to the State of Oregon as follows:

2 i. \$5,000 for violations of ORS 86A.236(3), ORS 86A.224(4)(a)(E), ORS  
3 86A.236(4), and ORS 86A.224(4)(a)(F); and

4 ii. \$5,000 for one violation of ORS 86A.236(5).

5 iii. \$5,000 of this civil penalty shall be suspended for five (5) years from  
6 the date of the last signature on this order. Upon expiration of the five  
7 (5) years and so long as Fox has not violated any provision of this order  
8 in the previous five (5) years, the suspended portion of this civil penalty  
9 shall be waived.

10 c. Gateway Funding pay a \$5,000 civil penalty to the State of Oregon for violations  
11 of ORS 86A.115(16) and OAR 441-860-0040(3)(a).

12 i. \$2,500 of this civil penalty shall be suspended for five (5) years from  
13 the date of the last signature on this order. Upon expiration of the five  
14 (5) years and so long as Gateway Funding has not violated any  
15 provision of this order in the previous five (5) years, the suspended  
16 portion of this civil penalty shall be waived.

17 28. The entry of this order in no way further limits remedies that may be available to  
18 the Director under Oregon Law.

19 Dated this 11<sup>th</sup> day of October, 2012.

20  
21 PATRICK M. ALLEN, Director  
22 Department of Consumer and Business Services

23 /s/ David Tatman

24 David C. Tatman, Administrator  
25 Division of Finance and Corporate Securities

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1 **CORPORATE CONSENT TO ENTRY OF ORDER**

2 I, Joseph Alvini, state that I am an officer of Gateway Funding Diversified Mortgage  
3 Services L.P. (“Gateway Funding”), a Pennsylvania Limited Partnership, and I am authorized  
4 to act on its behalf; that I have read the foregoing Consent Order and that I know and fully  
5 understand the contents hereof; that I and Gateway Funding have been advised of the right to  
6 a hearing and of the right to be represented by counsel in this matter; that although Gateway  
7 Funding does not admit that the findings of fact and conclusions of law are correct, Gateway  
8 Funding voluntarily and without any force or duress, consents to the entry of this Consent  
9 Order, expressly waiving any right to a hearing in this matter; that Gateway Funding  
10 understands that the Director reserves the right to take further actions to enforce this Consent  
11 Order or to take appropriate action upon discovery of other violations of the Oregon Mortgage  
12 Lender Laws and Rules and Oregon Debt Management Service Provider Laws and Rules that  
13 Gateway Funding will fully comply with the terms and conditions stated herein.

14 Gateway Funding understands that this Consent Order is a public document.

15 Dated this 4<sup>th</sup> day of October 2012.

16 **Gateway Funding Diversified Mortgage Services L.P.  
a Pennsylvania Limited Partnership**

17 By: /s/ Joseph Alvini

18 Name: Joseph Alvini

19 Its: SVP Compliance

20 **NOTARY ACKNOWLEDGMENT**

21 Commonwealth of Pennsylvania )  
22 )ss.  
23 County of Montgomery )

24 This instrument was acknowledged before me on 4<sup>th</sup> October, 2012 by Joseph Alvini of  
25 Gateway Funding Diversified Mortgage Services L.P., a Pennsylvania Limited Partnership.

26 /s/ Cassandra L. Warner  
Notary Public – Commonwealth of Pennsylvania

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



1 **CONSENT TO ENTRY OF ORDER**

2 I, Thomas Peter Fox, state that I have read the foregoing consent order and that I know  
3 and fully understand the contents hereof; that I have been advised of the right to a hearing and  
4 of the right to be represented by counsel in this matter; that that although I do not admit that  
5 the findings of fact and conclusions of law are correct, I voluntarily and without any force or  
6 duress, consents to the entry of this consent order, expressly waiving any right to a hearing in  
7 this matter; that I understand that the Director reserves the right to take further actions to  
8 enforce this consent order or to take appropriate action upon discovery of other violations of  
9 the Oregon Mortgage Lender Laws and Rules and Oregon Debt Management Service  
10 Provider Laws and Rules; and that I will fully comply with the terms and conditions stated  
11 herein.

12 I understand that this consent order is a public document.

13 Dated this 3 day of October, 2012.

14  
15 /s/ Thomas Peter Fox  
16 Thomas Peter Fox

17 **NOTARY ACKNOWLEDGEMENT**

18 Commonwealth of Pennsylvania )  
19 )ss.  
20 County of Montgomery )

21 This instrument was acknowledged before me on October 3, 2012 by Thomas Peter Fox.

22  
23 /s/ Bridget Donovan  
24 Notary Public – Commonwealth of Pennsylvania  
25  
26

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



1 **CONSENT TO ENTRY OF ORDER**

2 I, John Joseph Mikus Jr., state that I have read the foregoing consent order and that I  
3 know and fully understand the contents hereof; that I have been advised of the right to a  
4 hearing and of the right to be represented by counsel in this matter; that I voluntarily and  
5 without any force or duress, consent to the entry of this consent order, expressly waiving any  
6 right to a hearing in this matter. I do not admit that the findings of fact and conclusions of law  
7 are correct, I understand that the Director reserves the right to take further actions to enforce  
8 this consent order or to take appropriate action upon discovery of other violations of the  
9 Oregon Mortgage Lender Laws and Rules and Oregon Debt Management Service Provider  
10 Laws and Rules; and that I will fully comply with the terms and conditions stated herein.

11 I understand that this consent order is a public document.

12 Dated this 4<sup>th</sup> day of October, 2012.

13  
14 /s/ John Joseph Mikus Jr.  
15 John Joseph Mikus Jr.

16 **NOTARY ACKNOWLEDGEMENT**

17 Commonwealth of Pennsylvania )  
18 County of Montgomery )ss.

19  
20 This instrument was acknowledged before me on Oct 4, 2012 by John Joseph  
21 Mikus Jr.

22  
23 /s/ Freda A. Phillips  
24 Notary Public – Commonwealth of Pennsylvania

25  
26  
Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
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