

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 In the Matter of:
6 Secured Funding Corporation,
7 Respondent.

M-04-0018
ORDER TO CEASE AND DESIST
ORDER ASSESSING CIVIL PENALTIES
And
CONSENT TO ENTRY OF ORDER

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10 The Director of the Department of Consumer and Business Services
11 for the State of Oregon (hereinafter "the Director") acting by the authority of
12 the Oregon Mortgage Lender Law, Chapter 59 of the Oregon Revised
13 Statutes (hereinafter cited as "the Oregon Mortgage Lender Law"), hereby
14 issues the following Findings of Fact, Conclusions of Law, Order and Notice
15 of Right to a Public Hearing:

16 FINDINGS OF FACT

17 The Director FINDS that:

- 18 1. Secured Funding Corporation (hereinafter "Respondent"), incorporated in
19 California on November 8, 1993, engages in residential mortgage transactions in
20 Oregon or on Oregon real property in expectation of compensation.
- 21 2. The Director has licensed Respondent to engage in Oregon residential
22 mortgage lending since April 29, 1998.
- 23 3. Lome Lahodny is the 60% owner of Respondent and John Lynch owns the
24 remaining 40%.
- 25 4. On October 12, 2001, the Director sent notice to all licensees that there had
26 been changes in the Oregon Mortgage Lender Law and proposed changes in the

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1 administrative rules.

2 5. In January 2002, the Director published a new issue of the Mortgage Lender
3 News on the web site that included an explanation of the new notification requirements.

4 6. On February 14, 2002, the Director sent a notice to all licensees that the final
5 rules had been approved and were available on the web site along with the January
6 2002 issue of the Mortgage Lender News that explained the new requirements.

7 7. On July 24, 2002, the Director sent a letter to Respondent informing
8 Respondent that the Director had not received notification of Respondent's loan
9 originators and requesting that Respondent provide the required information by
10 September 1, 2002 to avoid civil penalties.

11 8. Prior to September 1, 2002, Respondent submitted complete loan originator
12 information for Lorne Lahodny.

13 9. On January 16, 2003, the Director received a call from an appraiser indicating
14 that the company was ordering appraisals using loan originators other than Lorne
15 Lahodny. In response to the information, the Director faxed a memo to Lorne Lahodny
16 explaining the loan originator notification and education requirements on January 16,
17 2003.

18 10. On March 12, 2003, consumer Shahram Afzal made application for an Oregon
19 residential mortgage loan with Respondent through loan originator Marco Tredicini.

20 11. On May 5, 2003, the Director received a complaint against Respondent filed
21 by Shahram Afzal.

22 12. As of May 5, 2003, Respondent had not provided notification to the Director
23 that Marco Tredicini was acting as a loan originator for Respondent.

24 13. In response to the complaint, the Director wrote to Respondent about the
25 notification requirements and requested that Respondent provide a list of Oregon
26 residential loan transactions taken by loan originators for whom Respondent had not

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1 provided notice.

2 14. On May 16, 2003, the Director received a facsimile from Respondent with loan
3 originator information for eight loan originators. Marco Tredicini was not on that list.

4 15. Seven of the eight loan originators listed by Respondent started originating
5 loans for Respondent prior to January 30, 2002. The other loan originator was hired on
6 March 18, 2002.

7 16. Respondent had not provided the Director notification of Respondent's eight
8 loan originators and Marco Tredicini within thirty days of the date the loan originator was
9 hired to originate loans or January 30, 2002 whichever occurred later.

10 17. On November 17, 2003, the Director received notification from an appraiser
11 that Respondent's loan originators Katie O'Brien and Brian Lucey ordered appraisers
12 but failed to pay for the appraisal.

13 18. As of December 18, 2003, Respondent has not notified the Director that Katie
14 O'Brien and Brian Lucey were functioning as loan originators for Respondent.

15 19. On December 31, 2003, the Director received an e-mail communication from
16 Brent Acajabon, a loan originator working for Respondent, about a problem that he was
17 having with an appraiser not providing a specific value that Brent Acajabon required on
18 an appraisal of an Oregon residential real property that he needed to meet the
19 conditions for funding a loan on that specific property.

20 20. As of January 31, 2004, Respondent had not notified the Director that Brent
21 Acajabon was functioning as a loan originator for Respondent.

22 21. Upon learning that the appraiser Chris Courtney was going to appraise the
23 real property that was the subject of the loan for Ray and Dawn Huff at a value of
24 \$180,000, Brent Acajabon communicated to appraiser that:

25 "180K is not acceptable. This appraisal should never have been done
26 at that value buddy. The order clearly states that Im [sic] looking for the



1 value of 205 – 210k 200K would be the very minimum I went over this
2 with you on several occasions. I learned from the last time I got burned
3 on an appraisal what the appropriate measures are from this point
4 forward. If you send me an appraisal where value is 180k you and I are
5 going to have a major problem Chris. Call me ASAP. Brent"

6 The response by Respondent's loan originator indicates that the loan originator
7 intended for the appraiser to provide a specific value in his appraisal and, when the
8 appraiser did not provide that value, the loan originator communicated his displeasure
9 and pressured the appraiser to change the value to meet the needs of the loan
10 originator.

11 22. Respondent reported that is has made significant changes since the violations
12 have occurred.

13 23. Respondent reported that during the time frame in which the violations
14 occurred, it was going through tremendous growth. The person responsible for reporting
15 loan originator notification and termination was not able to take care of the requirements
16 and did not report that she needed assistance to Senior Management.

17 24. Respondent reported that it now has in place a manager specifically for the
18 purpose of keeping all the requirements met in terms of loan originator reporting.

19 25. Respondent reported that it has a proces that includes training of originators
20 within the first two weeks of hire including the completion of the required continuing
21 education and criminal background checks and no loan originators are authorized to
22 originate any loans until all requirements are met.

23 26. Respondent reported that it terminated Brent Acabajon immediately upon notice
24 of the correspondence regarding the value of the appraisal ordered in this case.

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1 27. Respondent reported that it has no tolerance for appraiser influencing and
2 stresses this fact in all originator training programs and reiterates this fact across all
3 sales in the company.

4 CONCLUSIONS OF LAW

5 The Director **CONCLUDES** that:

- 6 1. Respondent violated ORS 59.969(1) by failing to provide to the Director information
7 about Respondent's loan originators.
- 8 2. Respondent violated OAR 441-880-0030(1) by failing to produce the required
9 information about Respondent's loan originators by January 30, 2002.
- 10 3. Respondent violated ORS 59.865(2) by engaging in an unethical practice or conduct
11 in connection with the mortgage business through the act attempting to influence an
12 appraiser to violate Ethics Rule of the Uniform Standards of Professional Appraisal
13 Practice that prohibits an appraiser from accepting an appraisal assignment if the
14 assignment is contingent upon the reporting of a predetermined value, a direction in
15 value that favors the cause of the client, the amount of the value opinion, the attainment
16 of a stipulated result or the occurrence of a subsequent event directly related to the
17 value opinion.

18 ORDER

19 The Director, pursuant to ORS 59.885(4) hereby **ORDERS** that Secured Funding
20 Corporation will **CEASE AND DESIST** from violating any provision of Oregon Mortgage
21 Lender Law, OAR 441-850-005 through 441-885-0010 and any rule, order or policy
22 issued by the Division.

23 The Director, pursuant to ORS 59.996 hereby **ORDERS** Secured Funding
24 Corporation to pay the State of Oregon a civil penalty of \$10,000. The civil penalty is
25 based upon \$5,000 for the violations of ORS 59.969(1) and OAR 441-880-0030(1)
26 failing to notify the Director of loan originators as required by law and administrative rule

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1 and \$5,000 for the violation of ORS 59.865(2) for engaging in an unethical act or
2 practice for attempting to influence an appraiser to violation USPAP.

3 The Director suspends payment of \$5,000 of the assessed civil penalty for a
4 three-year period. If in the period between the date of the Order to three years from the
5 date of the Order or until the non-suspended portion of the civil penalty has been paid,
6 whichever occurs later, Respondent violates any provision of the Oregon Mortgage
7 Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy
8 issued by the Director, the suspended portion of the assessed civil penalty will become
9 immediately due and payable. If Respondent does not violate the Oregon Mortgage
10 Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy
11 issued by the Director in three years from the date of the Order or until the non-
12 suspended portion of the civil penalty has been paid, whichever occurs later, the
13 suspended portion of the civil penalty is waived.

14 The date of this order is the day the Director signs the order. The entry of this
15 Order in no way limits further remedies which may be available to the Director under
16 Oregon law.

17 Dated this 13th day of JANUARY, 2005, at Salem, Oregon.

18 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

19
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21 by 
22
23 **FLOYD G. LANTER, ADMINISTRATOR**
24 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

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1 **CORPORATE CONSENT TO ENTRY OF ORDER**

2 I, Richard Triplet, state that I am an officer of Secured Funding
3 Corporation, and I am authorized to act on its behalf; that I have read the foregoing
4 Order and that I know and fully understand the contents hereof; that I and this entity
5 have been advised of the right to a hearing and of the right to be represented by
6 counsel in this matter; that Secured Funding Corporation voluntarily and without any
7 force or duress, consents to the entry of this Order, expressly waiving any right to a
8 hearing in this matter; that Secured Funding Corporation understands that the Director
9 reserves the right to take further actions to enforce this Order or to take appropriate
10 action upon discovery of other violations of the Oregon Securities Law; and that
11 Secured Funding Corporation will fully comply with the terms and conditions stated
12 herein.

13 Secured Funding Corporation further assures the Director that neither Secured
14 Funding Corporation nor its officers, directors, employees or agents will effect securities
15 transactions in Oregon unless such activities are in full compliance with Chapter 59 of
16 the Oregon Mortgage Lending Law.

17 Secured Funding Corporation understands that this Consent Order is a public
18 document.

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20 Dated this 3 day of JANUARY, 2005.

21
22 By Richard Triplet
(Signature of officer)

23 Vice President, Chief Compliance Officer
24 (Office Held)
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CORPORATE ACKNOWLEDGMENT

There appeared before me this 3 day of JAN., 2005, RICHARD TRIPLETT, who was first duly sworn on oath, and stated that he was and is VP of Compliance of Secured Funding Corporation and that he is authorized and empowered to sign this Consent to Entry of Order on behalf of Secured Funding Corporation, and to bind Secured Funding Corporation to the terms hereof.

Corinna N. Vickers
(Individual)



CORINNA N. VICKERS
(Printed Name of Notary Public)
Notary Public
for the State of: CALIFORNIA
My commission expires: 9.11.08

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