

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Allied Home Mortgage Capital Corp.,)	CONCLUSIONS OF LAW
6110 Pinemont Drive, Suite 215,)	AND
Houston, Texas)	CONSENT ORDER

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Mortgage Bankers Registration and Licensing Act, Neb. Rev. Stat. §§ 45-701 to 45-723 (Reissue 2004; Cum. Supp. 2008) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-710 (Cum. Supp. 2008), the DEPARTMENT has investigated the actions of Allied Home Mortgage Capital Corp. (“ALLIED”). As a result of such investigation, and being duly advised and informed in the matter, the Director and ALLIED enter into the following Findings of Fact, Conclusions of Law, and Consent Order.

FINDINGS OF FACT

1. On June 30, 1998, the DEPARTMENT issued Mortgage Banker License #360 to ALLIED. ALLIED renewed its license annually as required by Section 45-706 each year between 1999 and 2008.
2. On January 2, 2008, the DEPARTMENT joined the Nationwide Mortgage Licensing System (“NMLS”). ALLIED submitted its 2008 Mortgage Banker License Renewal Application to the DEPARTMENT through the NMLS. The NMLS assigns a unique identifier to each entity and individual who creates a filing on the NMLS. ALLIED was assigned unique identifier NMLS #4169.

3. Neb. Rev. Stat. § 45-706 (Cum. Supp. 2008) provides that all licenses issued after January 1, 2008, expire on December 31 of the year in which the license was issued. Therefore, the renewal license issued to ALLIED effective March 1, 2008, expired on December 31, 2008. In order to renew a mortgage banker license, a licensee must submit an application to renew the license to the DEPARTMENT along with a fee of two hundred dollars (\$200.00) plus seventy-five dollars (\$75.00) for each branch office from which the licensee conducts business.

4. The DEPARTMENT has adopted the uniform mortgage form ("MU Forms") which are the forms used by the NMLS. These MU Forms include a Form MU1 which requires the licensee to provide information concerning the entity which is applying for a license, and a Form MU3 which requires the licensee to provide information concerning branch offices.

5. Once a licensee submits a MU Form to a state regulator, that version of the form is stored on NMLS and is viewable by both the company and state regulator. If information on the MU Forms change, the licensee is responsible to amend the MU Forms and resubmit the amended form to the regulator.

6. At the time a licensee or applicant submits a MU Form to the DEPARTMENT, the licensee or applicant must attest that the information contained in the form is true and accurate. As part of the attestation, the licensee or applicant attests that it will "keep the information contained in this form current and to file accurate supplementary information on a timely basis."

7. ALLIED initially submitted its Form MU1 to the DEPARTMENT on January 15, 2008. In its Form MU1, ALLIED answered "Yes" to several of the questions in the

“Disclosure Questions” section of the Form MU1. On January 20, 2008, ALLIED submitted the required supplemental information to the DEPARTMENT providing detailed information concerning the underlying events which resulted in the “Yes” answer.

8. Between January 15, 2008 and December 31, 2008, ALLIED filed numerous amendments with the DEPARTMENT informing the DEPARTMENT of various changes affecting the company since it initially filed the Form MU1 to the DEPARTMENT. However, none of these changes involved the “Disclosure Questions” section of the Form MU1. In addition, ALLIED did not submit any additional documentation concerning any new regulatory action taken by other jurisdictions.

9. In connection with the 2009 renewal application process, the DEPARTMENT participated in NMLS’ streamlined renewal procedure. Licensees could log into the NMLS and select the licenses that they wished to renew. Licensees wishing to renew their Nebraska mortgage banker’s license would select the mortgage banker license for renewal. In addition, they would have to select each branch office that they intended to include with the renewal since Section 45-706 provides for a separate fee for each branch office. In connection with each Form MU1 and Form MU3, the licensee was required to attest that the information in the MU Form currently on file with the DEPARTMENT remained true and correct.

10. ALLIED submitted renewal requests for six branch offices, NMLS ## 6355, 6682, 7597, 11357, 36472, and 64063. ALLIED did not select the Nebraska mortgage banker license as a license that it wished to renew. Therefore, ALLIED never submitted a completed renewal application to the DEPARTMENT. As a result of ALLIED’s failure

to renew its license, the DEPARTMENT issued a Notice of Expiration of ALLIED's license on January 8, 2009 pursuant to Neb. Rev. Stat. § 45-707(4) (Cum. Supp. 2008).

11. On January 12, 2009, ALLIED submitted an application for a new mortgage banker license to the DEPARTMENT and attested that the information in its Form MU1 remained true and correct.

12. As part of its application, ALLIED submitted additional information pertaining to the "Disclosure Questions" section of the Form MU1. The first item disclosed by ALLIED was a Final Order issued by the Texas Consumer Credit Commissioner assessing an administrative penalty for failure to timely submit its annual report ("Texas Order"). The Texas Order was issued on June 9, 2008.

13. ALLIED also disclosed a Settlement Order with the Virginia Bureau of Financial Institutions in which ALLIED paid a fine and agreed to cease and desist certain advertising practices which were alleged to be deceptive ("Virginia Order"). The Virginia Order was issued on or about November 5, 2008.

14. Question #(C)(4) of the Disclosure Questions section of the Form MU1 provides as follows:

(C) In the past 10 years, has any State or federal regulatory agency or foreign financial regulatory authority:

...

(4) entered an order against the entity or a control affiliate in connection with a financial services-related activity?

15. The Texas Order and the Virginia Order were Orders entered by state regulatory agencies. As such they were required to be disclosed in response to Question #(C)(4) of the Form MU1. As stated in Findings of Fact #8, ALLIED did not notify the DEPARTMENT of these new Orders prior to December 31, 2008.

16. Neb. Rev. Stat. § 45-711(9) (Cum. Supp. 2008) provides that the licensee shall notify the Director in writing within thirty days after the occurrence of any material development. Any item which changes an answer to the MU Forms or to the supplemental information on file with the DEPARTMENT, including Orders issued by other state and federal regulatory agencies, are material events requiring disclosure to the DEPARTMENT pursuant to this section.

17. ALLIED's failure to timely notify the DEPARTMENT of the Texas Order and Virginia Order constitutes two (2) violations of Neb. Rev. Stat. § 45-711(9) (Cum. Supp. 2008).

18. The DEPARTMENT incurred a minimum of five hundred dollars in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-705 (Cum. Supp. 2008) provides, in part, that no person shall act as a mortgage banker or use the title mortgage banker in this state unless he, she, or it is licensed or registered with the DEPARTMENT.

2. Neb. Rev. Stat. § 45-711(9) (Cum. Supp. 2008) provides that the licensee shall notify the Director in writing within thirty days after the occurrence of any material development. Any item which changes an answer to the MU Forms or to the supplemental information on file with the DEPARTMENT, including Orders issued by other state and federal regulatory agencies, are material events requiring disclosure to the DEPARTMENT pursuant to this section.

3. Neb. Rev. Stat. § 45-717.01(2) (Cum. Supp. 2008) provides that if the Director finds, after notice and hearing in accordance with the Administrative Procedure

Act, that any person has knowingly committed any act prohibited by Section 45-707 or has otherwise violated the Act, the Director may order such person to pay an administrative fine not exceeding five thousand dollars for each separate violation plus the costs of investigation.

4. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that ALLIED has violated the Act and that proceedings could be commenced to deny ALLIED's license application and/or an administrative fine in an amount of not more than five thousand dollars for each of the violations plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-717.01(2) (Cum. Supp. 2008).

5. Under the Act's statutory framework, the Director has the legal and equitable authority to fashion significant remedies.

6. It is in the best interest of ALLIED and in the best interest of the public for ALLIED and the DEPARTMENT to resolve the issues included herein.

CONSENT ORDER

The DEPARTMENT and ALLIED agree as follows:

Stipulations: In connection with this Consent Order, ALLIED and the DEPARTMENT stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Order shall resolve all matters between the DEPARTMENT and ALLIED in connection with the Findings of Fact listed above. Should future circumstances warrant, the facts from this matter may be considered in a future administrative action by the DEPARTMENT.

3. This Consent Order shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Order.

ALLIED further represents as follows:

1. ALLIED is aware of its right to a hearing on these matters at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing, and any related appeal, is irrevocably waived.

2. ALLIED is acting free from any duress or coercion of any kind or nature.

3. This Consent Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Order and for no other purpose.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Order, ALLIED shall pay a fine of five hundred dollars (\$500.00) for each of its two violations of Neb. Rev. Stat. § 45-711(9) (Cum. Supp. 2008) where it failed to notify the DEPARTMENT of material developments within thirty days.

2. Within ten (10) days after the effective date of this Consent Order, ALLIED shall pay the investigation costs of the DEPARTMENT in the amount of five hundred dollars (\$500.00).

3. The total amount of the fine and investigation costs, one thousand five hundred dollars (\$1,500.00), shall be payable in one check or money order to the DEPARTMENT.

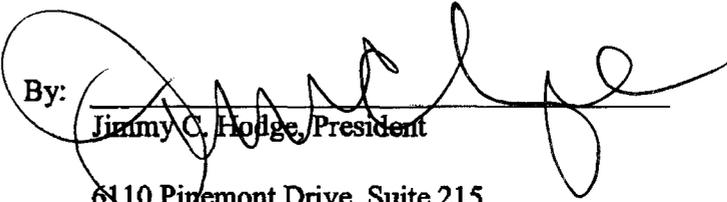
4. Within three (3) business days after receiving the fine and investigation costs set forth above, the DEPARTMENT will issue a mortgage banker license to ALLIED.

5. In the event ALLIED fails to comply with any of the provisions of this Consent Order, the DEPARTMENT may commence such action regarding ALLIED as it deems necessary and appropriate in the public interest.

6. The effective date of this Consent Order shall be the date of the Director's signature.

DATED this 25th day of March, 2009.

Allied Home Mortgage Capital Corp.

By: 
Jimmy C. Hodge, President

6110 Pinemont Drive, Suite 215
Houston, Texas 77092

DATED this 30th day of March, 2009.

**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**

By: 
John Munn, Director

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