

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 12F-BD024-SBD

3 **BELLA FUNDING, LLC AND DONALD A.**
4 **TOMASIAN, MANAGING MEMBER**
5 16375 N. 99th Place
6 Scottsdale, AZ 85260

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

Respondents.

7 The Superintendent of Financial Institutions for the State of Arizona (the "Superintendent"),
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order
9 pursuant to Arizona Revised Statutes ("A.R.S.") § 6-137.

10 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
11 Arizona Administrative Code ("A.A.C."), Respondents are hereby notified that they are entitled to a
12 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
13 the Arizona Department of Financial Institutions (the "Department") pursuant to A.R.S. § 6-137(D)
14 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
15 for which review is sought in accordance with A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
17 her own behalf or by counsel. If Respondents are represented by counsel, the information required
18 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
19 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
20 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
21 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
22 **physical accessibility.** Requests for special accommodations must be made as early as possible to
23 allow time to arrange the accommodations. If accommodations are required, call the Office of
24 Administrative Hearings at (602) 542-9826.

25 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
26 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled

1 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
2 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
3 Department will be present (the “Department Representative”). Please note that in requesting an
4 Informal Settlement Conference, Respondents waive any right to object to the participation of the
5 Department Representative in the final administrative decision of this matter, if it is not settled. In
6 addition, any written or oral statement made by Respondents at such informal settlement conference,
7 including written documentation created or expressed solely for purposes of settlement negotiations,
8 is inadmissible in any subsequent administrative hearing. (*See* A.R.S. § 41-1092.06 for rules
9 regarding informal settlement conferences.) Conversely, any written or oral statement made by
10 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
11 Department in any subsequent hearing.

12 If Respondents do not request a hearing, this Order shall become final. If Respondents
13 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.
18 § 6-132; (3) an order to pay restitution of any fees earned in violation of A.R.S. §§ 6-941, *et seq.*,
19 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or
20 proper for the enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S.
21 §§ 6-123 and 6-131.

22 FINDINGS OF FACT

23 1. Respondent Bella Funding, LLC (“Bella Funding”) is an Arizona limited liability
24 company that is not and was not, at any time material herein, authorized to transact business in
25 Arizona as a mortgage banker within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of Bella
26 Funding’s business is that of making, negotiating, or offering to make or negotiate a mortgage loan

1 secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

2 2. Respondent Donald A. Tomasian (“Mr. Tomasian”) is the Managing Member of Bella
3 Funding and is not and was not, at any time material herein, authorized to transact business in
4 Arizona as a mortgage banker within the meaning of A.R.S. §§ 6-941, *et seq.*

5 3. Bella Funding and Mr. Tomasian are not exempt from licensure as a mortgage banker
6 within the meaning of A.R.S. §§ 6-942.

7 4. The Department learned that Respondents were advertising Bella Funding as a
8 mortgage lender and/or a hard money lender. Bella Funding was described as a “private money
9 lender specializing in short term bridge loans” for “all property types” which offered “Funding for
10 your ‘Tuff to Do’ Transactions.”

11 5. On or about March 16, 2011, the Department issued a letter to Bella Funding and Mr.
12 Tomasian, requesting information and a response regarding possible unlicensed mortgage lending
13 activity in the state of Arizona. The letter requested that Respondents provide the information to the
14 Department by April 1, 2011.

15 6. To date, the Department has not received a response from Bella Funding and Mr.
16 Tomasian to its letter of March 16, 2011.

17 7. On or around August 12, 2011, the Department sent a letter to First American Title
18 Insurance Company, requesting a list of open and closed transactions involving Bella Funding and
19 copies of the final settlement statements.

20 8. On or around August 15, 2011, the Department received a letter from First American
21 Title Company, with copies of the requested settlement documents attached. The letter listed six (6)
22 loan files involving Bella Funding, LLC, and settlement dates regarding four (4) of the files.

23 9. A review of the four (4) final settlement statements, ranging from January 2, 2007 to
24 September 10, 2010, revealed that Respondents received a total of fifty six thousand one hundred
25 ninety five dollars (\$56,195.00) from loan fees during which time they were unlicensed by the
26 Department to conduct mortgage banker activity.

1 **ORDER**

2 1. Bella Funding and Mr. Tomasian shall immediately stop all mortgage banker activity in
3 Arizona until such time as Respondents have obtained a mortgage banker license from the
4 Superintendent as prescribed by A.R.S. § 6-943.

5 2. Bella Funding and Mr. Tomasian shall immediately pay to the Department a civil
6 money penalty in the amount of **twenty five thousand dollars (\$25,000.00)**. Bella Funding and Mr.
7 Tomasian are jointly and severally liable for payment of the civil money penalty.

8 3. Bella Funding and Mr. Tomasian shall comply with all Arizona statutes and rules
9 regulating Arizona mortgage bankers (A.R.S. §§ 6-941, *et seq.*).

10 4. The provisions of this Order shall be binding upon Respondents, their employees,
11 agents, and other persons participating in the conduct of the affairs of Respondents.

12 5. This Order shall become effective upon service, and shall remain effective and
13 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
14 or set aside.

15 SO ORDERED this 3rd day of October, 2011.

16 Lauren Kingry
17 Superintendent of Financial Institutions

18 By: 
19 Robert D. Charlton
20 Assistant Superintendent of Financial Institutions

21 **CONSENT TO ENTRY OF ORDER**

22 1. Respondents acknowledge that they have been served with a copy of the foregoing
23 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
24 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

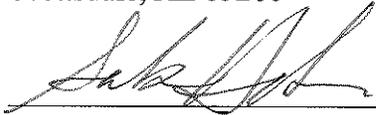
25 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the
26 foregoing Findings of Fact, Conclusions of Law, and Order.

1 Robert D. Charlton, Assistant Superintendent
2 Tammy Seto, Senior Examiner
3 Arizona Department of Financial Institutions
4 2910 N. 44th Street, Suite 310
5 Phoenix, AZ 85018

6 AND COPY SERVED/DELIVERED SAME DATE by
7 Process Server, to:

8 Donald A. Tomasian, Managing Member
9 Bella Funding, LLC
10 16375 N. 99th Place
11 Scottsdale, AZ 85260
12 Respondents

13 Donald A. Tomasian
14 Statutory Agent for Bella Funding, LLC
15 16375 N. 99th Place
16 Scottsdale, AZ 85260

17 
18 _____

19 # 2292530