

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Banker License of: No. 09F-BD080-BNK

3 **WINDSOR CAPITAL MORTGAGE**
4 **CORPORATION AND FREDERIC W.**
5 **THRANE, JR., PRESIDENT**
10565 N. 114th Street, Suite 109
Scottsdale, AZ 85259

CONSENT ORDER

6 Petitioners.

7 On June 11, 2009, the Arizona Department of Financial Institutions (“Department”) issued a
8 Notice of Hearing, alleging that Petitioners had violated Arizona law. Wishing to resolve this matter
9 in lieu of an administrative hearing, Petitioners consent to the following Findings of Fact and
10 Conclusions of Law, and consent to the entry of the following Order.

11 **FINDINGS OF FACT**

12 1. Petitioner Windsor Capital Mortgage Corporation (“Windsor Capital”) is a California
13 corporation authorized to transact business in Arizona as a mortgage banker, license number
14 BK 0902184, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of Windsor Capital’s
15 business is that of making, negotiating, or offering to make or negotiate a mortgage banking loan or
16 a mortgage loan secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

17 2. Petitioner Frederic W. Thrane, Jr. (“Mr. Thrane”) is President of Windsor Capital and is
18 authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S.
19 § 6-941(5), as outlined within A.R.S. § 6-943(F).

20 3. Windsor Capital and Mr. Thrane are not exempt from licensure as mortgage bankers within
21 the meaning of A.R.S. §§ 6-942 and 6-941(5).

22 4. An examination of Windsor Capital conducted by the Department, beginning
23 September 29, 2008, and concluding November 5, 2008, revealed that Petitioners:

- 24 a. Originated and/or processed mortgage loans from at least three (3) branch office
25 locations before first obtaining a branch office license from the Superintendent;
26 specifically:

- 1 i. Petitioners originated four (4) loans from 3050 E. Birch Street, Brea,
2 California, 92821, an unlicensed branch location, for Francis K., for two (2)
3 different properties located at 505 W. 10th Street, Casa Grande, Arizona and
4 507 W. 10th Street, Casa Grande, Arizona; and
- 5 ii. Additional loan files reflect processing documents with return addresses to
6 unlicensed locations, appraisals addressed to unlicensed locations, and funding
7 checks issued to unlicensed addresses;
- 8 b. Failed to conduct the minimum elements of reasonable employee investigations prior
9 to hiring at least twenty eight (28) employees; specifically:
- 10 i. The Employment Eligibility Verification (Form I-9) was incomplete for at
11 least eighteen (18) employees;
- 12 ii. A completed and signed employment application was missing or incomplete
13 for at least two (2) employees;
- 14 iii. Failed to obtain a signed statement attesting to all of an applicant's felony
15 convictions, including detailed information regarding each conviction, prior to
16 hiring at least two (2) employees;
- 17 iv. Failed to consult with the applicant's most recent or next most recent employer
18 prior to hiring at least two (2) employees;
- 19 v. Failed to inquire regarding an applicant's qualifications and competence for
20 the position prior to hiring at least two (2) employees;
- 21 vi. Failed to obtain a current credit report from a crediting reporting agency prior
22 to hiring at least one (1) employee; and
- 23 vii. Failed to correct this violation from their previous examination;
- 24 c. Allowed borrowers to sign regulated documents containing blank spaces; specifically:
- 25 i. At least ten (10) Broker Disclosure Statements were signed in blank;
- 26 ii. At least five (5) Forms 4506T were signed in blank;

- 1 iii. At least two (2) Initial Truth in Lending Disclosures were signed in blank;
- 2 iv. At least one (1) Servicing Transfer Disclosure was signed in blank; and
- 3 v. Failed to correct this violation from their previous examination;
- 4 d. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
- 5 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement
- 6 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated
- 7 under these acts; specifically:
- 8 i. Failed to calculate the annual percentage rate (“APR”) in at last four (4) loan
- 9 files;
- 10 ii. The Initial Truth in Lending Disclosure was incomplete in at least four (4) loan
- 11 files;
- 12 iii. An administrative fee was charged and collected in at least one (1) loan file;
- 13 and
- 14 iv. Failed to correct this violation from their previous examination;
- 15 e. Made false promises or misrepresentations or concealed an essential or material fact in
- 16 the course of the mortgage banker business; specifically:
- 17 i. Borrower M.B. closed nine (9) mortgage loan transactions, with Petitioners, on
- 18 five (5) different properties. The loan officer for all transactions was John
- 19 Lemme. The transactions included; specifically:
- 20 1. Transaction One (1) funded by Homecomings Financial Network, Inc.
- 21 on 3-8-06. An investment purchase including a first and second
- 22 mortgage loan totaling \$229,500.00. The property is located at 1050 W.
- 23 Heather Avenue, Gilbert, AZ 85233.
- 24 2. Transaction Two (2) funded by IndyMac Bank on 3-22-06. An owner
- 25 occupied refinance including a second mortgage loan totaling
- 26 \$95,250.00. The property is located at 6321 E. Shannon Drive, Tempe,

1 AZ 85283.

2 3. Transaction Three (3) funded by American Brokers Conduit on 4-11-06.

3 An owner occupied purchase including a first and second mortgage loan
4 totaling \$562,900.00. The property is located at 6353 S. Shannon
5 Drive, Tempe, AZ 85283.

6 4. Transaction Four (4) funded by First National Bank of Arizona on 7-10-

7 06. An investment purchase including a first and second mortgage loan
8 totaling \$198,135.00. The property is located at 34364 North Mashona
9 Trail, Queen Creek, AZ 85243.

10 5. Transaction Five (5) funded by Bank of America on 12-6-06. An owner

11 occupied purchase including a first and second mortgage loan totaling
12 \$416,900.00. The property is located at 7037 E. Main Street #F204,
13 Scottsdale, AZ 85251.

14 a. The mortgage file for transaction two (2) contained a Fannie Mae
15 loan application (form 1003), dated 3-16-06, which failed to
16 disclose transaction one (1) on the schedule of real estate owned.
17 Transaction one (1) was closed in the borrower's name and
18 contains a final HUD-1 settlement statement, showing a settlement
19 date of 3-8-06. The failure to disclose transaction one (1)
20 concealed a \$229,500.00 mortgage obligation from the lender;

21 b. The mortgage file for transaction three (3) contained a Fannie Mae
22 loan application (form 1003), dated 4-6-06, which failed to
23 disclose transaction one (1) on the schedule of real estate owned.
24 Transaction one (1) was closed in the borrower's name and
25 contains a final HUD-1 settlement statement, showing a settlement
26 date of 3-8-06. The failure to disclose transaction one (1)

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concealed a \$229,500.00 mortgage obligation from the lender;

c. The mortgage file for transaction four (4) contained a Fannie Mae loan application (form 1003), dated 7-7-06, which failed to disclose transaction one (1) and three (3) on the schedule of real estate owned. Transaction one (1) was closed in the borrower's name and contains a final HUD-1 settlement statement, showing a settlement date of 3-8-06. Transaction three (3) was closed in the borrower's name and contains a final HUD-1 settlement statement, showing a settlement date of 4-11-06. The failure to disclose transaction one (1) concealed a \$229,500.00 mortgage obligation from the lender. The failure to disclose transaction three (3) concealed a \$562,900.00 mortgage obligation from the lender; and

d. The mortgage file for transaction five (5) contained a Fannie Mae loan application (form 1003), dated 11-29-06, which failed to disclose transaction four (4) on the schedule of real estate owned. Transaction four (4) was closed in the borrower's name and contains a final HUD-1 settlement statement, showing a settlement date of 7-10-06. The failure to disclose transaction four (4) concealed a \$198,135.00 mortgage obligation from the lender;

ii. Borrower M.B. closed two (2) mortgage loan transactions, with Petitioners, on two (2) different properties. The loan officer for all transactions was Michael Faulkner. The transactions included; specifically:

1. Transaction One (1) funded by American Mortgage Network, Inc. on 4-10-06. An owner occupied refinance including a first mortgage loan totaling \$400,000.00. The property is located at 8404 West Gardenia, Glendale, AZ.

1 disclose transaction one (1) on the schedule of real estate owned.
2 Transaction one (1) was closed in the borrower's name and
3 contains a final HUD-1 settlement statement, showing a settlement
4 date of 11-13-06. The failure to disclose transaction one (1)
5 concealed a \$699,000.00 mortgage obligation from the lender. The
6 purchase contract for transaction two (2) was signed and accepted
7 on 10-24-06;

8 iv. Borrower V.C. closed three (3) mortgage loan transactions, with Petitioners, on
9 three (3) different properties; specifically:

10 1. Transaction One (1) funded by Sun American Mortgage Company on 4-
11 13-06 An investment refinance including a first mortgage loan totaling
12 \$220,500.00. The property is located at 5756 East 28th Street, Tucson,
13 AZ.

14 2. Transaction Two (2) funded by Sun American Mortgage Company on
15 5-8-06. An investment refinance including a first mortgage loan
16 totaling \$107,100.00. The property is located at 3419 South Bowie
17 Place, Tucson, AZ.

18 3. Transaction Three (3) funded by Aegis Home Equity on 8-30-06. An
19 investment refinance including a second mortgage loan totaling
20 \$45,850.00. The property is located at 3419 South Bowie Place,
21 Tucson, AZ.

22 a. The mortgage file for transaction three (3) contained a Fannie Mae
23 loan application (form 1003), dated 8-25-06, which failed to
24 disclose transaction one (1) on the schedule of real estate owned.
25 Transaction one (1) was closed in the borrower's name and
26 contains a final HUD-1 settlement statement, showing a settlement

1 date of 4-13-06. The failure to disclose transaction one (1)
2 concealed a \$220,500.00 mortgage obligation from the lender;

3 v. Borrower D.H. closed five (5) mortgage loan transactions, with Petitioners, on
4 three (3) different properties. The loan officer for all transactions was Paul
5 Altfas. The transactions included; specifically:

6 1. Transaction One (1) funded by IRES Company, ISAOA on 6-8-06. An
7 investment purchase including a first and second mortgage loan totaling
8 \$247,500.00. The property is located at 5233 West Brown Street,
9 Glendale, AZ. Contract for purchase accepted on 4-28-06.

10 2. Transaction Two (2) funded by Sun American Mortgage Company on
11 6-16-06. An investment purchase including a first and second mortgage
12 loan totaling \$207,000.00. The property is located at 6325 West
13 Mohave Street, Phoenix, AZ. Contract for purchase accepted on 5-5-06.

14 3. Transaction Three (3) funded by IRES Company, ISAOA on 8-25-06.
15 An investment refinance including a first mortgage loan totaling
16 \$242,100.00. The property is located at 3830 E. Lakewood Parkway
17 #1078, Phoenix, AZ.

18 a. The mortgage file for transaction two (2) contained a Fannie Mae
19 loan application (form 1003), dated 6-14-06, which failed to
20 disclose transaction one (1) on the schedule of real estate owned.
21 Transaction one (1) was closed in the borrower's name and
22 contains a final HUD-1 settlement statement, showing a settlement
23 date of 6-8-06. The failure to disclose transaction one (1)
24 concealed a \$247,500.00 mortgage obligation from the lender; and

25 b. The mortgage file for transaction three (3) contained a Fannie Mae
26 loan application (form 1003), dated 8-1-06, which failed to

1 disclose transaction one (1) and two (2) on the schedule of real
2 estate owned. Transaction one (1) was closed in the borrower's
3 name and contains a final HUD-1 settlement statement, showing a
4 settlement date of 6-8-06. The failure to disclose transaction one
5 (1) concealed a \$247,500.00 mortgage obligation from the lender.
6 Transaction two (2) was closed in the borrower's name and
7 contains a final HUD-1 settlement statement, showing a settlement
8 date of 6-16-06. The failure to disclose transaction two (2)
9 concealed a \$207,000.00 mortgage obligation from the lender;

10 vi. Borrower A.C. closed five (5) mortgage loan transactions, with Petitioners, on
11 five (5) different properties. The loan officer for all transactions was
12 Alejandro Gallegos. The transactions included; specifically:

- 13 1. Transaction One (1) funded by Homecomings Financial Network, Inc.
14 on 7-27-06. An investment refinance including a first mortgage loan
15 totaling \$192,000.00. The property is located at 10832 East Shale
16 Drive, Yuma, AZ 85365.
- 17 2. Transaction Two (2) funded by Homecomings Financial Network, Inc.
18 on 7-27-06. An investment refinance including a first mortgage loan
19 totaling \$192,000.00. The property is located at 10840 East Shale
20 Drive, Yuma, AZ 85365.
- 21 3. Transaction Three (3) funded by Homecomings Financial Network, Inc.
22 on 7-31-06. An investment refinance including a first mortgage loan
23 totaling \$192,000.00. The property is located at 10824 East Shale
24 Drive, Yuma, AZ 85365.
- 25 4. Transaction Four (4) funded by Homecomings Financial Network, Inc.
26 on 9-7-06. An owner occupied refinance including a first mortgage loan

1 totaling \$215,000.00. The property is located at 2684 South 16th Drive,
2 Yuma, AZ 85364.

3 5. Transaction Five (5) funded by Bank of America on 9-8-06. An
4 investment refinance including a first mortgage loan totaling
5 \$112,450.00. The property is located at 2013 E. San Luis Lane, San
6 Luis, AZ 85349.

7 a. The mortgage file for transaction five (5) contained a Fannie Mae
8 loan application (form 1003), dated 8-29-06, which failed to
9 disclose transaction one (1), two (2) and three (3) on the schedule
10 of real estate owned. Transaction one (1) was closed in the
11 borrower's name and contains a final HUD-1 settlement statement,
12 showing a settlement date of 7-27-06. The failure to disclose
13 transaction one (1) concealed a \$192,000.00 mortgage obligation
14 from the lender. Transaction two (2) was closed in the borrower's
15 name and contains a final HUD-1 settlement statement, showing a
16 settlement date of 7-27-06. The failure to disclose transaction two
17 (2) concealed a \$192,000.00 mortgage obligation from the lender.
18 Transaction three (3) was closed in the borrower's name and
19 contains a final HUD-1 settlement statement, showing a settlement
20 date of 7-31-06. The failure to disclose transaction three (3)
21 concealed a \$192,000.00 mortgage obligation from the lender;

22 f. Failed to ensure that the Responsible Individual maintained a position of active
23 management and failed to ensure that the Responsible Individual supervised
24 compliance with Arizona statutes and rules; as evidenced specifically:

25 i. By the existence of unlicensed branch locations;

26 ii. By Petitioners originating and closing thirteen (13) loans that contain

1 misrepresentations and/or conceal material facts; and

2 iii. By the number of repeat violations.

3 5. Based upon the above findings, the Department issued and served upon Petitioners an Order
4 to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order (“Cease and
5 Desist Order”) on April 21, 2009.

6 6. On May 20, 2009, Petitioners filed a Request for Hearing to appeal the Cease and Desist
7 Order.

8 7. Petitioners have voluntarily agreed to take corrective action and have attempted to comply
9 with the Department’s requests. Specifically, Petitioners have and will cooperate to develop certain
10 cases pursuant to A.R.S. § 6-161. Said cooperation shall include providing information including
11 documentation and testimony that will enable the Department to pursue proceedings for removal and
12 prohibition where appropriate. Such findings do not waive any provisions of the Consent Order.

13 **CONCLUSIONS OF LAW**

14 1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to
15 regulate all persons engaged in the mortgage banker business and with the enforcement of statutes,
16 rules, and regulations relating to mortgage bankers.

17 2. By the conduct set forth in the Complaint, Windsor Capital and Mr. Thrane violated the
18 following:

- 19 a. A.R.S. § 6-944(D) by originating and/or processing mortgage loans from at least
20 three (3) branch office locations before first obtaining a branch office license from the
21 Superintendent;
- 22 b. A.R.S. § 6-943(O) and A.A.C. R20-4-102 by failing to conduct the minimum
23 elements of reasonable employee investigations prior to hiring employees;
- 24 c. A.R.S. § 6-947(A) and A.A.C. R20-4-1808 by allowing borrowers to sign regulated
25 documents containing blank spaces;
- 26 d. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e) by failing to comply with the

1 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.
2 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§
3 2601 through 2617), and the regulations promulgated under these acts;

4 e. A.R.S. § 6-947(L) by making false promises or misrepresentations or concealing an
5 essential or material fact in the course of the mortgage banker business; and

6 f. A.R.S. § 6-943(F) and A.A.C. R20-4-102 by failing to ensure that the Responsible
7 Individual maintained a position of active management and failing to ensure that the
8 Responsible Individual supervised compliance with Arizona statutes and rules.

9 3. Petitioners violated any applicable law, rule or order in the conduct of their mortgage
10 banker business, which is grounds for the suspension or revocation of Petitioners' mortgage banker
11 license, pursuant to A.R.S. § 6-945(A)(7).

12 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
13 pursuant to A.R.S. § 6-137 directing Petitioners to cease and desist from the violative conduct and to
14 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
15 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
16 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
17 suspension or revocation of Petitioners' license pursuant to A.R.S. § 6-945; (4) an order to pay
18 restitution of any fees earned on loans made in violation of A.R.S. § 6-941, *et seq.*, pursuant to
19 A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the
20 enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and
21 6-131.

22 **ORDER**

23 1. Windsor Capital Mortgage Corporation and Mr. Thrane agree to voluntarily surrender to
24 the Department their mortgage banker license, number BK 0902184, on or before July 31, 2009.

25 2. Windsor Capital and Mr. Thrane shall immediately stop the violations set forth in the
26 Findings of Fact and Conclusions of Law. Windsor Capital and Mr. Thrane:

- a. Shall not originate and/or process mortgage loans from branch office locations before first obtaining a branch office license from the Superintendent;
- b. Shall conduct the minimum elements of reasonable employee investigations prior to hiring employees;
- c. Shall not allow borrowers to sign regulated documents containing blank spaces;
- d. Shall comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts; and
- e. Shall not make false promises or misrepresentations or conceal an essential or material fact in the course of the mortgage banker business.

3. Windsor Capital Mortgage Corporation and Mr. Thrane shall comply with all Arizona statutes and rules regulating Arizona mortgage brokers (A.R.S. §§ 6-901 *et seq.*), mortgage bankers (A.R.S. §§ 6-941 *et seq.*), and loan originators, (A.R.S. §§ 6-991 *et seq.*).

4. Windsor Capital Mortgage Corporation and Mr. Thrane shall immediately pay to the Department a civil money penalty in the amount of **forty five thousand dollars (\$45,000.00)**. Windsor Capital Mortgage Corporation and Mr. Thrane are jointly and severally liable for payment of the civil money penalty.

5. Windsor Capital Mortgage Corporation and Mr. Thrane shall immediately pay to the Department the examination fee in the amount of **three thousand six hundred seventy two dollars and fifty cents (\$3,672.50)**.

6. The provisions of this Order shall be binding upon Windsor Capital Mortgage Corporation and Mr. Thrane, their employees, agents, and other persons participating in the conduct of the affairs of Windsor Capital Mortgage Corporation.

7. The provisions of this Order shall be binding upon Windsor Capital Mortgage Corporation and Mr. Thrane, and resolves the Notice of Hearing to Revoke, subject to Petitioners'

1 compliance with the requirements of this Order, as well as all other statutes and rules regulating
2 mortgage bankers.

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

6 SO ORDERED this 14th day of July, 2009.

7
8 By: Felecia Rotellini
9 Felecia A. Rotellini
Superintendent of Financial Institutions

10 **CONSENT TO ENTRY OF ORDER**

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

14 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the
15 foregoing Findings of Fact, Conclusions of Law, and Order.

16 3. Petitioners state that no promise of any kind or nature has been made to induce them to
17 consent to the entry of this Order, and that they have done so voluntarily.

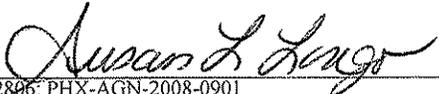
18 4. Petitioners agree to cease from engaging in the violative conduct set forth above in the
19 Findings of Fact and Conclusions of Law.

20 5. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is
21 solely to settle this matter and does not preclude this Department, any other agency or officer of this
22 state or subdivision thereof from instituting other proceedings as may be appropriate now or in the
23 future.

24 6. Frederic W. Thrane, Jr., on behalf of Windsor Capital Mortgage Corporation and himself,
25 represents that he is the President, and that, as such, has been authorized by Windsor Capital
26 Mortgage Corporation to consent to the entry of this Order on its behalf.

1 Frederic W. Thrane, Jr., President
Windsor Capital Mortgage Corporation
2 4810 Eastgate Mall, Suite 203
San Diego, CA 92121

3
4 Noelle Pepper, Esq.
Windsor Capital Mortgage Corporation
5 5500 Faught Road
Santa Rosa, CA 95403

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