

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Banker License of:

No. 11F-BD010-SBD

3 **RESIDENTIAL FINANCE CORPORATION**
4 **OF OHIO (FN)**

CONSENT ORDER

4 401 North Front Street, Suite 100
5 Columbus, Ohio 43215

6 Respondent.

7
8 On July 20, 2010, the Arizona Department of Financial Institutions (“Department”) issued an
9 Order to Cease and Desist; Notice of Opportunity for Hearing; Consent to Entry of Order (“Cease and
10 Desist Order”), alleging that Respondent had violated Arizona law. Wishing to resolve this matter in
11 lieu of an administrative hearing, and without admitting liability, Respondent consents to the entry of the
12 following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

13 FINDINGS OF FACT

14 1. Respondent Residential Finance Corporation of Ohio (FN) (“RFCO”) is an Ohio
15 corporation authorized to transact business in Arizona as a mortgage banker, license number BK
16 0905843, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of RFCO’s business is that of
17 making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan
18 secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

19 2. Michael Isaacs (“Mr. Isaacs”) is the President and majority owner of RFCO.

20 3. RFCO is not exempt from licensure as a mortgage banker within the meaning of A.R.S.
21 §§ 6-942 and 6-941(5).

22 4. Following an examination of RFCO by the Department, beginning December 22, 2009
23 and concluding February 18, 2010, the Department concluded that Respondent:

- 24 a. Failed to ensure their Responsible Individual remained in active management of
25 Respondent’s activities, specifically:
26

- 1 i. The number and nature of the violations discovered during the examination
2 verify that Respondent's Responsible Individual has not fulfilled his
3 responsibilities as set forth in A.A.C. R20-4-102;
- 4 b. Failed to include its name and license number as issued on its principal place of
5 business license within the text of all regulated advertising or business solicitations
6 and used prohibited logos, specifically:
- 7 i. Respondent's website, www.residentialfinance.com, uses the incorrect
8 mortgage banker license number. BK-0106506, the license for its Arizona
9 branch, is the license number being used by Respondent, however, BK-
10 0905842 is the license number on its principal place of business license;
- 11 ii. Various mail solicitations beginning in approximately September of 2009 also
12 used the incorrect license number BK-0106506; and
- 13 iii. Although discovered and corrected before the Department's examination,
14 Respondent's prior mail solicitations contained HUD's FHA logo at the top of
15 the document. This logo is unique to FHA and its unauthorized use is strictly
16 prohibited. Use of this logo gives the appearance that the document is
17 generated by FHA and can be misconstrued as an official notification from
18 FHA even though Respondent has placed a disclaimer in small print at the
19 bottom of the notice;
- 20 c. Failed to conduct the minimum elements of reasonable employee investigations prior
21 to hiring employees, specifically:
- 22 i. Failed to obtain a signed, completed Employment Eligibility Verification
23 (Form I-9) before hiring at least two (2) employees;
- 24 ii. Failed to obtain a completed employment application before hiring at least
25 three (3) employees;
- 26

- 1 iii. Failed to obtain a signed statement attesting to all of an applicant's felony
2 convictions, including information regarding each conviction, before hiring at
3 least four (4) employees;
- 4 iv. Failed to consult with the applicant's most recent or next most recent
5 employer before hiring at least twelve (12) employees;
- 6 v. Failed to inquire regarding the applicant's qualifications and competence for
7 the position before hiring at least twelve (12) employees; and
- 8 vi. Failed to obtain a current credit report from a credit reporting agency before
9 hiring at least twelve (12) employees;
- 10 d. Failed to use a statutorily correct written fee agreement, signed by all parties,
11 specifically:
- 12 i. Respondent states it does not collect advance fees; however, RFCO is using a
13 form which indicates that non-refundable advance fees can be collected from the
14 borrower for appraisal reports although there is no evidence those fees were
15 collected. Respondent is not required to use a written fee agreement if advance
16 fees for third party vendors are not collected from borrowers. Additionally, third
17 party advance fees for services such as credit reports and appraisals cannot be
18 non-refundable. The Arizona Revised Statutes and RESPA do not allow
19 mortgage companies to charge for services that have not been provided.
20 Therefore, if the service for which the advance fee is collected has not been
21 provided, then the advance fee must be refunded to the borrower; and
- 22 ii. Several of Respondent's signed written agreements were not signed by an
23 authorized representative of the company;
- 24 e. Allowed borrowers to sign regulated documents containing blank spaces without
25 authorization, specifically:
- 26

- i. Respondent allowed at least one (1) borrower to sign a mortgage loan application containing blank spaces;
 - ii. Respondent allowed at least two (2) borrowers to sign Truth in Lending disclosures containing blank spaces;
 - iii. Respondent allowed at least two (2) borrowers to sign Servicing Transfer disclosures containing blank spaces;
 - iv. Respondent allowed at least ten (10) borrowers to sign 4506-T forms containing blank spaces;
 - v. Respondent allowed at least six (6) borrowers to sign written fee agreements containing blank spaces;
 - vi. Respondent allowed at least two (2) borrowers to sign Credit Report Fee Letters containing blank spaces; and
 - vii. Respondent consistently used a blank space disclosure that does not specifically identify the document and the blank spaces to be completed;
- f. Failed to maintain a complete organizational file, specifically:
- i. An inquiry to the Arizona Corporation Commission (“ACC”) on December 23, 2009 revealed that RFCO was not in good standing. RFCO was delinquent in submitting their annual report to the ACC, which was due on July 21, 2009. The Arizona Corporation Commission received RFCO’s annual report and fees on November 20, 2009, and reinstated the RFCO’s status to “Good Standing.
 - g. Used an unlawful appraisal disclosure that limits a borrower to ninety (90) days in which the borrower may request a copy of an appraisal for which the borrower has paid.

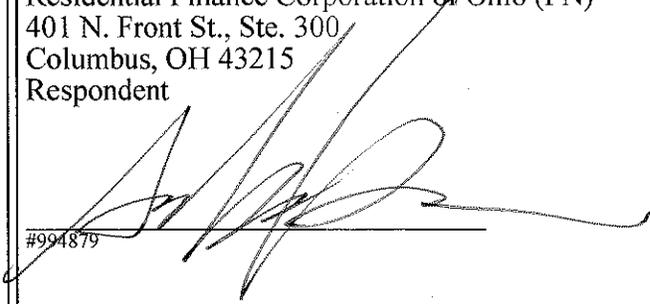
5. Based upon the above findings, the Department issued and served upon Respondent the Cease and Desist Order on July 20, 2010.

1 Robert Charlton, Assistant Superintendent
Judith Moss, Senior Examiner
2 Arizona Department of Financial Institutions
2910 North 44th Street, Suite 310
3 Phoenix, AZ 85018
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5 **COPY** of the foregoing mailed Certified,
Return Receipt this 21~~st~~ day of January, 2011 to:

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