

**ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

In the Matter of the Unlicensed Activity of:

**CAPITAL FUND I, LLC**  
7890 E. McClain Drive, Suite 5  
Scottsdale, AZ 85260

Respondent.

No. 11F-BD097-SBD

**CONSENT ORDER**

On February 14, 2011, the Arizona Department of Financial Institutions (“Department”) issued an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order, alleging that Respondents had violated Arizona law. Wishing to resolve this matter in lieu of an administrative hearing, and without admitting liability Respondent consents to the following Findings of Fact and Conclusions of Law, and consents to the entry of the following Order.

**FINDINGS OF FACT**

1. Respondent Capital Fund I, LLC (“CFI”) is an Arizona limited liability company that is not and was not, at any time material herein, authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of CFI’s business is that of making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan secured by Arizona real property within the meaning of A.R.S. § 6-941(5).
2. CFI is not exempt from licensure as a mortgage banker within the meaning of A.R.S. § 6-942.
3. On or about December 2, 2010, the Department issued a letter to Post Foreclosure Funding, LLC (“PFF”), requesting information and a response regarding possible mortgage broker/mortgage banker unlicensed activity in the State of Arizona.
4. When PFF met with a Department Examiner upon receipt of the unlicensed activity letter, PFF disclosed its affiliation with CFI.

5. On or about December 20, 2010, the Department received a response from PFF to its letter of December 2, 2010, advising the Department that CFI was in the business "to provide the funds for the loans."

6. In their response to the Department's inquiry, PFF and CFI provided a chart disclosing approximately seventy three (73) loan files.

7. On or about January 19, 2011, the Department requested HUD-1s from PFF and CFI on all loans.

8. On or about January 26, 2011, PFF and CFI produced HUD-1s for the loans. These HUD-1s indicated that CFI received compensation of approximately thirty eight thousand five hundred fifty eight dollars and fifty cents (\$38,558.50).

9. Respondent fully and freely cooperated in the Department's investigation and had already begun taking corrective action to comply with the Department's concerns including that Respondent voluntarily suspended its operations pending a resolution of this matter by the Department.

10. These Findings of Fact shall also serve as Conclusions of Law.

#### **CONCLUSIONS OF LAW**

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

2. By the conduct set forth above, CFI violated the following:

- a. A.R.S. § 6-943(A) by acting in the capacity of a mortgage banker in the State of Arizona, as defined by A.R.S. § 6-941(5), without having first applied for and obtained a mortgage banker license from the Superintendent pursuant to A.R.S. Title 6, Chapter 9; and

- b. A.R.S. § 6-947(B) by accepting compensation, as defined by A.R.S. § 6-941(2), for arranging for or negotiating a mortgage banking loan or mortgage loan when not licensed pursuant to A.R.S. Title 6, Chapter 9.

3. Respondent does not meet any of the exemptions to the licensing requirements set forth in A.R.S. § 6-942.

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

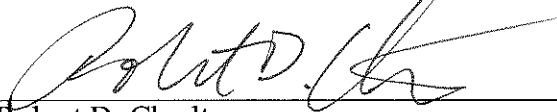
#### **ORDER**

1. CFI shall immediately stop all mortgage banker activity in Arizona until such time as Respondent has obtained a mortgage banker license from the Superintendent as prescribed by A.R.S. § 6-943.
2. CFI shall immediately pay to the Department a civil money penalty in the amount of **five thousand dollars (\$5,000.00)**.
3. CFI shall comply with all Arizona statutes and rules regulating Arizona mortgage bankers (A.R.S. §§ 6-941, *et seq.*).
4. The provisions of this Order shall be binding upon Respondent, its employees, agents and other persons participating in the conduct of the affairs of Respondent.

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

SO ORDERED this 29 day of March, 2011.

Lauren Kingry  
Superintendent of Financial Institutions

By:   
Robert D. Charlton  
Assistant Superintendent of Financial Institutions

**CONSENT TO ENTRY OF ORDER**

1. Respondent acknowledges that it has been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same, is aware of its right to an administrative hearing in this matter, and has waived the same.

2. Respondent admits the jurisdiction of the Superintendent and consents to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

3. Respondent states that no promise of any kind or nature has been made to induce it to consent to the entry of this Order, and that it has done so voluntarily.

4. Respondent agrees to immediately cease from engaging in the violative conduct set forth in the Findings of Fact and Conclusions of Law.

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

6. Michael C. Anderson, on behalf of Capital Fund I, LLC, represents that he is the President and that, as such, has been authorized by Capital Fund I, LLC, to consent to the entry of this Order on its behalf.

7. Respondent waives all rights to seek judicial review or otherwise to challenge or contest the validity of this Cease and Desist Order.

DATED this 23 day of March, 2011.

By: 

Michael C. Anderson, President  
Capital Fund I, LLC

Lauren Kingry  
Superintendent of Financial Institutions  
Arizona Department of Financial Institutions  
ATTN: Sabrina Hampton  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

COPY of the foregoing mailed <sup>3/29/11</sup> ~~this same date~~ to:

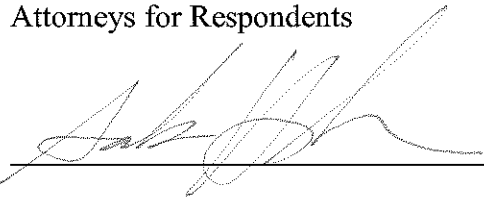
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Robert D. Charlton, Assistant Superintendent  
Lori Mann, Senior Examiner  
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Phoenix, AZ 85018

AND COPY MAILED SAME DATE by  
Certified Mail, Return Receipt Requested, to:

Michael C. Anderson, President  
Post Foreclosure Funding, LLC  
7890 E. McClain Drive, Suite 5  
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Respondents

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2800 N. Central Avenue, Suite 1200  
Phoenix, AZ 85004  
Attorneys for Respondents



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