

**STATE OF NEBRASKA**  
**Department of Banking & Finance**

In the Matter of: )  
)  
CitiFinancial, Inc., )  
3706 North 2<sup>nd</sup> Avenue, )  
Kearney, Nebraska )  
)  
CitiFinancial, Inc., )  
400 North 48<sup>th</sup> Street, Suite B-05, )  
Lincoln, Nebraska )  
)  
CitiFinancial, Inc., )  
9535 Q Street, )  
Omaha, Nebraska )  
)  
CitiFinancial, Inc., )  
7613 Cass Street, )  
Omaha, Nebraska )  
)  
CitiFinancial, Inc., )  
4848 Van Dorn Street, Suite 2, )  
Lincoln, Nebraska )  
)  
CitiFinancial, Inc., )  
2014 Broadway, )  
Scottsbluff, Nebraska )  
)  
CitiFinancial, Inc., )  
2014 North Lawrence Lane, )  
Grand Island, Nebraska )  
)  
CitiFinancial, Inc., )  
217 East Stolley Park Road, Suite 11, )  
Grand Island, Nebraska )  
)  
CitiFinancial, Inc., )  
903 East Court Street, )  
Beatrice, Nebraska )  
)

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND  
CONSENT  
AGREEMENT

CitiFinancial, Inc., )  
 12103 West Center Road, )  
 Omaha, Nebraska )  
 )  
 CitiFinancial, Inc., )  
 1317 West Pasewalk Avenue, Suite 500, )  
 Norfolk, Nebraska )  
 )  
 CitiFinancial, Inc., )  
 1215 South Poplar Street, Suite 300 )  
 North Platte, Nebraska )

THIS MATTER comes before the Nebraska Department of Banking and Finance ("DEPARTMENT"), by and through its Director, pursuant to its authority under the Nebraska Installment Loan Act, Neb. Rev. Stat. §§ 45-1001 to 45-1069 (Reissue 2004; Cum. Supp. 2006) ("the Act"). Pursuant to Neb. Rev. Stat. § 45-1017 (Reissue 2004), the DEPARTMENT has investigated alleged violations and/or examined the books, accounts and records of CitiFinancial, Inc., 3706 North 2<sup>nd</sup> Avenue, Kearney, Nebraska; 400 North 48<sup>th</sup> Street, Suite B-05, Lincoln, Nebraska; 9535 Q Street, Omaha, Nebraska; 7613 Cass Street, Omaha, Nebraska; 4848 Van Dorn Street, Suite 2, Lincoln, Nebraska; 2014 Broadway, Scottsbluff, Nebraska; 2014 North Lawrence Lane, Grand Island, Nebraska; 217 East Stolley Park Road, Suite 11 (formerly located at 3415 West State Street, Suite C), Grand Island, Nebraska; 903 East Court Street, Beatrice, Nebraska; 12103 West Center Road, Omaha, Nebraska; 1317 West Pasewalk Avenue, Suite 500 (formerly located at 1909 Vicki Lane, Suite 105), Norfolk, Nebraska; and 1215 South Poplar Street, Suite 300, North Platte, Nebraska (collectively, "CITIFINANCIAL"). As a result of such investigation and examinations, and being duly advised and informed in the matter, the Director and CITIFINANCIAL enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

## FINDINGS OF FACT

1. CITIFINANCIAL holds installment loan licenses under the Act for each of the twelve above-listed locations. Pursuant to Neb. Rev. Stat. § 45-1017 (Reissue 2004), the DEPARTMENT conducts annual examinations of each of these licensees. The DEPARTMENT also investigates alleged violations of the Act by the licensees.

2. In 2004, the DEPARTMENT became concerned that its examinations of many installment loan licensees showed a number of violations repeated from examination to examination. The DEPARTMENT, on July 30, 2004, sent a notice to all licensees under the Act, including CITIFINANCIAL, stating in part:

The Act sets forth provisions that a licensee must follow in order to engage in installment loan activities. However, a number of recent Reports of Examination show licensees continue to engage in acts or practices that constitute violations of the Act. For instance, documents have been lost, computer records have been inaccessible, and prepayment penalties have been calculated incorrectly. The Department is concerned about this activity and the repeated pattern of violations.

In the past, violations noted in a licensee's Report of Examination were commented on by the Department but, in many cases, no sanctions were imposed. Please be advised that beginning September 1, 2004, if a licensee fails to comply with provisions of the Act, the Installment Sales Act, or Chapter 45 Article 2 (Revolving Charge Agreements), the Department may commence such actions it deems necessary and appropriate in the public interest. Such action may include administrative fines, costs of investigation, and license suspension or revocation.

3. During the DEPARTMENT's examinations of CITIFINANCIAL in early 2006, it was determined that CITIFINANCIAL had not amended its loan origination fee schedule after the law was changed on September 4, 2005.

4. The loan origination fee provisions found in Section 45-1024(5) (Cum. Supp. 2006) authorizes a nonrefundable loan origination fee not to exceed the lesser of five hundred dollars or an amount equal to seven percent of that part of the original principal

balance of any loan not in excess of two thousand dollars and five percent on that part of the original principal balance in excess of two thousand dollars, if the licensee has not made another loan to the borrower within the previous twelve months. If the licensee has made another loan to the borrower within the previous twelve months, a nonrefundable loan origination fee may only be charged on new funds advanced on each successive loan.

5. For all loans made pursuant to Section 45-1024(5), within twelve months of another loan, CITIFINANCIAL, from September 4, 2005, until February 9, 2006, charged a loan origination fee on all funds advanced as part of the loan, which charge exceeded the amount authorized pursuant to Section 45-1024(5) (Cum. Supp. 2006) which became effective on September 4, 2005. CITIFINANCIAL represents that non-compliance was not intentional.

6. Through the course of the DEPARTMENT's review of this matter, the DEPARTMENT and CITIFINANCIAL have determined that CITIFINANCIAL assessed one thousand six hundred forty-three (1,643) Nebraska residents charges for an origination fee that exceeded the amount that it was statutorily authorized to charge pursuant to Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006).

7. On August 31, 2006, CITIFINANCIAL completed the refunding process and issued checks to the one thousand six hundred forty-three (1,643) persons in whose accounts charges were made for an origination fee that exceeded the permissible statutorily authorized amount. The checks were issued for an amount equal to the sum of the excess in the loan origination fees, plus interest identical to the interest listed on their consumer loan agreements for the time CITIFINANCIAL held the overcharged fees.

8. On February 9, 2006, CITIFINANCIAL began to waive loan origination fees on all personal loans, which waiver remained in effect through July 9, 2006. Beginning on July 10, 2006, CITIFINANCIAL began using a new computer program to calculate loan origination fees. The fees were to be calculated in compliance with Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006). CITIFINANCIAL represents that its current loan origination fee program complies with Nebraska law.

9. Neb. Rev. Stat. § 45-205 (Reissue 2004) requires a consumer's charge agreement to provide the "exact date by which the buyer must pay the basic time price, cash price, or cash sale price in order to delay or cancel the payment of the time-price differential." The Act allows for the date to be communicated to the consumer within thirty-five days of the financed purchase of the goods or services.

10. The failure to provide such notice to the consumer within thirty-five days of the purchase of the goods or services that were financed represents a violation of Neb. Rev. Stat. § 45-205 (Reissue 2004).

11. The DEPARTMENT's examination of CITIFINANCIAL determined that one customer, JJ, had not received such a timely notice.

12. For loans being made pursuant to Neb. Rev. Stat. § 45-1024(6)(a) (Cum. Supp. 2006), this Section provides that such loans shall not be subject to the limitations on the rate of interest or the limitations on the non-refundable loan origination fee if the loan is over \$7,500 and "the sum of the principal amount of the loan and the balances of all other liens against the property do not exceed one hundred percent of the appraised value of the property."

13. Prior to 2004, the DEPARTMENT determined that a “real estate appraisal,” for purposes of Section 45-1024(6)(a), meant an estimation of value for real property as determined by a licensed real estate appraiser.

14. In early 2004, CITIFINANCIAL petitioned the DEPARTMENT to broaden its definition of “appraisal” for purposes of the Act. CITIFINANCIAL requested that the DEPARTMENT adopt an interpretation whereby a computer model(s) could be used to determine a property’s value, in lieu of an appraisal by a licensed real estate appraiser.

15. After considerable discussion on the topic, the DEPARTMENT agreed with CITIFINANCIAL that an approved Automated Valuation Model (“AVM”) could meet the statutory requirements of an appraisal.

16. During its examinations, the DEPARTMENT determined that CITIFINANCIAL failed to obtain real estate appraisals on two separate transactions.

17. One of the loans was for TT and KT. The HUD-1A document in this transaction shows that the consumers were charged an \$80 appraisal fee for a “Manager Drive By” appraisal. CITIFINANCIAL, in its February 8, 2006 response to the DEPARTMENT in this matter, indicated that the AVM used by CITIFINANCIAL in this transaction did not provide a valuation for the subject real estate, and that a realtor of Woods Bros. Realty, did a market analysis.

18. A real estate sales person’s market analysis is not an appropriate method of appraisal pursuant to the Act.

19. The second loan was an October 14, 2004 real estate loan transaction by PR. PR’s loan met the qualifications for a real estate appraisal pursuant to the Act. PR’s HUD-1 document shows that she was charged an \$80 appraisal fee for a “Manager Drive By.”

CITIFINANCIAL, in its April 11, 2006 response, indicated that the AVM model did not provide a valuation for PR's real property. A CITIFINANCIAL employee drove by the subject real estate, determined a value for the property, and charged the customer \$80. After the DEPARTMENT issued its Examination Report, a refund of \$80 was given to the consumer. CITIFINANCIAL's April 11, 2006 letter to the DEPARTMENT indicated that the "Manager Drive By" fee should not have been charged to PR and was not in compliance with CITIFINANCIAL's policy. CITIFINANCIAL could not locate the final bill in this matter. CITIFINANCIAL's failure to keep proper business records is a violation of Neb. Rev. Stat. § 45-1017(1) (Reissue 2004).

20. PR's loan met the criteria for requiring an appraisal as listed in Finding of Fact #12. However, CITIFINANCIAL failed to use an appropriate appraisal, as a drive by appraisal is not an appropriate method to determine valuation and is in violation of Section 45-1024(6) of the Act. It is noted CITIFINANCIAL's On-line Manual instructs its branches that the only appropriate valuation methods for purposes of Section 45-1024(6)(a) are Full Property Appraisal or Automated Valuation Model.

21. Neb. Rev. Stat. § 45-1024(4) (Cum. Supp. 2006) provides that no excess charges shall be incurred by borrowers. During the DEPARTMENT's examinations, it was determined that RH, LS, RSI and RSO were each overcharged for title insurance. CITIFINANCIAL did not make refunds to the listed individuals for over thirty days from the date CITIFINANCIAL received payment from the customers.

22. RH was charged \$103.50 for the insurance; the actual cost was \$100. LS was charged \$120 for the insurance; the actual cost of the insurance was \$107. RSI was charged \$156 for the insurance; the actual amount of the insurance was \$113.75. RSO was charged

\$117.50 for insurance; the actual cost was \$100. Refunds for the overpayment have been sent to RH, LS, RSI and RSO. The foregoing constitutes four violations of Section 45-1024(4).

23. EL was overcharged for her real estate appraisal. The amount she was charged was \$395; the actual cost for the appraisal was \$390. Documentation regarding the appraisal could not be found by the examiner in the customer's loan file. Overcharging EL is a violation of Section 45-1024(4). Failure to keep business records to be examined by the DEPARTMENT is a violation of Neb. Rev. Stat. § 45-1017 (Reissue 2004), which provides that the DEPARTMENT shall inspect all business records and accounts of the licensees.

24. The DEPARTMENT could seek to determine that the actions of CITIFINANCIAL warrant the commencement of administrative proceedings to determine whether to suspend or revoke CITIFINANCIAL's installment loan licenses pursuant to Neb. Rev. Stat. § 45-1033 (Cum. Supp. 2006), and whether the DEPARTMENT should seek to impose an administrative fine plus investigation costs, pursuant to Neb. Rev. Stat. § 45-1017 (Reissue 2004).

25. CITIFINANCIAL could require the DEPARTMENT to issue an administrative order in this matter. CITIFINANCIAL understands that it could have legal representation at any administrative hearing and that it could challenge an order issued by the DEPARTMENT.

26. The DEPARTMENT incurred a minimum of three thousand dollars (\$3,000.00) in investigation costs in this matter.



## CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-1008 (Reissue 2004) provides that in order to issue an installment loan license, the Director must determine that the character and general fitness of the applicant and its officers and directors are such as to warrant a belief that the business will be operated honestly, fairly, and efficiently in accordance with the Act.

2. Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006) provides for a nonrefundable loan origination fee not to exceed the lesser of five hundred dollars or an amount equal to seven percent of that part of the original principal balance of any loan not in excess of two thousand dollars and five percent on that part of the original principal balance in excess of two thousand dollars, if the licensee has not made another loan to the borrower within the previous twelve months. If the licensee has made another loan to the borrower within the previous twelve months, a nonrefundable loan origination fee may only be charged on new funds advanced on each successive loan.

3. Neb. Rev. Stat. § 45-1024(6)(b) (Cum. Supp. 2006) provides that an origination fee on real estate loans shall be computed only on the principal amount of the loan reduced by any portion of the principal that consists of the amount required to pay off another loan made by the same licensee under the Act.

4. Neb. Rev. Stat. § 45-1033 (Cum. Supp. 2006) provides that if the Director finds, after notice and opportunity for hearing, that an installment loan licensee or any of its officers or directors has knowingly violated the Act, or a fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the Director in refusing to grant the license, the Director may suspend or revoke the license. Neb. Rev. Stat. § 45-1033(1)(a) (Cum. Supp. 2006) provides the

Director with the authority to suspend or revoke an installment loan license after the licensee has materially violated the Nebraska Installment Loan Act or it has shown a continuing pattern of violating the Nebraska Installment Loan Act.

5. Neb. Rev. Stat. § 45-1017(3) (Reissue 2004) provides that if the Director finds, after notice and opportunity for hearing, that any person has violated the Act, the Director may order such person to pay an administrative fine of not more than one thousand dollars for each separate violation and the costs of an investigation.

6. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined an Order should be issued to CITIFINANCIAL pursuant to the Act, and that an administrative fine in an amount of not more than one thousand dollars for each separate violation plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-1017(3) (Reissue 2004).

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

8. It is in the best interest of the DEPARTMENT and CITIFINANCIAL to resolve the issues included herein.

### **CONSENT AGREEMENT**

The DEPARTMENT and CITIFINANCIAL agree as follows:

Stipulations: In connection with this Consent Agreement, CITIFINANCIAL and the Director stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Agreement shall resolve all matters raised by the DEPARTMENT's examinations of CITIFINANCIAL conducted prior to September 1, 2006. Should future

circumstances warrant, the facts from this matter may be considered in future administrative action by the DEPARTMENT and the DEPARTMENT may use all of the information obtained in any examination of the Nebraska CITIFINANCIAL offices. The DEPARTMENT can consider the facts from this Consent Agreement when fashioning any future remedy.

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

CITIFINANCIAL further represents as follows:

1. CITIFINANCIAL 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. CITIFINANCIAL is acting free from any duress or coercion of any kind or nature.

3. This Consent Agreement is executed to resolve the matters identified herein and any admissions made herein are made solely for the purpose of this Consent Agreement and for no other purpose whatsoever.

IT IS, THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Agreement, CITIFINANCIAL shall pay a fine of two hundred-fifty dollars (\$250.00) for the single violation of Neb. Rev. Stat. § 45-205 (Reissue 2004), where CITIFINANCIAL failed to notify the consumer within thirty-five days of the exact date that the total balance must be paid to avoid finance charges.

2. Within ten (10) days after the effective date of this Consent Agreement, CITIFINANCIAL shall pay the total sum of seventy-five thousand dollars (\$75,000.00) for the one thousand six hundred and forty-three (1,643) violations of Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006), where CITIFINANCIAL overcharged customers for loan origination fees.

3. Within ten (10) days after the effective date of this Consent Agreement, CITIFINANCIAL shall pay the total sum of one thousand two hundred and fifty dollars (\$1,250.00) for the five violations of Neb. Rev. Stat. § 45-1024(4) (Cum. Supp. 2006), where customers were overcharged for third party products.

4. Within ten (10) days after the effective date of this Consent Agreement, CITIFINANCIAL shall pay the total sum of one thousand dollars (\$1,000.00) for the two violations of Neb. Rev. Stat. § 45-1024(6) (Cum. Supp. 2006), where CITIFINANCIAL failed to use an appropriate appraisal technique and charged the customer for an appraisal.

5. Within ten (10) days after the effective date of this Consent Agreement, CITIFINANCIAL shall pay the total sum of one thousand dollars (\$1,000.00) for the two violations of Neb. Rev. Stat. § 45-1017 (Reissue 2004), where CITIFINANCIAL failed to keep adequate business records.

6. Within ten (10) days after the effective date of this Consent Agreement, CITIFINANCIAL shall pay the DEPARTMENT's investigation costs in this matter in the amount of three thousand dollars (\$3,000.00).

7. The total amount of the assessed sums and investigation costs, eighty-one thousand-five hundred dollars (\$81,500.00), shall be payable in one check or money order to the DEPARTMENT.

8. In the event CITIFINANCIAL fails to comply with the provisions of this Consent Agreement, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

9. Subject to the provisions of this Consent Agreement, if, at any time, the DEPARTMENT determines CITIFINANCIAL has committed any subsequent violation of the Act, the DEPARTMENT may take any action available to it under the Act.


10. If, at any time, the DEPARTMENT determines that CITIFINANCIAL has failed to comply with this Consent Agreement or committed subsequent violations under the Act, the DEPARTMENT may use the facts related to this Consent Agreement in any subsequent action regarding CITIFINANCIAL.

11. The effective date of this Consent Agreement will be the date of the Director's signature.

DATED this 12<sup>th</sup> day of February, 2007.

**CITIFINANCIAL, INC.**

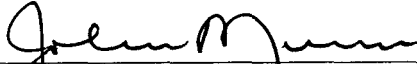
By: \_\_\_\_\_

  
Linda S. Davis,  
General Counsel Corporate & Regulatory

300 St. Paul Place, BSP17B  
Baltimore, Maryland 21202  
(410) 332-2980

DATED this 13<sup>th</sup> day of February, 2007.

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

By:   
\_\_\_\_\_  
John Munn, Director

Commerce Court, Suite 400  
1230 "O" Street  
Lincoln, Nebraska 68508  
(402) 471-2171