

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

IN THE MATTER OF:	)	
	)	FINDINGS OF FACT
The CIT Group/Consumer Finance, Inc.,	)	CONCLUSIONS OF LAW
1 CIT Drive,	)	AND
Livingston, New Jersey	)	CONSENT ORDER

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Mortgage Bankers Registration and Licensing Act, Neb. Rev. Stat. §§ 45-701 to 45-723 (Reissue 2004; Cum. Supp. 2008) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-710 (Cum. Supp. 2008), the DEPARTMENT has investigated the acts of The CIT Group/Consumer Finance, Inc., 1 CIT Drive, Livingston, New Jersey (“CIT”). As a result of such investigation, and being duly advised and informed in the matter, the Director and CIT enter into the following Findings of Fact, Conclusions of Law, and Consent Order.

**FINDINGS OF FACT**

1. On May 2, 1995, the DEPARTMENT issued a mortgage banker license to CIT pursuant to Neb. Rev. Stat. § 45-705 (Cum. Supp. 2008). The license was renewed annually on March 1<sup>st</sup> of each year thereafter through 2007 pursuant to Neb. Rev. Stat. § 45-706(3) (Cum. Supp. 2008).

2. On January 2, 2008, the DEPARTMENT joined the Nationwide Mortgage Licensing System (“NMLS”). The NMLS is an online licensing system which allows companies and individuals to submit license applications and amendments to the DEPARTMENT and to regulators in other states through the internet. The NMLS

assigns each separate entity and individual a unique identifier which allows the entity or individual to be tracked across state lines. CIT was assigned unique identifier #2803. The DEPARTMENT required all mortgage bankers to use the NMLS to submit their 2008 Mortgage Banker License Renewal Application.

3. On February 29, 2008, CIT submitted its 2008 Mortgage Banker License Application (“Application #1”) to the DEPARTMENT via the NMLS. Upon review of Application #1, the DEPARTMENT noted that there were several deficiencies with the filing. The DEPARTMENT attached the deficiencies to CIT’s NMLS filing. In addition, on March 7, 2008, an email notifying CIT that deficiencies had been placed on its filing was sent to the contact person that CIT had listed on Application #1. The email specifically warned CIT that failure to address the deficiencies would delay the processing of Application #1 and could result in the DEPARTMENT issuing a Notice of Expiration.

4. CIT submitted additional supplemental information to the DEPARTMENT which resolved two of the deficiencies noted by the DEPARTMENT on the NMLS. However, several of the items noted by the DEPARTMENT remained unresolved.

5. On April 7, 2008, an additional email was sent by the DEPARTMENT to a representative of CIT. The email reminded CIT that there were still deficiencies associated with their filing and requested that CIT amend the Form MU1 submitted as part of Application #1.

6. On April 18, 2008, the DEPARTMENT sent a letter to the contact person listed by CIT on Application #1 via certified mail. The letter requested that the deficiencies be cured on or before April 30, 2008. The letter warned CIT that failure to address the deficiencies could result in the DEPARTMENT issuing a Notice of

Expiration of its license. According to the return receipt, the letter was received by CIT on April 21, 2008.

7. On May 15, 2008, the DEPARTMENT issued a Notice of Expiration to CIT effective March 1, 2008, pursuant to Neb. Rev. Stat. § 45-707(4) (Cum. Supp. 2008) as CIT failed to correct the deficiencies noted by the DEPARTMENT. The Notice of Expiration stated, in part as follows:

**Due to a lack of response to correct deficiencies, the mortgage banker license of [CIT] automatically expired on March 1, 2008. Any mortgage banking business conducted after March 1, 2008, is in violation of the Nebraska Mortgage Bankers Registration and Licensing Act.**

8. On August 1, 2008, CIT submitted a new Mortgage Banker License Application (“Application #2”) through the NMLS. The DEPARTMENT reviewed Application #2 and determined that there were several deficiencies associated with Application #2. The DEPARTMENT noted the deficiencies on the NMLS on September 8, 2008, and updated the status of Application #2 to “Pending-Deficient.”

9. On October 27, 2008, the DEPARTMENT sent a letter to the contact person listed by CIT on Application #2 via certified mail. The letter requested that the deficiencies be cured on or before November 27, 2008. The letter warned CIT that failure to address the deficiencies would be deemed as an indication that CIT wished Application #2 to be withdrawn. According to the return receipt, the letter was received by CIT on October 31, 2008.

10. One of the deficiencies that the DEPARTMENT placed upon Application #2 required CIT to provide information to the DEPARTMENT concerning its activities in Nebraska after its mortgage banker license had expired. CIT reported that it had serviced

one hundred thirty-one (131) loans secured by Nebraska real property since its license had expired.

11. CIT ultimately resolved all of the deficiencies placed on Application #2 by the DEPARTMENT and CIT's Application #2 was accepted for filing as substantially complete on December 30, 2008, three hundred four (304) days after the prior license had expired.

12. Neb. Rev. Stat. § 45-702(9) (Cum. Supp. 2008) defines the term "mortgage banker" as any person not exempt from the Act who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for a mortgage loan.

13. Neb. Rev. Stat. § 45-705 (Cum. Supp. 2008) provides, in part, that no person shall act as a mortgage banker or use the title mortgage banker in this state unless he, she, or it is licensed or registered with the DEPARTMENT.

14. CIT's servicing of one hundred thirty-one (131) mortgage loans secured by Nebraska real property for three hundred four (304) days constitutes multiple violations of the Act.

15. The DEPARTMENT has incurred two thousand dollars in investigation costs in this matter.

#### CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-705 (Cum. Supp. 2008) provides, in part, that no person shall act as a mortgage banker or use the title mortgage banker in this state unless he, she, or it is licensed or registered with the DEPARTMENT.

2. Neb. Rev. Stat. § 45-702(9) (Cum. Supp. 2008) defines the term “mortgage banker” as any person not exempt from the Act who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for a mortgage loan.

3. Neb. Rev. Stat. § 45-706(1) (Cum. Supp. 2008) provides that the business of a mortgage banker shall be operated honestly, soundly, and efficiently in the public interest consistent with the purposes of the Act.

4. Neb. Rev. Stat. § 45-706(1) (Cum. Supp. 2008) provides that the Director of the DEPARTMENT shall issue a mortgage banker license if he or she finds that the character and general fitness of the applicant are such that the business will be operated honestly, soundly, and efficiently in the public interest consistent with the purposes of the Act.

5. Neb. Rev. Stat. § 45-708(1) (Cum. Supp. 2008) provides that any person required to be licensed or registered under the Mortgage Bankers Registration and Licensing Act who, without first obtaining a license or registration under the Act or while such license is suspended, revoked, cancelled, or expired by the Director, engages in the business of or occupation of, advertises or holds himself or herself out as, claims to be, or temporarily acts as a mortgage banker in this state is guilty of a Class II misdemeanor.

6. Neb. Rev. Stat. § 45-717.01(2) (Cum. Supp. 2008) provides that if the Director finds, after notice and hearing in accordance with the Administrative Procedure Act, that any person has knowingly committed any act prohibited by Section 45-707 or has otherwise violated the Act, the Director may order such person to pay an administrative fine not exceeding five thousand dollars for each separate violation plus the costs of investigation.

7. The above Findings of Fact contain information which indicates that CIT acted as a mortgage banker without a license. Operating without a license is itself a violation of the Act. CIT's conduct of a mortgage banking business without a license raises serious questions regarding CIT's ability to operate the business soundly, efficiently, and in the public interest.

8. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that CIT has violated the Act and that proceedings to deny CIT's application should be initiated and/or that an administrative fine in an amount of not more than five thousand dollars for each separate violation plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-717.01(2) (Cum. Supp. 2008).

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

10. It is in the best interest of CIT, and the best interest of the public, to resolve the issues included herein.

### **CONSENT ORDER**

The DEPARTMENT and CIT agree as follows:

Stipulations: In connection with this Consent Order, CIT and the DEPARTMENT stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Order shall resolve all matters between the DEPARTMENT and CIT in connection with the Findings of Fact listed above. Should future circumstances warrant, the facts from this matter may be considered in a future administrative action by the DEPARTMENT.

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

CIT further represents as follows:

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

3. This Consent Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Order and for no other purpose.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Order, CIT shall pay a total fine of fifty thousand dollars (\$50,000.00) for its multiple violations of Neb. Rev. Stat. § 45-705 (Cum. Supp. 2008), in which CIT acted as a mortgage banker without the required license by servicing mortgage loans secured by Nebraska real property.

2. Within ten (10) days after the effective date of this Consent Order, CIT shall pay the investigation costs of the DEPARTMENT in the amount of two thousand dollars (\$2,000.00).

3. The total amount of the fine and investigation costs, fifty-two thousand dollars (\$52,000.00), shall be payable in one check or money order to the DEPARTMENT.

4. Within three (3) business days of receipt of the payment of the fine and investigation costs, the DEPARTMENT shall issue a Mortgage Banker License to CIT for the current licensing period.

5. Within thirty (30) days after the effective date of this Consent Order, CIT shall amend its Form MU1 to update the "Disclosure Section" of the form to account for this Consent Order. CIT shall submit the amended Form MU1 to the DEPARTMENT through the NMLS.

6. In the event CIT fails to comply with any of the provisions of this Consent Order, the DEPARTMENT may commence such action regarding CIT as it deems necessary and appropriate in the public interest.

7. The effective date of this Consent Order shall be the date of the Director's signature.

DATED this 17<sup>th</sup> April day of ~~February~~, 2009.

**The CIT Group/Consumer Finance, Inc.**

By: W. Taylor Kamp  
W. Taylor Kamp, President

1 CIT Drive  
Livingston, New Jersey 07039  
(973) 597-2009

DATED this 23<sup>rd</sup> April day of ~~February~~, 2009.

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

By: John Munn  
John Munn, Director

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