

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

IN THE MATTER OF:	)	FINDINGS OF FACT
Palmer Mortgage Group, Inc.,	)	CONCLUSIONS OF LAW
4800 Mills Civic Parkway, Suite 107,	)	AND
West Des Moines, Iowa	)	CONSENT AGREEMENT

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 45-721 (Reissue 2004; Supp. 2005) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-710 (Reissue 2004), the DEPARTMENT has investigated the acts of Palmer Mortgage Group, Inc., 4800 Mills Civic Parkway, Suite 107, West Des Moines, Iowa (“PALMER MORTGAGE”). As a result of such investigation, and being duly advised and informed in the matter, the Director and PALMER MORTGAGE enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

**FINDINGS OF FACT**

1. PALMER MORTGAGE holds a license pursuant to the Act. Said license was originally granted by the DEPARTMENT on October 25, 2002, and subsequently renewed on March 1<sup>st</sup> of each year through 2005. The DEPARTMENT issued a provisional license to PALMER MORTGAGE effective March 1, 2006. In addition to the main office, PALMER MORTGAGE also maintains a branch office located at 1055 North 115<sup>th</sup> Street, Suite 204, Omaha, Nebraska.

2. References in this Consent Agreement to customers of PALMER MORTGAGE will be by way of initials, in order to protect the privacy of such customers. PALMER MORTGAGE knows or should know the identity of these customers. If PALMER MORTGAGE is unable to ascertain the identity of these customers, the DEPARTMENT will provide a list of these customers upon receipt of a written request.

3. The DEPARTMENT received a complaint regarding a transaction with another entity which holds a license under the Act. During the investigation of this complaint, the DEPARTMENT discovered that the loan officer involved, Sherman Gould ("GOULD"), has worked at four different mortgage banker licensees in Omaha in the last four years including PALMER MORTGAGE, where he worked from November 15, 2004, until April 8, 2005. During its investigation, the DEPARTMENT discovered a number of consumers who had problems with loans originated by GOULD at three of the licensees, including PALMER MORTGAGE.

4. In May and June of 2005, the DEPARTMENT contacted GOULD's customers informing them that the DEPARTMENT had received information that many consumers may have had trouble with loans originated by GOULD. On June 1, 2005, the DEPARTMENT received a letter from a consumer, JC, regarding his attempt to obtain a loan from GOULD while GOULD was employed at PALMER MORTGAGE. JC also indicated that he had also discussed the matter with Steven Palmer ("PALMER"), the CEO and owner of PALMER MORTGAGE. JC's letter alleged significant problems with PALMER MORTGAGE and GOULD.

5. Upon receipt of the letter, the DEPARTMENT requested a copy of the loan file from PALMER MORTGAGE in a letter dated July 5, 2005.

6. JC's complaint and PALMER MORTGAGE's loan file for JC shows that on or about November 2, 2004, JC contacted GOULD, who at the time was working for another licensee, about refinancing his current house in Lincoln, Nebraska. JC also informed GOULD that he anticipated looking for a house in Omaha in the next year. At that time, GOULD was not yet a loan originator for PALMER MORTGAGE.

7. Approximately one week later GOULD called JC and informed him that he had started a new job with PALMER MORTGAGE. GOULD requested that JC provide him with various items of verification for the credit report. In addition, JC and GOULD met at PALMER MORTGAGE's Omaha office.

8. At this meeting in November 2004, GOULD informed JC that he had obtained final approval for the loan from Argent Mortgage Company ("ARGENT"). GOULD advised JC that the loan would close prior to Thanksgiving 2004. GOULD informed JC that there was a \$350.00 application fee, which would need to be paid prior to PALMER MORTGAGE doing any additional work on the application, and that there would be a \$4,700.00 broker fee due at closing. Prior to leaving GOULD's office JC wrote GOULD a check for the \$350.00 application fee.

9. According to JC, the next day GOULD called JC and informed him that he could not deposit his check into his account because it was an out-of-town check. GOULD and JC arranged a meeting the next day at which time JC gave GOULD \$350.00 in cash and GOULD returned JC's check to him. GOULD promised to give JC a receipt for the cash but never did.

10. GOULD then contacted Cornhusker Bank ("CORNHUSKER") which held JC's current mortgage. GOULD also contacted Pinnacle Bank ("PINNACLE") which held a loan that was going to be paid off from the proceeds of JC's loan. GOULD informed CORNHUSKER and PINNACLE that JC had been approved for a new loan that would close very soon. GOULD requested payoff figures from both banks. CORNHUSKER sent a payoff quote to PALMER MORTGAGE on December 8, 2004. PINNACLE sent a payoff quote to PALMER MORTGAGE on December 24, 2004. Both payoff quotes were contained in JC's loan file at PALMER MORTGAGE.

11. According to JC, CORNHUSKER returned JC's November and December 2004 mortgage payment and informed JC that the payment was included in the payoff which would occur at the closing of JC's new loan.

12. Based upon Gould's representation that a closing would occur shortly, JC did not make his scheduled payment to PINNACLE, as that loan would also be paid off with the proceeds from the new loan.

13. GOULD contacted JC's insurance agent, Ogden Insurance, and requested that the loss payee on JC's insurance policy be switched to ARGENT. Ogden Insurance faxed a copy of JC's insurance binder showing ARGENT as the loss payee to PALMER. The binder shows that it was faxed to PALMER MORTGAGE on December 14, 2005. The binder was found in JC's loan file at PALMER MORTGAGE.

14. The DEPARTMENT also requested a copy of JC's loan file from ARGENT. ARGENT provided a copy of the file on August 18, 2005.

15. The DEPARTMENT reviewed ARGENT's loan file for JC and discovered a number of inconsistencies with his loan file at PALMER MORTGAGE and the

representations made to JC. According to ARGENT's file, the loan application was submitted to ARGENT on December 29, 2004. As stated in Finding of Fact #8, GOULD had represented to JC that the loan application had been submitted and had been approved by ARGENT. Furthermore, as stated in Findings of Fact #'s 10 and 13, GOULD had contacted JC's creditors and insurance agent representing to each of them that the loan was approved and going to close shortly.

16. ARGENT's file for JC also shows that on December 30, 2004, ARGENT suspended JC's application because JC had a debt ratio that exceeded ARGENT's underwriting standards. ARGENT's file also shows that ARGENT informed PALMER MORTGAGE that the loan had been suspended.

17. On January 5, 2005, JC contacted GOULD regarding the delays in closing the loan. GOULD indicated that he would find out what the delay was. At no time did GOULD inform JC that the loan had been suspended by ARGENT. Gould's statements to JC misrepresented the actual state of the loan as ARGENT had already suspended the application due to an excessive debt ratio.

18. According to ARGENT's loan file on or about January 11, 2005, PALMER MORTGAGE requested that JC's loan application with ARGENT be withdrawn. This was done without the knowledge or authorization of JC who believed that his loan application had been approved.

19. Ultimately, JC's loan did not close. PALMER MORTGAGE did not obtain alternate financing for JC. JC incurred additional expenses in late fees with his creditors as a result of the actions of GOULD and PALMER MORTGAGE. JC has submitted

information to the DEPARTMENT indicating that the total of such expenditures was \$4,017.00.

20. Neb. Rev. Stat. § 45-714(1)(c) (Reissue 2004) provides that a licensee shall not misrepresent or conceal material facts or make false promises intended to influence, persuade, or induce an applicant for a mortgage loan or a borrower to take a mortgage loan or cause or contribute to such misrepresentation.

21. PALMER MORTGAGE violated Neb. Rev. Stat. § 45-714(1) (c) (Reissue 2004) when GOULD misrepresented the status of the mortgage loan application to JC which induced him to continue pursuing a mortgage loan through PALMER MORTGAGE.

22. Neb. Rev. Stat. § 45-714(1)(e) (Reissue 2004) provides that a licensee shall not engage in any transaction, practice, or business conduct that is not in good faith or operates a fraud upon any person in the making of any mortgage loan.

23. PALMER MORTGAGE therefore violated Neb. Rev. Stat. § 45-714(1) (e) (Reissue 2004), when GOULD misrepresented the status of the loan to CORNHUSKER and PINNACLE and changed the loss payee on JC's insurance policy prior to the submission of the mortgage loan application to ARGENT.

24. Neb. Rev. Stat. § 45-714(1)(i) (Reissue 2004) provides that a licensee may not fail to account for or deliver to any person personal property obtained in connection with the mortgage banking business, including, but not limited to, money, funds, deposits, checks, drafts, mortgages, or other documents or things of value which the licensee was not entitled to retain.

25. PALMER MORTGAGE therefore violated Neb. Rev. Stat. § 45-714(1)(i) (Reissue 2004), when GOULD failed to account for the \$350.00 in cash he received from JC, supposedly for an application fee.

26. PALMER MORTGAGE's failure to reasonably supervise GOULD to ensure his compliance with the Act constitutes a violation of Neb. Rev. Stat. § 45-707(1)(I) (Supp. 2005), which provides that the Director may impose an administrative fine for each separate violation of the Act if the Director finds that the licensee has failed to reasonably supervise any officer, employee, or agent to assure his or her compliance with the Mortgage Bankers Registration and Licensing Act or with any state or federal law applicable to the mortgage banking business.

27. During its investigation, the DEPARTMENT sent several letters to PALMER MORTGAGE including a letter dated May 3, 2005. In that letter, the DEPARTMENT requested that PALMER MORTGAGE submit a copy of GOULD's written agency contract.

28. Approximately two years earlier, on May 16, 2003, the DEPARTMENT sent a form letter to all licensees, including PALMER MORTGAGE, reminding each licensee that written agency contracts with independent contractors were required under the Act.

29. In his May 26, 2005 response to the DEPARTMENT's May 3, 2005 letter, PALMER, on behalf of PALMER MORTGAGE, indicated that PALMER MORTGAGE did not have a written agency contract with GOULD and indicated that they were not aware of the requirement.

30. PALMER MORTGAGE's failure to maintain a written agency contract with GOULD, as its agent, represents a violation of Neb. Rev. Stat. § 45-703(1)(g) (Supp. 2005), which provides an exemption from the Act for:

Any individual acting solely as an agent of a mortgage banker licensed or registered pursuant to the act or exempt from the act if there is a written agency contract between the individual and the licensee which provides that, with respect to the mortgage banking business, the individual acts exclusively for the licensee as an agent.

31. The DEPARTMENT incurred a minimum of five hundred dollars (\$500.00) in investigation costs in this matter.

### **CONCLUSIONS OF LAW**

1. Neb. Rev. Stat. § 45-705 (Supp. 2005) 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. § 45-703(1)(g) (Supp. 2005) provides an exemption from the Act for any individual acting solely as an agent of a mortgage banker licensed or registered pursuant to the Act or exempt from the Act if there is a written agency contract between the individual and the licensee which provides that, with respect to the mortgage banking business, the individual acts exclusively for the licensee as an agent.

3. Neb. Rev. Stat. § 45-706(1) (Supp. 2005) 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. § 45-707(1)(l) (Supp. 2005) provides that the Director may revoke or suspend a license and/or impose an administrative fine for each separate violation of the Act if the Director finds that the licensee has failed to reasonably supervise any



officer, employee, or agent to assure his compliance with the Act or with any other state or federal law applicable to the mortgage banking business.

5. Neb. Rev. Stat. § 45-714(1)(c) (Reissue 2004) provides that a licensee, an officer, an employee, or an agent of the licensee shall not misrepresent or conceal material facts or make false promises intended to influence, persuade, or induce an applicant for a mortgage loan or a borrower to take a mortgage loan or cause or contribute to such a misrepresentation by any person acting on a licensee's or any other lender's behalf.

6. Neb. Rev. Stat. § 45-714(1)(e) (Reissue 2004) provides that a licensee shall not engage in any transaction, practice, or business conduct that is not in good faith or that operates a fraud upon any person in the making of any mortgage loan.

7. Neb. Rev. Stat. § 45-714(1)(i) (Reissue 2004) provides that a licensee may not fail to account for or deliver to any person personal property obtained in connection with the mortgage banking business, including, but not limited to, money, funds, deposits, checks, drafts, mortgages, or other documents or things of value which the licensee was not entitled to retain.

8. Neb. Rev. Stat. § 45-717.01(2) (Reissue 2004) 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 one thousand dollars for each separate violation plus the costs of investigation.

9. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that PALMER MORTGAGE has violated the Act and that

proceedings to revoke or suspend PALMER MORTGAGE's license should be initiated and/or that an administrative fine in an amount of not more than one thousand dollars for each of the separate violations plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-717.01(2) (Reissue 2004).

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

11. It is in the best interest of PALMER MORTGAGE and the DEPARTMENT to resolve the issues included herein.

### **CONSENT AGREEMENT**

The DEPARTMENT and PALMER MORTGAGE agree as follows:

Stipulations: In connection with this Consent Agreement, PALMER MORTGAGE and the DEPARTMENT stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Agreement shall resolve all matters between the DEPARTMENT and PALMER MORTGAGE 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 Agreement shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Agreement.

PALMER MORTGAGE further represents as follows:

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

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

IT IS, THEREFORE AGREED as follows:

1. PALMER MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-714(1)(c) (Reissue 2004) where GOULD, acting as agent of PALMER MORTGAGE, misrepresented or concealed material facts or made false promises intended to influence, persuade, or induce an applicant for a mortgage loan.

2. PALMER MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-714(1)(e) (Reissue 2004) where GOULD, acting as agent of PALMER MORTGAGE, engaged in a pattern of conduct which was in bad faith by representing to JC's creditors and insurance agent that a loan was about to close when in fact no application had been submitted.

3. PALMER MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-714(1)(i) (Reissue 2004) where GOULD, acting as agent of PALMER MORTGAGE, failed to account for the cash that JC gave him as part of the fee for obtaining the loan.

4. PALMER MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-707(1)(l) (Supp. 2005) where PALMER MORTGAGE failed to supervise GOULD to insure his compliance with the Act.

5. PALMER MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-703(1)(g) (Supp. 2005) where PALMER MORTGAGE failed to maintain a written agency contract with GOULD, its agent.

6. PALMER MORTGAGE shall pay the investigation costs of the DEPARTMENT in the amount of five hundred dollars (\$500.00).

7. The total amount of the fine and investigation costs, five thousand five hundred dollars (\$5,500.00) shall be payable in five monthly installments of one thousand one hundred dollars (\$1,100.00). The installments will be due as follows:

August 15, 2006	\$1,100.00
September 15, 2006	\$1,100.00
October 15, 2006	\$1,100.00
November 15, 2006	\$1,100.00
December 15, 2006	\$1,100.00

Each installment payment shall be paid in one check or money order to the DEPARTMENT and shall be received by the DEPARTMENT by the close of business on or before the date due without exception. PALMER MORTGAGE understands that no late payments will be accepted by the DEPARTMENT and the principals of PALMER MORTGAGE realize that the payment terms set forth are material elements of this Consent Agreement. PALMER MORTGAGE currently holds a provisional mortgage banker license. This license shall continue to be provisionally granted by the DEPARTMENT, on a monthly basis, as long as PALMER MORTGAGE continues to make installment payments as required by this paragraph until the total amount due is paid. If PALMER MORTGAGE does not make any installment payment as required by this paragraph, the provisional mortgage banker license will automatically expire and the total amount remaining will immediately become due to the DEPARTMENT.

8. Within ten (10) days after the effective date of this Consent Agreement, PALMER MORTGAGE shall submit to the DEPARTMENT a cashier's check in the amount of four thousand seventeen dollars (\$4,017.00) payable to customer JC, which represents the extra expense that JC incurred as a result of the actions of GOULD and PALMER MORTGAGE. The DEPARTMENT will forward the check to JC and obtain a receipt from JC and deliver the receipt to PALMER MORTGAGE.

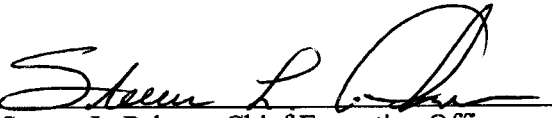
9. Within three (3) business days after the receipt of the total amount of the fine, investigation costs, and reimbursement for customer JC, the DEPARTMENT shall replace PALMER MORTGAGE's provisional license with a non-provisional license which will expire on the last day of February 2007.

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

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

DATED this 2<sup>nd</sup> day of August, 2006.

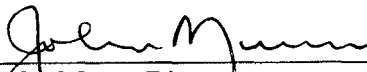
**Palmer Mortgage Group, Inc.**

By:   
Steven L. Palmer, Chief Executive Officer

4800 Mills Civic Parkway, Suite 107  
West Des Moines, Iowa 50265  
(515) 221-0474

DATED this 7<sup>th</sup> day of August, 2006.

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

By:   
John Munn, Director

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