

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	FINDINGS OF FACT
Ace Mortgage Funding, LLC,)	CONCLUSIONS OF LAW
777 Beachway Drive, Suite 300,)	AND
Indianapolis, Indiana)	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 actions of Ace Mortgage Funding, LLC, 777 Beachway Drive, Suite 300, Indianapolis, Indiana (“ACE MORTGAGE”). As a result of such investigation, and being duly advised and informed in the matter, the Director and ACE MORTGAGE enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. On January 28, 2003, Ace Mortgage Funding, Inc., now Ace Mortgage Funding, LLC, submitted a Mortgage Banker License Application (“Initial Application”) to the DEPARTMENT pursuant to Neb. Rev. Stat. § 45-705 (Supp. 2005). The DEPARTMENT accepted the Initial Application and issued a license to ACE MORTGAGE on March 3, 2003. ACE MORTGAGE renewed the license on March 1, 2004, and March 1, 2005, pursuant to Neb. Rev. Stat. § 45-706(3) (Supp. 2005). On March 1, 2006, the DEPARTMENT provisionally renewed ACE MORTGAGE’s license.

2. On July 29,2005, the DEPARTMENT received a letter from counsel for ACE MORTGAGE regarding a conversion of ACE MORTGAGE from a corporation to a limited liability company. Additional correspondence was received by the DEPARTMENT on August 22,2005. The DEPARTMENT reviewed the material submitted by ACE MORTGAGE and determined based upon the information submitted that under Indiana law such a conversion was allowed and that the limited liability company was considered the successor to the corporation, not a separate entity. In a letter dated September 15,2005, the DEPARTMENT informed ACE MORTGAGE's counsel that it would allow the limited liability company to continue to operate under the license granted to the corporation and would not take action to enforce the requirement that the limited liability company obtain a new license.

3. On December 27,2005, counsel for ACE MORTGAGE informed the DEPARTMENT that the conversion from a corporation to a limited liability company had been completed on December 9,2005. Since the limited liability company is considered the successor entity to the corporation under Indiana law, it is responsible for any violations of the Act committed by the corporation prior to its conversion. All references to ACE MORTGAGE in this Consent Agreement shall be deemed to be references to Ace Mortgage Funding, Inc. prior to December 9,2005, and to Ace Mortgage Funding, LLC on or after December 9,2005.

4. On ~~January~~ 16,2004, ACE MORTGAGE submitted its 2004 Mortgage Banker License Renewal Application ("2004 Renewal Application") to the DEPARTMENT.

5. Question #7 of the 2004 Renewal Application stated “Has applicant’s authority to transact business as a mortgage banker, mortgage broker, or mortgage servicer in any state been revoked or suspended within the last year by a state or federal regulatory or law enforcement office?” ACE MORTGAGE answered “No.”

6. Question #12 of the 2004 Renewal Application stated “Has applicant, or any director, shareholder, partner, member or principal officer of the applicant ever entered into a consent agreement with a state or federal regulatory agency, if not previously disclosed?” ACE MORTGAGE answered “No.”

7. Question #13 of the 2004 Renewal Application stated: “Has applicant, or any director, shareholder, partner, member or principal officer of the applicant ever been convicted of a violation of any law that has not been pardoned or set aside other than a minor traffic violation, if not previously disclosed?” ACE MORTGAGE checked the “Yes” box and disclosed a 1980 felony conviction regarding Robert L. Gregory, Jr. (“GREGORY”), the Vice-president of ACE MORTGAGE. The conviction had not been disclosed on ACE MORTGAGE’s Initial Application.

8. The DEPARTMENT informed ACE MORTGAGE that it would issue a renewal license in a letter dated February 6, 2004. The DEPARTMENT also stated:

As previously noted, the Department views nondisclosure as a significant issue. Please be advised that the Department will renewal (sic) Ace Mortgage Funding, Inc.’s mortgage banker license, however, the licensee must fully disclose the above incident, as well as any other reportable items, on future applications.

Please note that, pursuant to § 45-711(9), Ace Mortgage Funding, Inc. must notify the director in writing within thirty days after the filing of any material development. Failure to do so may result in administrative action.

9. On January **18,2005**, ACE MORTGAGE submitted its 2005 Mortgage Banker License Renewal Application (“2005 Renewal Application”) to the DEPARTMENT.

10. Question #1 **of** the 2005 Renewal Application requires that the applicant name its parent company, if any. ACE MORTGAGE provided the answer “n/a” to the question.

11. Question #7 of the 2005 Renewal Application stated “Has applicant’s or any director’s, shareholder’s, principal officer’s, or member’s authority to transact business **as** a mortgage banker, mortgage broker, or mortgage servicer in any state been revoked or suspended within the last year by a state or federal regulatory or law enforcement office?” ACE MORTGAGE answered “Yes.”

12. Question #8 **of** the 2005 Renewal Application stated: “Has applicant, or any director, shareholder or principal officer or partner or member of applicant, ever been subject to a federal or state administrative investigation or order, if not previously disclosed?” The question further stated: “Does applicant, or any director, shareholder or principal officer or partner or member **of** applicant, have any administrative investigations or orders pending?” ACE MORTGAGE answered “No” to both parts of the question.

13. Question #9 of the 2005 Renewal Application stated in part: “Has applicant within the last year been associated with a business whose authority has been denied, revoked, or suspended by a federal or state regulatory or law enforcement authority to transact business as a mortgage banker, mortgage broker, or mortgage servicer?” ACE MORTGAGE answered “Yes.”

14. Question #12 of the 2005 Renewal Application stated: “Has applicant, or any director, shareholder, partner, member or principal officer of the applicant ever been fined by a state or federal regulatory or law enforcement entity, if not previously disclosed?” ACE MORTGAGE answered “Yes.”

15. Question #13 of the 2005 Renewal Application stated: “Has applicant, or any director, shareholder, partner, member or principal officer of the applicant ever entered into a consent agreement with a state or federal regulatory agency, if not previously disclosed?” ACE MORTGAGE answered “Yes.”

16. ACE MORTGAGE attached several documents to its 2005 Renewal Application to explain its answers to the questions contained therein including documentation regarding an action by the United States Department of Housing and Urban Development (“HUD”). According to the information provided, HUD had terminated ACE MORTGAGE’s “Origination Approval Agreement” for one of its branches on September 19,2003. HUD subsequently approved a new agreement on November 4,2004.

17. Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) provides that the Director may suspend or revoke any license issued under the Act or impose an administrative fine if the licensee has made statements which, at the time or in light of the circumstance in which they were made, were false or misleading in any material respect.

18. HUD’s termination was a regulatory action taken by a federal administrative agency which revoked ACE MORTGAGE’s ability to originate FHA loans and should have been disclosed in ACE MORTGAGE’s answer to Question #7 of ACE MORTGAGE’s 2004 Renewal Application. ACE MORTGAGE therefore violated Neb.

Rev. Stat. § 45-707(1)(d) (Supp. 2005) in connection with its 2004 Renewal Application when it answered “No” to Question #7 and did not disclose the HUD action.

19. On February 14, 2006, ACE MORTGAGE submitted its 2006 Mortgage Banker License Renewal Application (“2006 Renewal Application”) to the DEPARTMENT. The DEPARTMENT reviewed the 2006 Renewal Application and issued a provisional license effective March 1, 2006.

20. Question #1 of the 2006 Renewal Application requires that the applicant name its parent company, if any. ACE MORTGAGE left the answer to this question blank, which indicated that there was no parent company.

21. Question #7 of the 2006 Renewal Application states: “Has applicant’s or any director’s, shareholder’s, principal officer’s, or member’s authority to transact business as a mortgage banker, mortgage broker, or mortgage servicer in any state been revoked or suspended within the last year by a state or federal regulatory or law enforcement office?” ACE MORTGAGE answered “Yes.”

22. Question #8 of the 2006 Renewal Application states in part: Has applicant, or any director, shareholder or principal officer or partner or member of applicant, ever been subject to a federal or state administrative investigation or order, if not previously disclosed?” ACE MORTGAGE answered “Yes.”

23. Question #9 of the 2006 Renewal Application stated: “Has applicant within the last year been associated with a business whose authority has been denied, revoked, or suspended by a federal or state regulatory or law enforcement authority to transact business as a mortgage banker, mortgage broker, or mortgage servicer?” ACE MORTGAGE answered “Yes.”

24. Question #11 of the **2006** Renewal Application stated: “Has any director, shareholder, partner, member or principal officer of the applicant ever been subject to a formal action by a federal or state bank or securities regulator **or** by a state insurance regulator, if not previously disclosed?” ACE MORTGAGE answered “Yes.”

25. Question #12 of the **2006** Renewal Application stated: “Has applicant, or any director, shareholder, partner, member or principal officer of the applicant ever been fined by a state or federal regulatory or law enforcement entity, if not previously disclosed?” ACE MORTGAGE answered “Yes.”

26. Question #13 of the **2006** Renewal Application stated: “Has applicant, or any director, shareholder, partner, member or principal officer of the applicant ever entered into a consent agreement with a state or federal regulatory agency, if not previously disclosed?” ACE MORTGAGE answered “Yes.”

27. ACE MORTGAGE attached a variety of documents to its **2006** Renewal Application to explain its answers to the questions in the **2006** Renewal Application. These documents relate to a variety of administrative actions taken by multiple regulatory agencies.

28. Attached to ACE MORTGAGE’s **2006** Renewal Application was a copy of a “Settlement and Consent Order” (“Consent Order”) entered into by ACE MORTGAGE and the Ohio Department of Commerce, Division of Financial Institutions (“OHIO DIVISION”). According to the Consent Order, the OHIO DIVISION initially sent ACE MORTGAGE a “Notice of Intent to Assess Fine and Suspend Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing” to ACE MORTGAGE on July **24,2003**, as a result of ACE MORTGAGE’s failure to disclose

GREGORY's conviction as stated in Finding of Fact #7. Ultimately, ACE MORTGAGE and the OHIO DIVISION resolved the issue in the Consent Order which was executed by ACE MORTGAGE on October 7, 2003, and by the OHIO DIVISION on October 10, 2003. ACE MORTGAGE paid a \$5,000 fine to the OHIO DIVISION.

29. The DEPARTMENT contacted ACE MORTGAGE via e-mail on March 2, 2006, and requested an explanation as to why ACE MORTGAGE had failed to previously disclose the OHIO DIVISION action.

30. ACE MORTGAGE responded in an e-mail on March 3, 2006, in which it stated as follows:

The person who formerly managed licensing for Ace Mortgage Funding, Inc. is no longer with us, because we had discovered them (sic) not disclosing items when, (sic) the items should have been disclosed. However, it is now our practice to disclose all administrative actions in order to prevent any possible discrepancies. I do apologize for not having disclosed this in the past.

31. The action of the OHIO DIVISION was a consent agreement with a state regulatory agency. ACE MORTGAGE therefore should have answered "Yes" to Question #12 of the 2004 Renewal Application and disclosed the Consent Order with the OHIO DIVISION. ACE MORTGAGE therefore violated Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) in connection with its 2004 Renewal Application when it answered "No" to Question #12 and did not disclose the OHIO DIVISION's action.

32. ACE MORTGAGE should have answered "Yes" to Question #8 in its 2005 Renewal Application, and should have included the action in the 2005 Renewal Application along with the information it submitted regarding the action by HUD. ACE MORTGAGE therefore violated Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) in

connection with its 2005 Renewal Application when it answered “No” to Question #8 as noted in Finding of Fact #12 and did not disclose the OHIO DIVISION’s action.

33. ACE MORTGAGE also disclosed a Stipulation and Consent Agreement (“Stipulation”) between the Florida Office of Financial Regulation (“FLORIDA OFFICE”), ACE MORTGAGE, and Richard M. Hall (“HALL”), the President of ACE MORTGAGE. The Stipulation noted several violations of Florida law relating to mortgage banking. ACE MORTGAGE and HALL agreed to cease and desist from the prohibited actions, were required to take certain corrective action, and were fined \$7,500 by the FLORIDA OFFICE. The Stipulation was executed by ACE MORTGAGE and HALL on July 15, 2004, and by the FLORIDA OFFICE on July 27, 2004.

34. ACE MORTGAGE should have answered “Yes” to Question #8 of the 2005 Renewal Application and should have included the action in the 2005 Renewal Application along with the information it submitted regarding the action by HUD. ACE MORTGAGE therefore violated Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) in connection with its 2005 Renewal Application when it answered “No” to Question #8 and did not disclose the FLORIDA OFFICE’s action against ACE MORTGAGE and HALL.

35. ACE MORTGAGE also disclosed a Consent Agreement with the FLORIDA OFFICE that was executed by ACE MORTGAGE on December 7, 2005. The FLORIDA OFFICE found that ACE MORTGAGE had committed additional violations of Florida law and found that ACE MORTGAGE had not complied with the terms of the previous Stipulation. ACE MORTGAGE paid a \$25,000 fine in connection with this Consent Agreement.

36. ACE MORTGAGE also attached a copy of an “Assurance of Discontinuance” (“Assurance”) entered into by ACE MORTGAGE and the Colorado Uniform Consumer Credit Code Administrator (“COLORADO ADMINISTRATOR”). The Assurance was entered into as a result of ACE MORTGAGE’s failure to disclose GREGORY’s criminal conviction and the Consent Order with the OHIO DIVISION in ACE MORTGAGE’s application for a Colorado supervised lender’s license. The Assurance imposed a \$5,000 penalty for failing to disclose the actions. The Assurance was executed by ACE MORTGAGE on January 20,2005, and by the COLORADO ADMINISTRATOR on January 25,2005.

37. According to the Assurance, ACE MORTGAGE and the COLORADO ADMINISTRATOR had entered into another Assurance on September 9,2004 (“Prior Assurance”). The Prior Assurance was a result of ACE MORTGAGE’s failure to disclose the Stipulation between ACE MORTGAGE and the FLORIDA OFFICE. The Prior Assurance imposed a \$1,000 fine upon ACE MORTGAGE for failing to disclose the Stipulation with the FLORIDA OFFICE.

38. ACE MORTGAGE should therefore have answered “Yes” to part 1 of Question #8 of the 2005 Renewal Application and disclosed the Prior Assurance with the COLORADO ADMINISTRATOR. In addition, ACE MORTGAGE should have answered “Yes” to part 2 of Question #8 and disclosed the investigation which resulted in the second Assurance a few days after the submission of the 2005 Renewal Application.

39. ACE MORTGAGE’s failure to disclose the two Assurances with the COLORADO ADMINISTRATOR represents two violations of Neb. Rev. Stat.

§ 45-707(1)(d) (Supp. 2005), as it provided false and misleading information with respect to both actions in its 2005 Renewal Application.

40. In the July 29, 2005 letter, ACE MORTGAGE's counsel disclosed that the parent company of ACE MORTGAGE is Platinum Holdings, Inc. ("PLATINUM"). Prior to this time, ACE MORTGAGE had not disclosed its relationship with PLATINUM to the DEPARTMENT. ACE MORTGAGE's failure to list PLATINUM as its parent company in its 2005 Renewal Application represents a violation of Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005), as it provided false and misleading information as to its corporate structure in a document filed with the DEPARTMENT.

41. ACE MORTGAGE's failure to include the administrative actions on its 2004 and 2005 Renewal Applications, and the failure to include its parent company on its 2005 and 2006 Renewal Applications represents four violations of Neb. Rev. Stat. § 45-706(3) (Supp. 2005), as ACE MORTGAGE failed to materially update its existing license information on four Renewal Applications.

42. ACE MORTGAGE also included a copy of a "Notice of Intention to Revoke License" ("Notice") from the Rhode Island Department of Business Regulation, Division of Banking ("RHODE ISLAND DIVISION") with its 2006 Renewal Application. The Notice indicated that the RHODE ISLAND DIVISION intended to revoke ACE MORTGAGE's license for failing to notify the RHODE ISLAND DIVISION of PLATINUM's ownership of ACE MORTGAGE and PLATINUM's inadequate net worth. The notice was dated September 14, 2005.

43. Neb. Rev. Stat. § 45-711(9) (Supp. 2005) provides that a licensee must notify the DEPARTMENT within thirty days after the occurrence of any material development.

One of the material developments listed in the statute is the institution of license revocation procedures by any other state.

44. ACE MORTGAGE failed to notify the DEPARTMENT of the RHODE ISLAND DIVISION's notice prior to submitting its 2006 Renewal Application which occurred more than thirty days after the RHODE ISLAND DIVISION's action. ACE MORTGAGE therefore violated Neb. Rev. Stat. § 45-711(9)(c) (Supp. 2005), as it failed to give the DEPARTMENT timely notice of that action.

45. As set forth above, ACE MORTGAGE has been the subject of multiple regulatory actions by numerous jurisdictions. In several instances it has been fined twice by the same jurisdiction for similar violations. It also failed to comply with the terms of a Stipulation reached with the FLORIDA OFFICE. The frequency of administrative actions and the failure to disclose those actions to multiple jurisdictions suggests that ACE MORTGAGE is not being operated honestly, soundly, and efficiently in the public interest consistent with the purposes of the Act as required by Neb. Rev. Stat. § 45-706(1) (Supp. 2005).

46. The DEPARTMENT incurred a minimum of seven hundred fifty dollars 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. The statute further provides that an applicant for a mortgage banker license shall submit an application on forms provided by the DEPARTMENT.

2. 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.

3. Neb. Rev. Stat. § 45-706(3) (Supp. 2005) provides that mortgage banker licenses may be renewed annually by filing an application for renewal containing such information as the Director may require to indicate any material change in the original application or succeeding renewal applications.

4. Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) provides that the Director may suspend or revoke any license issued under the Act or impose an administrative fine if the licensee has made statements which, at the time or in the light of the circumstance in which they were made, were false or misleading in any material respect.

5. Neb. Rev. Stat. § 45-711(9) (Supp. 2005) provides that the licensee shall notify the Director in writing within thirty days after the occurrence of any material development. The institution of proceedings to revoke a license by another state is specifically noted as a material development requiring notice to the DEPARTMENT.

6. 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.

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

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

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

9. It is in the best interest of ACE MORTGAGE and in the best interest of the public for ACE MORTGAGE and the DEPARTMENT to resolve the issues included herein.

CONSENT AGREEMENT

The DEPARTMENT and ACE MORTGAGE agree as follows:

Stipulations: In connection with this Consent Agreement, ACE 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 ACE 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.

ACE MORTGAGE further represents as follows:

1. ACE 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. ACE 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. Within ten (10) days after the effective date of this Consent Agreement, ACE MORTGAGE shall pay a fine of five hundred dollars (\$500.00) for each of the two violations of Neb. Rev. Stat. §45-706 where ACE MORTGAGE failed to disclose PLATINUM as its parent company in its 2005 Renewal Application and its 2006 Renewal Application.

2. Within ten (10) days after the effective date of this Consent Agreement, ACE MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for each of the two violations of Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) where ACE MORTGAGE provided false and misleading information regarding the termination by HUD and the Consent Order by the OHIO DIVISION in its 2004 Renewal Application filed with the DEPARTMENT.

3. Within ten (10) days after the effective date of this Consent Agreement, ACE MORTGAGE shall pay a fine **of** one thousand dollars (\$1,000.00) for each of the five violations of Neb. Rev. Stat. § 45-707(1)(d) (Supp. 2005) where ACE MORTGAGE

provided false and misleading information regarding its relationship with PLATINUM, the Consent Order with the OHIO DIVISION, the two Assurances with the COLORADO ADMINISTRATOR, and the Stipulation with the FLORIDA OFFICE in its 2005 Renewal Application filed with the DEPARTMENT.

4. Within ten (10) days after the effective date of this Consent Agreement, ACE MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-711(9)(c) (Supp. 2005) where ACE MORTGAGE failed to notify the DEPARTMENT of a material development within thirty days regarding the institution of procedures to revoke its Rhode Island license.

5. Within ten (10) days after the effective date of this Consent Agreement, ACE MORTGAGE shall pay a fine of one thousand dollars (\$1,000.00) for the violation of Neb. Rev. Stat. § 45-706(1) where ACE MORTGAGE failed to operate its mortgage banking business in an honest, sound, and efficient manner.

6. Within ten (10) days after the effective date of this Consent Agreement, ACE MORTGAGE shall pay the investigation costs of the DEPARTMENT in the amount of seven hundred fifty dollars (\$750.00).

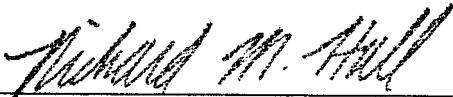
7. The total amount of the fine and investigation costs, ten thousand seven hundred fifty dollars (\$10,750.00) shall be payable in one check or money order to the DEPARTMENT.

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

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

DATED this 2nd day of August, 2006.

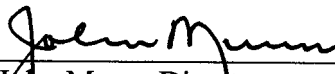
Ace Mortgage Funding, LLC

By: 
Richard A. Hall, President

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(317) 246-5740

DATED this 7th day of August, 2006.

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

By: 
John Munn, Director

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