

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

|   |   |                    |
|---|---|--------------------|
| IN THE MATTER OF:                       | ) |                    |
|   | ) | FINDINGS OF FACT   |
| Alliance Guaranty Mortgage Corporation, | ) | CONCLUSIONS OF LAW |
| 2821 South Parker Road, Suite 605,      | ) | AND                |
| Aurora, Colorado                        | ) | 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; Cum. Supp. 2006) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-710 (Reissue 2004), the DEPARTMENT has investigated the acts of Alliance Guaranty Mortgage Corporation, 2821 South Parker Road, Suite 605, Aurora, Colorado (“ALLIANCE”). As a result of such investigation, and being duly advised and informed in the matter, the Director and ALLIANCE enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

**FINDINGS OF FACT**

1. A mortgage banker license was issued on May 4, 2000, for ALLIANCE pursuant to Neb. Rev. Stat. § 45-705 (Cum. Supp. 2006).
2. On March 1, 2002, the DEPARTMENT issued a Notice of Expiration to ALLIANCE as authorized by Neb. Rev. Stat. § 45-707(4)(a) (Cum. Supp. 2006) as ALLIANCE did not submit a 2002 Mortgage Banker License Renewal Application.

3. On May 1, 2006, ALLIANCE submitted a Mortgage Banker License Application (“Application”) to the DEPARTMENT pursuant to Neb. Rev. Stat. § 45-705 (Cum. Supp. 2006).

4. In its Application, ALLIANCE disclosed a website with an address of www.allianceguaranty.com. When the DEPARTMENT reviewed the website in May 2006, it appeared that a Nebraska resident could submit an application on-line. The website did not contain any statement that ALLIANCE did not make loans in Nebraska, or a statement that it made loans in only those states in which it had licenses.

5. On May 22, 2006, the DEPARTMENT sent a letter to ALLIANCE in which it requested:

. . . Please provide us a list of all customers who have submitted a mortgage application with Alliance Guaranty Mortgage Corp. for property located in Nebraska from March 1, 2002 to the present. This list should include all applications received by the website and any other source.

6. ALLIANCE responded in a letter received by the DEPARTMENT on June 22, 2006. ALLIANCE stated that it had closed one loan secured by Nebraska property, and accepted four additional applications from Nebraska consumers since its license expired on March 1, 2002.

7. In a letter dated August 21, 2006, ALLIANCE stated that its website had been activated in 1999.

8. Neb. Rev. Stat. § 45-702(6) (Cum. Supp. 2006) defines the term “mortgage banker” as any person who “makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year.” The DEPARTMENT has determined that operating a website that is accessible to residents of Nebraska is an offer to make,

originate, service, negotiate, acquire, or sell more than ten loans, unless such website specifically indicates that those services are not available to Nebraska customers. The DEPARTMENT's interpretation of this statute was set forth on the DEPARTMENT's website in the Frequently Asked Questions section at all times relevant to this Order.

9. Neb. Rev. Stat. § 45-702(9) (Cum. Supp. 2006) defines the term "offer" as every attempt to provide, offer to provide, or solicitation to provide a mortgage loan or any form of mortgage banking business. Offer includes, but is not limited to, all general and public advertising, whether made in print, through electronic media, or by the Internet.

10. ALLIANCE has closed one loan since March 1, 2002. In addition, four more loan applications were accepted. ALLIANCE's activities since March 1, 2002 meet the definition of a mortgage banker as defined by Neb. Rev. Stat. § 45-702(6) (Cum. Supp. 2006). ALLIANCE, by closing one loan, accepting four additional applications, and offering to originate loans via the Internet committed at least six violations of Neb. Rev. Stat. § 45-705(1) (Cum. Supp. 2006) which provides that:

(n)o person shall act as a mortgage banker or use the title mortgage banker in this state unless he, she, or it is licensed or has registered with the department as provided in the Mortgage Bankers Registration and Licensing Act or is licensed under the Nebraska Installment Loan Act.

11. ALLIANCE does not hold, and never has held, a license issued pursuant to the Nebraska Installment Loan Act.

12. The DEPARTMENT incurred a minimum of five hundred dollars in investigation costs in this matter.

## CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-705 (Cum. Supp. 2006) 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(6) (Cum. Supp. 2006) defines the term “mortgage banker” as any person not exempt from the Act who, for compensation 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 ten or more mortgage loans in a calendar year.

3. Neb. Rev. Stat. § 45-702(9) (Cum. Supp. 2006) defines the term “offer” as every attempt to provide, offer to provide, or solicitation to provide a mortgage loan or any form of mortgage banking business. Offer includes, but is not limited to, all general and public advertising, whether made in print, through electronic media, or by the Internet.

4. Neb. Rev. Stat. § 45-706(1) (Cum. Supp. 2006) 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.

5. Neb. Rev. Stat. § 45-706(1) (Cum. Supp. 2006) 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.

6. Neb. Rev. Stat. § 45-717.01(2) (Cum. Supp. 2006) 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 ALLIANCE acted as a mortgage banker without a license. Operating without a license is itself a violation of the Act. Moreover, ALLIANCE is operating a website that is promoting its proposed mortgage banking business. ALLIANCE's decision to operate a mortgage banking business and to use a website to solicit and conduct business without a license raises serious questions regarding ALLIANCE'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 ALLIANCE has violated the Act and that proceedings to deny ALLIANCE'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. 2006).

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 ALLIANCE, and the best interest of the public, for ALLIANCE and the DEPARTMENT to resolve the issues included herein.

## CONSENT AGREEMENT

The DEPARTMENT and ALLIANCE agree as follows:

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

ALLIANCE further represents as follows:

1. ALLIANCE 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. ALLIANCE 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, ALLIANCE shall pay a fine of one thousand dollars (\$1,000.00) for each of the five

violations of Neb. Rev. Stat. § 45-705 (Cum. Supp. 2006), in which ALLIANCE acted as a mortgage banker without the required license.

2. Within ten (10) days after the effective date of this Consent Agreement, ALLIANCE shall pay the investigation costs of the DEPARTMENT in the amount of five hundred dollars (\$500.00).

3. The total amount of the fine and investigation costs, five thousand five hundred dollars (\$5,500.00), shall be payable in one check or money order to the DEPARTMENT.

4. Within three (3) business days of receipt of the fine and investigation costs, the DEPARTMENT shall issue a Mortgage Banker License to ALLIANCE for the current licensing period to expire on March 1, 2007.

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

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

DATED this 22 day of September, 2006.

**Alliance Guaranty Mortgage Corporation**

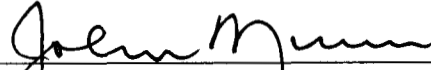
By:

  
William Skufca, Chief Executive Officer

2821 South Parker Road, Suite 605  
Aurora, Colorado 80014  
(303) 785-2800

DATED this 26<sup>th</sup> day of September, 2006.

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

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

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