

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	
Mega Capital Funding, Inc.)	FINDINGS OF FACT
26637 Agoura Road)	CONCLUSIONS OF LAW
Suite 100)	AND
Calabasas, California)	CONSENT AGREEMENT
)	

NMLS No. 303203

THIS MATTER comes before the Nebraska Department of Banking and Finance (“Department”), by and through its Director, pursuant to its authority under the Residential Mortgage Licensing Act, Neb. Rev. Stat. §§ 45-701 to 45-754 (Reissue 2021; LB 92, 2023) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-741 (Reissue 2021), the Department has examined the books, accounts, and records of Mega Capital Funding, Inc. (“Mega”), 26637 Agoura Road, Suite 100, Calabasas, California. As a result of that examination and being duly advised and informed in this matter, the Director and Mega enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. The Nationwide Mortgage Licensing System and Registry (“NMLS”) is an online licensing system created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The NMLS allows an entity to submit mortgage loan originator license applications, renewals, and amendments to multiple state regulators through one online system. The Department requires that mortgage banker license applications, request

for renewals, and amendments be submitted via the NMLS pursuant to its authority under Neb. Rev. Stat. § 45-748 (Reissue 2021).

2. The NMLS assigns a unique identifier to each entity who creates a filing on the NMLS. The unique identifier allows regulators to track an entity across state lines and from company to company over time. Mega was assigned the unique identifier No. 303203.

3. Mega submitted an original application for Mortgage Banker License (“License”) to the Department via the NMLS on a Company Form on October 6, 2021.

4. The Department approved Mega for a Mortgage Banker License on October 15, 2021. The license has been annually renewed on or before December 31 since that time.

5. Pursuant to Neb. Rev. Stat. § 45-741 (Reissue 2021), the Department conducted an examination of Mega, dated July 6, 2023, through the State Examination System (“SES”).

6. In connection with the examination, Mega listed John Kosoyan, Vice President of Compliance and Risk, as the Point of Contact (“POC”) to represent Mega in coordinating the submission of required books and records of Mega to the Department. The POC is also responsible for attending meetings and interviews with Department examiners, as necessary to obtain information relating to the management, practices, and procedures of Mega, and to discuss the ongoing examination. Where the POC may not always be the person most knowledgeable or the person most capable to attend such meetings or interviews, or to obtain such required information, the POC is responsible for coordinating and ensuring that management or other personnel of Mega, as required by their individual responsibilities, are made available to the Department’s examiners, so that the Department may conduct a complete examination.

7. Department examiners requested information in connection with the examination, which included loan files, policies and procedures, and information relating to information technology and cybersecurity.

8. Mega, through the POC, failed to provide the information relating to the policies and procedures of Mega, including information technology and cybersecurity policies and procedures, to the Department's examiners.

9. On July 17, 2023, William Lawrence, as Consumer Finance Counsel for the Department, sent correspondence to the POC regarding the requirement of Mega to provide all requested documentation needed for the Department to conduct the examination.

10. On July 17, 2023, Mega provided a response to the follow-up request, stating that the full file was uploaded to the SES, along with the information technology and cybersecurity policies and procedures.

11. Department examiners reviewed all of the books and records, including the additional information that had been uploaded into SES in response to the Department's July 17, 2023, correspondence, in accordance with standard examination procedures.

12. Department examiners coordinated with the POC to schedule an examination exit meeting with Mega to discuss the findings and overall examination. This exit meeting was scheduled for one hour, on July 24, 2023, at 12:00 P.M. Central Time, via telephone. The POC provided this date and time to the Department's examiner as a time period for which he would be available.

13. During the exit meeting, the POC chose to conclude the meeting prior to the completion of the exit meeting, and after less than half of the agreed upon time period had passed. The POC then declined to make himself available for further questions or discussion and stated that all questions relating to information technology or cybersecurity matters should be referred to Mega's IT Manager, Carlos Ramos ("Ramos"), whom the POC had failed to include in the exit meeting.

14. Department examiners attempted to contact Ramos to obtain answers to their questions relating to information technology and cybersecurity matters and to conclude the exit meeting with Mega. Ramos failed to respond to these communication attempts or to schedule a meeting with the Department. As a result, the Department examiners were unable to conclude the exit meeting.

15. The Department issued a Report of Examination (“Report”), which was transmitted to Mega via SES on September 6, 2023, as a Notice of Investigation or Inquiry, pursuant to Neb. Rev. Stat. § 45-741 (Reissue 2021) and required a response on or before September 27, 2023.

16. The Report is confidential, pursuant to Neb. Rev. Stat. § 45-741(12) (Reissue 2021) and Neb. Rev. Stat. § 84-712.05 (Cum Supp 2022). References to items within the Report may be made in a non-specific manner to protect the confidentiality of the Report. The Report was transmitted to Mega, and Mega is, or should be, aware of all specific items contained therein.

17. The Report detailed various violations of the Act and deficiencies with the board of director’s oversight and management, the cybersecurity program, the compliance program, and the financial condition of Mega.

18. The Report included five different Matters Requiring Attention (“MRAs”), regarding critical deficiencies relating to the cybersecurity program and compliance program, as Mega failed to implement and maintain appropriate policies and procedures relating to information technology and cybersecurity, and relating to compliance with federal laws, rules, and regulations.

19. The Department has listed these MRAs within the examination information contained within SES.

20. The Report detailed failures of management to implement and maintain required policies and procedures, and to conduct critical oversight functions of Mega’s operations.

21. The Report listed two separate violations of specific statutory sections within the Act, which included invoice discrepancies for amounts charged to borrowers and the filing of inaccurate call reports. The Report provided recommendations to cure these violations through remediation activities by Mega.

22. Mega failed to provide a response to the Report by September 27, 2023, regarding the findings of the Report or any remediation taken by Mega to cure the noted violations.

23. Mega has failed to provide material responses to the MRAs listed on SES.

24. On or about September 22, 2023, Mega was provided an invoice for the examination costs incurred by the Department in connection with the examination, in the amount of Seven Thousand Seven Hundred and Twenty-One Dollars and Twenty-Five Cents (\$7,721.25).

25. As of the date of this Order, Mega has failed to submit payment for these costs to the Department.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-741(1) (Reissue 2021) provides that the Director may examine documents and records maintained by a licensee and that the Director may investigate alleged violations of the Act, any federal law governing residential mortgage loans, and rules or regulations under the Act.

2. Neb. Rev. Stat. § 45-741(5) (Reissue 2021) provides that the Director may send a notice of investigation or inquiry request for information to a licensee or registrant, and that such licensee or registrant shall respond within twenty-one calendar days. Each day beyond that time that a licensee or registrant fails to respond shall constitute a separate violation of the Act.

3. Neb. Rev. Stat. § 45-740(1)(m) (Reissue 2021) provides that a licensee shall not assess any fees against a borrower other than those which are reasonable and necessary, including actual charges incurred in connection with the loan.

4. Neb. Rev. Stat. § 45-726 (Reissue 2021) provides that each licensed mortgage banker shall submit mortgage reports of condition, through the NMLS, in form and containing such information as the Department may require.

5. Neb. Rev. Stat. § 45-742(1)(a) provides that the Director may suspend or revoke, or impose an administrative fine for each separate violation of the Act if the Director finds that the licensee has materially violated the Act, rules and regulations promulgated under the Act, any order promulgated under the Act, or any other state or federal law applicable to the conduct of the licensee's business.

6. Neb. Rev. Stat. § 45-742(1)(e) provides that the Director may suspend or revoke, or impose an administrative fine for each separate violation of the Act if the Director finds that the licensee has refused to permit an examination or has refused or failed to comply with Neb. Rev. Stat. § 45-741(5).

7. Neb. Rev. Stat. § 45-742(6) provides that the Director may, following a hearing, suspend or revoke any license issued under the Act, and the Director may impose an administrative fine for each separate violation of the Act. No revocation, suspension, cancellation, or expiration of a license shall affect civil acts committed before the revocation, suspension, cancellation, or expiration or liability for any fines which may be levied against the licensee or any of its officers, directors, shareholders, partners, or members for acts committed before the revocation, suspension, cancellation, or expiration.

8. Neb. Rev. Stat. § 45-743(1) through (3) provide the Director may impose an administrative fine of not more than five thousand dollars for each separate violation of the Act

and the costs of the investigation. If a person fails to pay an administrative fine and costs of investigation, a lien in the amount of such fine and costs may be imposed upon all assets and property of such person in this State. The failure to pay such fine and costs shall constitute a separate violation of the Act.

9. Neb. Rev. Stat. § 8-606 (Reissue 2022) provides that following the examination of a financial institution, which includes a licensee or person subject to the Residential Mortgage Licensing Act, the Department shall bill the financial institution for the costs of the examination.

10. Neb. Rev. Stat. § 8-607 (Reissue 2022) provides that the Director may impose a fine against a financial institution that has failed to pay examination costs or other expenses related to an examination within thirty days after billing, for each day that the financial institution is in arrears. The section further provides that the Director may suspend or revoke the charter or license of a financial institution that is in arrears for sixty days or more.

11. Neb. Rev. Stat. § 45-752 (Reissue 2021) provides that the Act shall be liberally construed so as to effectuate its purposes.

12. Neb. Rev. Stat. § 45-753 (Reissue 2021) provides that application for a mortgage banker license pursuant to the Act shall constitute sufficient contact with this State for the exercise of personal jurisdiction in any action arising under the Act.

13. 16 CFR 314 is a federal rule requiring financial institutions to develop, implement, and maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information, as required by federal law under 15 U.S.C. 6801(b) and 6805(b)(2).

14. Based upon Findings of Fact Nos. 21 and 22, the Director concludes that Mega has violated Neb. Rev. Stat. § 45-740(1)(m).

15. Based upon Findings of Fact Nos. 21 and 22, the Director concludes that Mega has violated Neb. Rev. Stat. § 45-726.

16. Based upon Findings of Fact Nos. 8 through 23, inclusive, the Director concludes that Mega has violated Neb. Rev. Stat. § 45-742(1)(a).

17. Based upon Findings of Fact Nos. 5 through 15, inclusive, the Director concludes that Mega has violated Neb. Rev. Stat. § 45-742(1)(e).

18. Based upon Findings of Fact Nos. 5 through 20, inclusive, the Director concludes that Mega has violated federal laws, rules, and regulations, including 16 CFR 314.

19. Based on Findings of Fact Nos. 24 and 25, Mega has failed to pay the required examination fees to the Department, as required under Neb. Rev. Stat. § 8-606.

20. The facts listed in the Findings of Fact constitute a sufficient basis for the Director to have determined that Mega has violated the Act, and that an administrative fine of not more than Five Thousand Dollars (\$5,000.00) for each separate violation, plus the costs of investigation, should be imposed in accordance with Neb. Rev. Stat. § 45-741 and Neb. Rev. Stat. § 45-743.

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

22. It is in the best interests of Mega, and it is in the best interests of the public, for Mega and the Department to resolve the issues included herein.

CONSENT AGREEMENT

The Department and Mega agree as follows:

Stipulations: In connection with this Consent Agreement, Mega 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 July 6, 2023 examination and the Report, with the exception of remediation recommendations noted in regard to the violations of the Act and satisfactory resolution of the MRAs. 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.

Mega further represents as follows:

1. Mega 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. Mega 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. Mega shall have and retain qualified management. Each member of management shall have the qualifications and experience commensurate with assigned duties and responsibilities at a Nebraska-licensed mortgage banker company and shall be provided appropriate written authority from the owner of Mega to implement the provisions of this Order. Management shall include all appropriate executive and senior officers and managers.

2. Within thirty days of the effective date of this Order, Mega will take the remediation actions recommended by the Department in connection with the violations noted in the Report.

3. Within thirty days from the effective date of this order, Mega shall engage an independent third party, or multiple independent third parties, as may be required to provide the assessments detailed herein, acceptable to the Department, that possesses appropriate expertise and qualifications to analyze and assess Mega's management and staffing needs, performance, and compensation, including, but not limited to, its ability to: (i) comply with the requirements of this order; (ii) operate Mega in a safe and sound manner; (iii) comply with applicable laws and regulations; and (iv) implement all appropriate and required policies and procedures necessary for Mega to operate in compliance with state and federal laws. Prior to execution, a copy of such third party's proposed engagement letter and a description of the third party's expertise and qualifications shall be provided to the Department. The engagement shall require that such third party's analysis and assessment be summarized in a written report to Mega ("Management Study") within 90 days from the date of engagement. Any extensions of this 90 day deadline must be pre-approved, in writing, by the Department.

4. Within thirty days from the receipt of the Management Study, Mega shall prepare an acceptable written Management Plan that among other things: (i) addresses the findings of the Management Study; (ii) presents a plan of action in response to each recommendation contained in the Management Study, and a time frame for completing each action; and (iii) establishes procedures to review and update the Management Plan at least annually from the effective date of this Order.

5. A copy of the Management Study and Management Plan and any subsequent modifications thereto shall be submitted to the Department for review and comment. Within thirty days from receipt of any comment from the Department, and after consideration of all such comments, Mega shall approve the Management Plan, which approval shall be formalized in written form, signed by the owner or appropriate executive officer of Mega. Thereafter, Mega and

its owner, officers, and employees shall implement and follow the Management Plan. It shall remain the responsibility of Mega to fully implement the Management Plan within the specified time frames. In the event the Management Plan, or any portion thereof, is not implemented, Mega shall immediately advise the Department, in writing, of specific reasons for deviating from said Management Plan.

6. On or before December 31, 2023, Mega will provide to the Department a material response, in writing, to the MRAs identified in the Report and on SES, which details the specific steps, action plans, programs, policies, and procedures that will be implemented in order to effectively resolve the outstanding issues contained therein, and the time frames in which these will be implemented. If third party vendors will be contracted with, all relevant details concerning the identity of the third party, the scope of work to be performed, the cost of the work to be performed, and any and all deadlines for the work to be performed, must be provided as a part of the required material response.

7. On or before March 1, 2024, Mega shall have resolved all outstanding MRAs identified in the Report and on SES. In the event Mega is unable to resolve any outstanding MRA on or before March 1, 2024, Mega shall immediately advise the Department, in writing, of specific reasons for being unable to do so.

8. All written communications to the Department may be made and delivered via electronic mail to dob.mortgage@nebraska.gov or via physical delivery to the Department's main office location at 1526 K Street, Suite 300, Lincoln, Nebraska 68508.

9. On or before March 1, 2024, the Department will schedule a subsequent examination of Mega to determine Mega's compliance with this Order.

10. Within ten days after the effective date of this Consent Agreement, Mega shall pay the examination invoice issued on September 22, 2023, in the amount of Seven Thousand Seven

Hundred and Twenty-One Dollars and Twenty-Five Cents (\$7,721.25) to the Department. The examination invoice shall be paid in a manner provided for on the face of the examination invoice.

11. Within ten days after the effective date of this Consent Agreement, Mega shall pay a total fine in the amount of Fifteen Thousand Dollars (\$15,000.00) to the Department for the violations of the Act, as noted in this Findings of Fact, Conclusions of Law, and Consent Agreement.

12. Within ten days after the effective date of this Consent Agreement, Mega shall pay investigation costs incurred by the Department in the amount of Five Thousand Dollars (\$5,000.00) to the Department.

13. Mega shall pay the fine and costs to the Department through the NMLS. An invoice will be created within the system and placed on the NMLS Record of Mega. A corresponding license item will also be set on the NMLS Record, indicating that there is an outstanding invoice to be paid. If Mega prefers to pay the fine and costs outside of the NMLS, it may inform the Department of this preference and then make the payment by check, money order, or electronically to the Department via ACH. The Department will provide ACH payment instructions upon request.

14. Within ten days of the effective date of this Consent Agreement, Mega will disclose this Consent Agreement in the Disclosure Questions and Disclosure Explanation sections of its NMLS record.

15. The Department will upload a copy of this Consent Agreement to the NMLS Regulatory Actions Tab of Mega's NMLS record.

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

17. If at any time, the Department determines that Mega has committed any other violations of the Act, the Department may take any action available to it under the Act.

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

DATED this 13th day of November, 2023.

MEGA CAPITAL FUNDING, INC

DocuSigned by:

Yong Sok Na

By: 81388E7A1BB5421...

Yong Sok Na, President and Owner
26637 Agoura Road, Suite 100
Calabasas, California 91302

DATED this 13th day of November, 2023.



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

DocuSigned by:

Kelly Lammers

By: 81A8ACE4898B41D...

Kelly Lammers, Director

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