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STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES
550 WEST SEVENTH AVENUE, SUITE 1940
ANCHORAGE, ALASKA 99501

In the Matter of:)
)
KM Capital Management Inc)
)
Respondent)
Case No. 5000-09-007

CONSENT ORDER

I. INTRODUCTION

The Alaska Department of Commerce, Community, and Economic Development, Division of Banking and Securities, ("Division") administers the Alaska Mortgage Lending Regulation Act, Alaska Statutes ("AS") 06.60. Having conducted an investigation under AS 06.60.250, the Division finds as follows:

II. FACTUAL ALLEGATIONS

2.1. Respondent.

A. KM Capital Management Inc., ("Respondent") maintains a principal place of business at 3300 C Street, Suite 106, Anchorage, Alaska.

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1 **3.4. Definition of Mortgage Licensee.** Under AS 06.60.990(18), "mortgage licensee"
2 means a mortgage lender licensee or a mortgage broker licensee.

3 **3.5. Licensing for Existing Industry Participants.** Under sec. 10, ch. 50, SLA 2007,
4 and 3 AAC 14.090, a person who was engaging on June 30, 2008, in activities for which a
5 license is required under AS 06.60 was not required to comply with the licensing requirements
6 of AS 06.60 until March 1, 2009.

7 **3.6. Business License as Indicator of Industry Participation on June 30, 2008.**
8 Under sec. 10, ch. 50, SLA 2007 and 3 AAC 14.090, the Division considers a person to be
9 engaging in activities for which a license was required under AS 06.60 on June 30, 2008, if the
10 person was operating as a mortgage broker, mortgage lender, or originator on June 30, 2008
11 under a current business license issued under AS 43.70 for that purpose.

12 **3.7. Application to Internet Activities.** Under AS 06.60.890, AS 06.60 applies to a
13 person if the person is engaging in the activities regulated by AS 06.60 by using an Internet
14 website from within or outside the state.

15 **3.8. Business from Outside this State.** Under 3 AAC 14.030, a person doing business
16 from outside this state under AS 06.60.010(a) includes a person doing business via the Internet,
17 through the mail or a private delivery service, by telephone, or by other means of interstate
18 communication.

19 **3.9. Operating in this State.** Under 3 AAC 14.035, a person operates as a mortgage
20 broker, mortgage lender, small mortgage lender, originator, or small mortgage originator in this
21 state if the person communicates with a resident of this state or a person present in this state,
22 whether in person, in writing, via the Internet, through the mail or a private delivery service, by
23 telephone, or by other means of intrastate or interstate communication.

1 **IV. AGREEMENT AND ORDER**

2 **4.1. Parties' Intent.** The parties intend this agreement to be a full and final settlement
3 of the violations described above.

4 **4.2. Jurisdiction.** It is agreed that the Division has jurisdiction over the subject matter
5 of the activities described above.

6 **4.3. Voluntarily Entered.** Respondent has freely and voluntarily entered into this
7 Consent Order.

8 **4.4. Fine/Reimbursement.** Respondent agrees to pay to the Division a fine of
9 \$13,766.28 and reimbursement of investigative expenses of \$450.00 for a total payment of
10 \$14,216.28 due in payments of minimum \$2,000.00 a month commencing the signing of this
11 Consent Order in the form of a check made payable to the State of Alaska, delivered to the
12 attention of Linette Lacy, Investigator, Department of Commerce, Community, and Economic
13 Development, Division of Banking and Securities 550 West Seventh Avenue, Suite 1940,
14 Anchorage, Alaska 99501.

15 **4.5. Payment Due Date.** Payment under paragraph 4.4 is due (shall be postmarked)
16 no later than thirty days after this fully-executed Consent Order is delivered to Respondent.

17 **4.6. Authority to Execute Order.** The undersigned warrant that they have full power
18 and right to execute this Consent Order on behalf of the parties.

19 **4.7. Representatives/Successors.** This Consent Order shall be binding on all
20 employees, agents, officers, directors, and other representatives, successors, or assigns of
21 Respondent.

22 **4.8. Waiver of Hearing.** Respondent has been informed of its right to a hearing
23 before an administrative law judge, and has waived its right to a hearing and any administrative

1 and judicial review of the Consent Order or the issues raised in this matter. Respondent
2 understands and agrees that it is relieving the Division of the burden of proving the facts
3 admitted in this Consent Order.

4 **4.9. Non-compliance with Order.** Respondent understands that its failure to abide by
5 the terms and conditions of this Consent Order may provide grounds for the denial of licensure
6 or for further legal action by the Division, including an action to revoke or suspend licensure of
7 Respondent or its originators. If Respondent fails to perform its obligations under this Consent
8 Order, Respondent shall reimburse the Division for its costs, including attorney's fees, incurred
9 in pursuing such legal action.

10 **4.10. Agreement Read and Understood/Advice of Counsel.** Respondent has read
11 and understands this Consent Order in its entirety, having had an unrestricted opportunity to
12 obtain the advice of counsel in regard to the meaning of this Consent Order.

13 **4.11. Amendment.** This Consent Order may be modified only by written amendment
14 signed by both parties.

15 **4.12. Effective Date.** This agreement is effective when signed by the Division
16 Director.

KM Capital Management Inc.

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20 DATED: 08/10/09

/s/ Justin Kintz

By: [Justin Kintz]

Its: [President]

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ACKNOWLEDGMENT

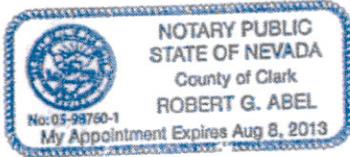
STATE OF Nevada)

: ss.

COUNTY OF Clark)

I HEREBY CERTIFY that on the 10th day of August, 2009, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared Justin Kintz, known to me to be the person whose name is subscribed to this Consent Order, who stated that he is the President of KM Capital Management Inc., and is authorized to sign on its behalf, and acknowledged that he executed the same voluntarily and of his own will for the uses and purposes set forth therein.

SUBSCRIBED AND SWORN TO before me this 10th day of August 2009; /s/ Robert G. Abel Notary Public in and for the County of Clark State of Nevada. My commission expires: 08/08/2013.



State of Alaska Department of Commerce,
Community, and Economic Development
Division of Banking and Securities

LH: LH

DATED: 08-17-09

By: /s/ Lorie L. Hovanec

Lorie L. Hovanec, Director

Contact Person:
Ms. Linette Lacy, Investigator
Alaska Department of Commerce, Community,
and Economic Development
Division of Banking and Securities
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