COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2008-AH-208
ADMINISTRATIVE ACTION NO. 08-PPC-0195

DEPARTMENT OF FINANCIAL INSTITUTIONS COMPLAINANT

VS.

FALCON CAPITAL FUNDING, LLC RESPONDENT

AGREED ORDER

BACKGROUND AND FACTUAL FINDINGS

1. The Department of Financial Institutions ("DFI") is responsible for regulating and licensing mortgage loan companies and mortgage loan brokers doing business in Kentucky in accordance with the provisions of KRS Chapter 286.8, the Mortgage Loan Company and Mortgage Loan Broker Act.

2. Respondent is not currently licensed as a mortgage loan broker or mortgage loan company pursuant to Chapter 286.8 of the Kentucky Revised Statutes, nor does it hold any claims of exemption pursuant to KRS 286.8-020(3).

3. Respondent was previously authorized to transact business in Kentucky as a mortgage loan broker or mortgage loan company under a KRS 286.8-020 claim of exemption at 5214 Maryland Way, Suite 214, Brentwood, Tennessee 37027. Respondent surrendered that claim of exemption on May 9, 2007. Respondent's KRS 286.8-020 claim of exemption authorized Respondent to conduct business solely from the

Brentwood, Tennessee location. Respondent was not authorized to conduct business from any other location.

4. In July 2007, DFI received a complaint against Respondent regarding questionable practices by one of Respondent's loan officers conducting business on behalf of Respondent in Somerset, Kentucky. An investigation was initiated.

5. On September 7, 2007, Respondent applied for a license as a mortgage loan broker at a principal location of 3326 Aspen Grove Drive, Suite 160, Franklin, Tennessee 37067. In that application, Respondent indicated that it intended to maintain a branch location at 213 South Main, Somerset, Kentucky 42501.

6. On September 12, 2007, DFI sent Respondent a letter indicating that the branch location in Somerset, Kentucky must be registered as a branch pursuant to KRS 286.8-100. DFI informed Respondent that it must complete a branch application and submit a four hundred dollar ($400) branch application fee in order to obtain a branch registration in Somerset, Kentucky. Respondent did not respond to DFI's letter.

7. On January 4, 2008, Respondent was notified by letter that its application had been deemed abandoned due to Respondent's failure to submit a complete application and to otherwise respond to DFI's correspondence.

8. On January 24, 2008, a subpoena was issued to Respondent, requesting a list of all Kentucky loans submitted by, worked on by, obtained by, serviced by, attempted by, turned down by, currently being processed by, closed by, funded by, or brokered by Respondent since January 1, 2005.

9. Upon review of the lists submitted by Respondent and other documents obtained during DFI's investigation, it was discovered that Respondent unlawfully brokered and closed at least ninety-three (93) Kentucky mortgage loans from a location in Somerset, Kentucky between October 2005 and February 2008. It was further discovered that at least 333 additional Kentucky mortgage loans were unlawfully attempted, turned down, or closed by Respondent between October 2005 and February 2008.

10. On May 23, 2008, DFI issued an Administrative Complaint and Order to Cease and Desist against Respondent alleging violation of KRS 286.9-030(1), KRS 286.8-100, and KRS 286.8-220(2)(b).

11. Respondent timely responded to the Complaint and Order to Cease and Desist, and maintains that it did not intend to violate Kentucky law. Rather, Respondent states that it relied in good faith on an exemption letter dated July 1, 2005 for its authority to conduct business in Kentucky. Respondent further maintains that it immediately ceased doing business in Kentucky upon receipt of the Complaint and Order to Cease and Desist.

AGREEMENT AND ORDER

The Department of Financial Institutions and Falcon Capital Funding, LLC in the interest of economically and efficiently resolving the violations set forth in the foregoing Background and Factual Findings, agree as follows:

1. Falcon Capital Funding, LLC, agrees to and shall pay a fine in the amount of five thousand dollars ($5,000) prior to the execution of this Order, which shall be in the form of a certified check or money order made payable to "Kentucky State Treasurer" and mailed to the Department of Financial Institutions, Attn: Jessica Sharpe, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

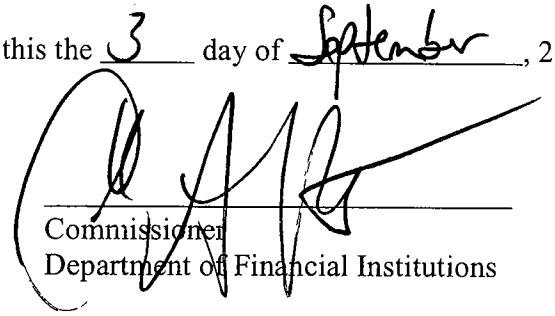
2. Falcon Capital Funding, LLC agrees to and shall refund $3,610.95 to borrower, representing all fees paid to Falcon Capital Funding, LLC on the December 7, 2006, loan.

3. Falcon Capital Funding, LLC, agrees to and shall be ordered to permanently cease the transaction of any business in Kentucky as a mortgage loan broker or mortgage loan company for a period of ten (10) years from the date of this Order. Falcon Capital Funding, LLC, shall not be eligible to apply for a license, registration, or claim of exemption as a mortgage loan broker or mortgage loan company until the expiration of the ten (10) year period set forth above.

4. In regard to this matter, Falcon Capital Funding, LLC, waives its right to demand a hearing, at which Falcon Capital Funding, LLC, would be entitled to legal representation, to confront and cross examine witnesses for the Department of Financial Institutions, and to present evidence on its own behalf, or to otherwise appeal or set aside this Order. Further, Falcon Capital Funding, LLC consents to and acknowledges the jurisdiction of the Department of Financial Institutions over this matter and that this Agreement is a matter of public record and may be disseminated as such.

5. This Agreed Order shall constitute the Final Order in this matter.

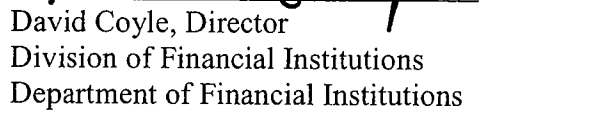
IT IS SO ORDERED on this the 3 day of September, 2008.



Commissioner
Department of Financial Institutions

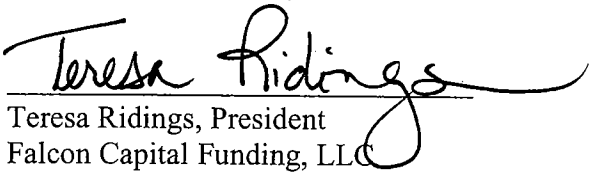
Consented to:

This 3 day of Sept, 2008



David Coyle, Director
Division of Financial Institutions
Department of Financial Institutions

This 14th day of August, 2008



Teresa Ridings, President
Falcon Capital Funding, LLC

STATEMENT OF AUTHORIZATION

I, **Teresa Ridings**, state on behalf of Falcon Capital Funding, LLC, a limited liability company organized in Tennessee, that I have read the foregoing Agreed Order; that I know and fully understand its contents; that I am a manager authorized to enter into and execute this Agreed Order on behalf of Falcon Capital Funding, LLC, that Falcon Capital Funding, LLC, agrees freely and without threat of coercion of any kind to comply with the terms and conditions stated herein; and that Falcon Capital Funding, LLC, voluntarily agrees to enter into this Agreed Order, expressly waiving any right to a hearing on the matters described herein.

By: Teresa Ridings
Teresa Ridings, Managing Member
Falcon Capital Funding, LLC

STATE OF Tennessee)
)
COUNTY OF Williamson)

On this the 14th day of August, 2008, before me Teresa Ridings, the undersigned officer, **Teresa Ridings**, did personally appear and acknowledge herself to be a Managing Member of Falcon Capital Funding, LLC, and that she, being authorized to do so, entered into and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand.

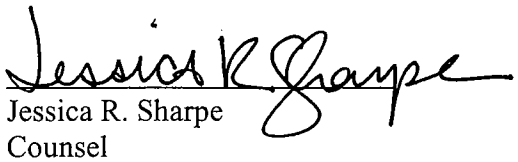
Cindie R. Robinson
Notary Public
Date Commission Expires: 2-12-11

CINDE L. ROBINSON
STATE OF TENNESSEE NOTARY PUBLIC
COMM. EXP. 2-12-11
WILLIAMSON COUNTY

Certificate of Service

I, Jessica R. Sharpe, hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 3rd day of Sept., 2008 by certified mail, return receipt requested, to the following:

FALCON CAPITAL FUNDING
Attn: Teresa Ridings
3326 Aspen Grove Drive, Suite 160
Franklin, TN 37067



Jessica R. Sharpe
Counsel
Department of Financial Institutions
1025 Capital Center Drive
Frankfort, Kentucky 40601
(502) 573-3390