

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 12F-BD016-SBD

3 **SELL WHOLESALE FUNDING, LLC AND**
4 **CHRISTOPHER E. EYMANN, MANAGING**
5 **MEMBER**

CONSENT ORDER

6 1649 E. Bethany Home Road
7 Phoenix, AZ 85016

8 Respondents.

9 On September 15, 2011, the Arizona Department of Financial Institutions ("Department")
10 issued an Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order,
11 alleging that Respondent had violated Arizona law. Wishing to resolve this matter in lieu of an
12 administrative hearing, Respondents consent to the following Findings of Fact and Conclusions of
13 Law, and consents to the entry of the following Order.

14 FINDINGS OF FACT

15 1. Respondent Sell Wholesale Funding, Inc. ("SWF") is an Arizona limited liability
16 company that is not and was not, at any time material herein, authorized to transact business in
17 Arizona as a mortgage banker within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of SWF's
18 business is that of making, negotiating, or offering to make or negotiate a mortgage loan secured by
19 Arizona real property within the meaning of A.R.S. § 6-941(5).

20 2. Christopher E. Eymann ("Mr. Eymann") is the Managing Member of SWF and is not
21 and was not, at any time material herein, authorized to transact business in Arizona as a mortgage
22 banker within the meaning of A.R.S. §§ 6-941, *et seq.*

23 3. SWF and Mr. Eymann are not exempt from licensure as a mortgage banker within the
24 meaning of A.R.S. § 6-942.

25 4. On or about March 31, 2011, the Department issued a letter to Respondents,
26 requesting information and a response regarding possible unlicensed mortgage lending activity in the
state of Arizona. The letter requested that Respondents provide the information to the Department

1 by April 14, 2011.

2 5. On or about April 20, 2011, the Department received a letter from Mr. Eymann, dated
3 April 14, 2011, informing the Department that SWF was set up to “lend Hard Money to people
4 buying at trustee sale and REOs.” The letter stated that SWF made one loan in 2011, and further
5 stated, “We plan to lend on single family, multi family, and commercial. The loans will be 6 month
6 notes to non owner occupied borrowers.” Copies of the 2011 loan documents were provided, which
7 listed SWF as the Lender.

8 6. On or about June 17, 2011, the Department sent an email message to Mr. Eymann,
9 requesting that Respondents provide to the Department copies of “any and all information regarding
10 any and all Arizona loans, including HUD-1 Settlements for any and all other Arizona activity.”

11 7. On or about June 21, 2011, the Department sent an email message to Mr. Eymann,
12 requesting again the documents requested in its June 17, 2011 email, and stating that the request was
13 based upon a review of Maricopa County records. The message requested that the documents be
14 provided by 5:00 p.m. on that date, June 21, 2011.

15 8. On or about June 21, 2011, the Department received the requested loan documents
16 from Respondents for loans made by SWF in 2010. A review of the documents revealed that SWF
17 was listed as the lender. Among the documents reviewed were documents for three (3) loans where
18 the HUD-1 Settlement Statements (“HUD-1s”) list SWF as the Lender, and indicate that lender fees
19 were paid to SWF, totaling three thousand seven hundred eight dollars (\$3,708.00).

20 9. On or around August 10, 2011, the Department sent an email to Mr. Eymann,
21 requesting copies of further documents, based upon the appearance of a number of SWF loan
22 documents on the Maricopa County Recorder’s docket, recorded during June and July, 2011, not
23 previously disclosed.

24 10. On or around August 22, 2011, the Department received the copies of additional
25 SWF loan documents from Respondents as requested. The Department’s review of said documents,
26 dated from May 20, 2011 through August 2, 2011, revealed that SWF was listed as the lender, and

1 that the HUD-1 for one (1) loan showed SWF received an adjusted origination charge totaling
2 \$1,000.00.

3 11. These Findings of Fact shall also serve as Conclusions of Law.

4 **CONCLUSIONS OF LAW**

5 1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to
6 regulate all persons engaged in the mortgage banker business and with the enforcement of statutes,
7 rules, and regulations relating to mortgage bankers.

8 2. By the conduct set forth above, SWF and Mr. Eymann have violated the following:

9 a. A.R.S. § 6-943(A) by acting in the capacity of a mortgage banker in the state
10 of Arizona, as defined by A.R.S. § 6-941(5), without having first applied for
11 and obtained a mortgage banker license from the Superintendent pursuant to
12 A.R.S. Title 6, Chapter 9; and

13 b. A.R.S. § 6-947(B) by accepting compensation, as defined by A.R.S.
14 § 6-941(2), for arranging for or negotiating a mortgage banking loan or
15 mortgage loan when not licensed pursuant to A.R.S. Title 6, Chapter 9.

16 3. Respondents do not meet any of the exemptions to the licensing requirements set
17 forth in A.R.S. § 6-942.

18 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
19 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
20 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
21 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
22 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) an order
23 to pay restitution of any fees earned in violation of A.R.S. §§ 6-941, *et seq.*, pursuant to A.R.S.
24 §§ 6-131(A)(3) and 6-137; and (4) an order or any other remedy necessary or proper for the
25 enforcement of statutes and rules regulating mortgage bankers pursuant to A.R.S. §§ 6-123 and
26 6-131.

1 **ORDER**

2 1. SWF and Mr. Eymann shall immediately stop all mortgage banker activity in Arizona
3 until such time as Respondents have obtained a mortgage banker license from the Superintendent as
4 prescribed by A.R.S. § 6-943.

5 2. SWF and Mr. Eymann shall immediately pay to the Department a civil money penalty
6 in the amount of **seven thousand dollars (\$7,000.00)**. SWF and Mr. Eymann are jointly and
7 severally liable for payment of the civil money penalty.

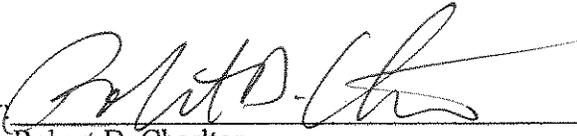
8 3. SWF and Mr. Eymann shall comply with all Arizona statutes and rules regulating
9 Arizona mortgage bankers (A.R.S. §§ 6-941, *et seq.*).

10 4. The provisions of this Order shall be binding upon Respondents, their employees,
11 agents, and other persons participating in the conduct of the affairs of Respondents.

12 5. This Order shall become effective upon service, and shall remain effective and
13 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
14 or set aside.

15 SO ORDERED this 3 day of November, 2011.

16 Lauren Kingry
17 Superintendent of Financial Institutions

18 
19 By: Robert D. Charlton
20 Assistant Superintendent of Financial Institutions

21 **CONSENT TO ENTRY OF ORDER**

22 1. Respondents acknowledge that they have been served with a copy of the foregoing
23 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
24 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

25 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of
26 the foregoing Findings of Fact, Conclusions of Law, and Order.

1 Robert D. Charlton, Assistant Superintendent
Lori Mann, Senior Examiner
2 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

5
6 Christopher E. Eymann
Managing Member
Sell Wholesale Funding, LLC
7 4105 N. 20th Street, #210
Phoenix, AZ 85016
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