

ORDER SUMMARY – Case Number: C-12-1067

Name(s): First Southern Capital Development Corporation and Michael Jones

Order Number: C-12-1067-13-CO01

Effective Date: July 3, 2013

License Number: 165952 (company) NMLS ID: 165953
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.

License Effect: Company license revoked

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: Permanent

| | | | | |
|----------------------------------------|----------|-------------------------------------------------------|--------------------------------------------------------------------------|------------------|
| Investigation Costs | \$434.76 | Due | Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Date 7/3/2013 |
| Fine | \$2,500 | Due | Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Date 7/3/2013 |
| Assessment(s) | \$ | Due | Paid <input type="checkbox"/> Y <input type="checkbox"/> N | Date |
| Restitution | \$ | Due | Paid <input type="checkbox"/> Y <input type="checkbox"/> N | Date |
| Judgment | \$ | Due | Paid <input type="checkbox"/> Y <input type="checkbox"/> N | Date |
| Satisfaction of Judgment Filed? | | <input type="checkbox"/> Y <input type="checkbox"/> N | | |
| No. of Victims: | | | | |

Comments: Fine and fee paid

RECEIVED

JUL 02 2013

Enforcement Unit
Division of Consumer Services
Dept. of Financial Institutions

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

IN THE MATTER OF DETERMINING:
Whether there has been a violation of the
Consumer Loan Act of Washington by:

No.: C-12-1067-13-CO01

FIRST SOUTHERN CAPITAL
DEVELOPMENT CORPORATION,
NMLS # 165952, and
MICHAEL W. JONES,
President and 100% Owner.

CONSENT ORDER AND ORDER
WITHDRAWING FINAL ORDER
C-12-1067-13-FO01

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and First Southern Capital Development Corporation and Michael W. Jones (Respondents), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW) and RCW 34.05.060 of the Administrative Procedure Act based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-12-1067-13-SC01 (Statement of Charges), entered January 29, 2013, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully

CONSENT ORDER
C-12-1067-13-CO01

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 resolve the Statement of Charges. Respondents are agreeing not to further contest the Statement of
2 Charges or any resolution thereof in consideration of the terms of this Consent Order.

3 Based upon the foregoing:

4 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
5 of the activities discussed herein.

6 **B. Waiver of Hearing.** It is AGREED that Respondents were informed of the right to a
7 hearing before an administrative law judge, and waived their right to a hearing by not timely filing a
8 hearing request.

9 **C. Withdrawal of Petition for Review.** It is AGREED that Respondent Jones, by his
10 signature below, withdraw his Petition for Review presently pending before the Director.

11 **D. Withdrawal of Final Order.** It is AGREED that Final Order C-12-1067-13-FO01 is
12 withdrawn in its entirety.

13 **E. Consumer Loan Company License Revocation.** It is AGREED that the license to
14 conduct business as a consumer loan company issued to Respondent First Southern Capital
15 Development Corporation is revoked.

16 **F. Fine.** It is AGREED that Respondent First Southern Capital Development Corporation
17 shall pay a fine to the Department in the amount of \$2,500 in the form of a cashier's check made
18 payable to the "Washington State Treasurer" upon entry of this Consent Order.

19 **G. Investigation Fee.** It is AGREED that Respondent First Southern Capital Development
20 Corporation shall pay to the Department an investigation fee of \$434.76 in the form of a cashier's
21 check made payable to the "Washington State Treasurer" upon entry of this Consent Order. The Fine
22 and Investigation Fee may be paid together in one \$2,934.76 cashier's check made payable to the
23 "Washington State Treasurer."

[Redacted]

Date 6/21/2013

Michael W. Jones
Individually

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 3rd DAY OF July, 2013



[Redacted]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted]

Steven C. Sherman
Financial Legal Examiner Supervisor

Approved by:

[Redacted]

Charles E. Clark
Enforcement Chief

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
whether there has been a violation of the
Consumer Loan Act of Washington by:

No.: C-12-1067-13-FO01

FIRST SOUTHERN CAPITAL
DEVELOPMENT CORPORATION,
NMLS #165952, and
MICHAEL W. JONES, President and 100%
Owner,

FINAL ORDER

Respondents.

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I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On January 29, 2013, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Collect Investigation Fee, and Maintain Records (Statement of Charges) against First Southern Capital Development Corporation (Respondent First Southern) and Michael W. Jones (Respondent Jones). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated February 4, 2013, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondents (collectively, accompanying documents).

On February 20, 2013, the Department served the Statement of Charges and accompanying documents on Respondents by Federal Express overnight delivery and First-Class mail at 1408 Resolves Lane, Charlotte, North Carolina. The documents sent via Federal Express overnight

1 delivery were undeliverable. The documents sent via First-Class mail were not returned to the
2 Department by the United States Postal Service. On March 19, 2013, the Department received
3 confirmation from the Charlotte, North Carolina Branch Office of the United States Post Office that
4 mail addressed to Respondents was being delivered to the Resolves Lane address.

5 On February 28, 2013, the Department served the Statement of Charges and accompanying
6 documents on Respondent First Southern's Registered Agent (Corporation Service Company) by
7 First-Class mail and Federal Express overnight delivery at 300 Deschutes Way Southwest, Suite 304,
8 Tumwater, Washington. On March 1, 2013, the documents sent via Federal Express overnight
9 delivery were delivered. The documents sent via First-Class mail were not returned to the
10 Department by the United States Post Office.

11 On March 19, 2013, the Department served the Statement of Charges and accompanying
12 documents by First Class mail on Respondents at 29050 S. Western Ave. Suite 252, Rancho Palos
13 Verdes, California (the last address of Respondent First Southern on file with the Nationwide
14 Mortgage Licensing System). The documents sent via First-Class mail were not returned to the
15 Department by the United States Post Office. On March 19, 2013, the Department received
16 confirmation from the Ranchos Palos Verdes, California Branch Office of the United States Post
17 Office that mail addressed to Respondents was being delivered to the Ranchos Palos Verdes address.

18 Respondents did not request an adjudicative hearing within twenty calendar days after the
19 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
20 in WAC 208-08-050(2).

21 B. Record Presented. The record presented to the Director's designee for her review and
22 for entry of a final decision included the following:

- 23 1. Statement of Charges, cover letter dated February 4, 2013, Notice of Opportunity
24 to Defend and Opportunity for Hearing, and blank Application for Adjudicative
Hearing for Respondents, with documentation for service.

- 1
- 2 2. Post Office Address Verification Request form completed by Charlotte, North
3 Carolina Branch Office of the United States Post Office received by the
4 Department of March 19, 2013.
- 5 3. Post Office Address Verification Request form completed by Ranch Palos Verdes,
6 California Branch Office of the United States Post Office received by the
7 Department of March 19, 2013.

8 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
9 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

10 II. FINAL ORDER

11 Based upon the foregoing, and the Director's designee having considered the record and being
12 otherwise fully advised, NOW, THEREFORE:

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent First Southern Capital Development Corporation's license to conduct
15 business of a consumer loan company is revoked.
- 16 2. Respondent First Southern Capital Development Corporation and Respondent
17 Michael W. Jones jointly and severally pay a fine of \$10,000.
- 18 3. Respondent First Southern Capital Development Corporation and Respondent
19 Michael W. Jones jointly and severally pay an investigation fee of \$434.76.
- 20 4. Respondent First Southern Capital Development Corporation, its officers,
21 employees, and agents maintain records in compliance with the Act and keep the
22 Department apprised of the location of the books, records and other information
23 relating to Respondent First Southern Capital Development Corporation's
24 consumer loan company business, and the name, address and telephone number of
the individual responsible for maintenance of such records in compliance with the
Act.

25 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
26 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
27 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
28 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
29 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The

1 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
2 Reconsideration a prerequisite for seeking judicial review in this matter.

3 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the
4 date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
5 written notice specifying the date by which it will act on a petition.

6 C. Stay of Order. The Director's designee has determined not to consider a Petition to
7 Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
8 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

9 D. Judicial Review. Respondents have the right to petition the superior court for judicial
10 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
11 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

12 E. Non-compliance with Order. If Respondents do not comply with the terms of this
13 order, the Department may seek its enforcement by the Office of the Attorney General to include the
14 collection of the fines and fees imposed herein. The Department also may assign the amounts owed
15 to a collection agency for collection.

16 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
17 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
18 attached hereto.

19 DATED this 20th day of April, 2013



20 STATE OF WASHINGTON
21 DEPARTMENT OF FINANCIAL INSTITUTIONS

22 [Redacted Signature]
23 DEBORAH BORTNER
24 Director
Division of Consumer Services

1 **1.2 Failure to Maintain Surety Bond.** On or about May 17, 2012, the Department received
2 notice from Liberty Mutual Insurance Company (Liberty Mutual) that Respondent First Southern's
3 surety bond would be cancelled effective April 19, 2012. On June 30, 2012, Respondent First
4 Southern's surety bond was cancelled. As of the date of this Statement of Charges, Respondents
5 have failed to notify the Department of the cancellation of the surety bond, and have failed to provide
6 the required surety bond or an approved alternative.

7 **1.3 Failure to Notify Department of Significant Developments.** Respondents failed to notify
8 the Department within ten days after the receipt of notification from Liberty Mutual of the
9 cancellation of Respondent First Southern's surety bond.

10 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
11 Act by Respondents continues to date.

12 II. GROUNDS FOR ENTRY OF ORDER

13 **2.1 Requirement to Obtain and Maintain a Surety Bond.** Based on the Factual Allegations set
14 forth in Section I above, Respondents are in apparent violation of RCW 31.04.045(6) by failing to
15 maintain a surety bond approved by the Director.

16 **2.2 Requirement to Notify Department of Significant Developments.** Based on the Factual
17 Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-620-
18 490(2)(e) for failing to update Respondent First Southern's MU1 record through the NMLSR.

19 **2.3 Requirement to Maintain Records.** Pursuant to RCW 31.04.155 and WAC 208-620-520, a
20 licensee shall keep and use in the business such books, accounts, records, papers, documents, files,
21 and other information as will enable the director to determine whether the licensee is complying with
22 the Act and with the rules adopted by the director under the Act. The director shall have free access
23 to such books, accounts, records, papers, documents, files, and other information wherever located.

1 Every licensee shall preserve the books, accounts, records, papers, documents, files, and other
2 information relevant to a loan for at least twenty-five months, or the period of time required by
3 federal law, whichever is longer, after making the final entry on the loan at a location approved by
4 the director.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3) and WAC 208-620-570(6),
7 the Director may revoke a license if a licensee has failed to maintain its bond.

8 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
9 up to one hundred dollars per day upon the licensee for any violation of the Act.

10 **3.3 Authority to Collect Cost of Investigation.** Pursuant to RCW 31.04.145(3) and WAC 208-
11 620-590, every licensee investigated by the Director or the Director's designee shall pay to the
12 Director the cost of the investigation, calculated at the rate of \$69.01 per hour.

13 **IV. NOTICE OF INTENTION TO ENTER ORDER**

14 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
15 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
16 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and
17 RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

18 **4.1** Respondent First Southern Capital Development Corporation's license to conduct
19 business as a consumer loan company be revoked.

20 **4.2** Respondent First Southern Capital Development Corporation and Respondent Michael
21 W. Jones jointly and severally pay a fine in the amount of \$10,000.

22 **4.3** Respondent First Southern Capital Development Corporation and Respondent Michael
23 W. Jones jointly and severally pay investigation costs which total \$434.76 as of the date
24 of this Statement of Charges.

