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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

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

S-02-272-03-CO01

CONSENT ORDER

Private Lender Funding, Inc.; The Moyer  
Company; and Timothy Moyer;

Respondents

The Securities Division of the Department of Financial Institutions, pursuant to the Securities Act of Washington, and Respondents Private Lender Funding, Inc.; The Moyer Company; and Timothy Moyer do hereby enter into this CONSENT ORDER in settlement of the above captioned matter and Respondents Private Lender Funding, Inc.; The Moyer Company; and Timothy Moyer do hereby consent to the entry of this consent order. Respondents Private Lender Funding, Inc.; The Moyer Company; and Timothy Moyer neither admit nor deny the Securities Administrator's allegations.

The Securities Administrator finds as follows:

**FINDINGS OF FACT**

**I.**

Private Lender Funding, Inc. is a Washington corporation with its principal place of business at 104 S Freya Ste 211A, Green Flag Building, Spokane, WA 99202.

**II.**

1 Timothy P. Moyer is president of Private Lender Funding, Inc. He is also the owner of The  
2 Moyer Company, a Washington sole proprietorship in the commercial real estate brokerage business.

3 III.

4 **Offering of investments**

5 Since 1996, Moyer, The Moyer Company, and Private Lender Funding, Inc. have been in the  
6 business of arranging commercial loans. The financing Moyer, The Moyer Company, and Private  
7 Lender Funding, Inc. arranged came primarily from individual investors. Moyer became acquainted  
8 with most of these investors through referrals. Private Lender Financing, Inc. also maintained a  
9 website which advertised for both investors and borrowers. From 1996 to the present, Moyer, The  
10 Moyer Company, and Private Lender Funding, Inc. arranged for funding of more than \$4.5 million in  
11 loans from 24 or more investors.

12  
13 The investments Moyer, The Moyer Company, and Private Lender Funding, Inc. offered to  
14 investors were attractive because they offered high returns in short periods with what Moyer, The  
15 Moyer Company, and Private Lender Funding, Inc. implied were limited risks. Most of the loans  
16 made were to be repaid in less than a year. All of the loans bore high interest rates, from 15% to 17%.  
17 The investors received loan fees ranging from 3% to 10%. The loans were made to high-risk  
18 borrowers who had been unable to obtain bank or other conventional financing. The Moyer Company  
19 and Private Lender Funding, Inc. received fees from 3%-8% for brokering the loans. These fees also  
20 applied when the loans were renewed. The brokerage fees on loan extensions were somewhat lower.

21  
22 Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged for loans of various  
23 types for borrowers. The types of loans they arranged included purchase money loans secured by first  
24 liens on real property, improvements loans secured by second or subsequent liens on real property,

1 factoring loans secured by accounts receivable, and unsecured payroll loans. Because the terms of the  
2 loans were short, and because the borrowers had few other refinancing options, the loans arranged by  
3 Moyer, The Moyer Company, and Private Lender Funding, Inc. were often renewed one or more  
4 times. Some of the borrowers had multiple loans of multiple types with various lenders, all of those  
5 loans having been arranged by Moyer, The Moyer Company, and Private Lender Funding, Inc. Some  
6 of the loans were for the development of real estate. In those cases, a number of investors each  
7 received first liens on different parcels of undeveloped land, which were to be part of a planned  
8 development. The potential value of the parcels could be realized only to the extent that infrastructure  
9 improvements were added to the development as a whole.

10 Most of the investors were not in the business of commercial lending. One lender suffers from  
11 Alzheimer's disease and is in a nursing home. Others were children or siblings of other investors, but  
12 had no experience of their own in the commercial loan business. The investors relied on the services  
13 of Moyer, The Moyer Company, and Private Lender Funding, Inc. in connection with their loans.

14 In some cases, Moyer, The Moyer Company, or Private Lender Funding, Inc. formally guaranteed  
15 payment to an investor. In all cases, Moyer, The Moyer Company, or Private Lender Funding, Inc.  
16 undertook to arrange refinancing or make other efforts to ensure that investors were paid. Moyer, The  
17 Moyer Company, or Private Lender Funding, Inc. acted as exclusive collection agent for the investor  
18 in some cases. Moyer, The Moyer Company, and Private Lender Funding, Inc. also performed other  
19 services for investors: screened borrowers, prepared paperwork, obtained borrower signatures on  
20 documents, arranged for payment of prepaid interest through escrow companies, and made collection  
21 efforts. In some cases Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged for  
22 one investor to lend money to another so that the money could be lent to a borrower. In other cases,  
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1 Moyer, The Moyer Company, and Private Lender Funding, Inc. lent money directly to borrowers who  
2 had already borrowed from one or more investors. Moyer, The Moyer Company, and Private Lender  
3 Funding, Inc. also facilitated arrangements in which investors swapped or otherwise modified their  
4 security interest in properties for mutual benefit. Moyer formed at least four companies for the  
5 purpose of developing or using assets acquired when borrowers defaulted. Some of those companies  
6 have borrowed from investors in order to finance their development activities.

7 V.

8 **Misrepresentations and omissions in the sale of investments**

9  
10 Most investors received written loan proposals from Moyer, The Moyer Company, or Private Lender  
11 Funding, Inc. when making their initial investments. Some received credit reports. Some received title  
12 insurance reports. However, some investors were not informed of all the other investors who had  
13 outstanding loans with their borrower. Many were not informed that Moyer, The Moyer Company, and  
14 Private Lender Funding, Inc. would continue to arrange additional loans for the borrower for the same  
15 business or project, thereby reducing the borrower's ability to pay the earlier investors. Investors in loans  
16 secured by real estate or other collateral were led by Moyer, acting on behalf of The Moyer Company and  
17 Private Lender Funding, Inc., to believe that the value of the collateral was adequate to secure their loans.  
18 In fact, the value of the collateral was inadequate to protect the investor on many of the loans. Investors in  
19 development loans were not advised of all the risks associated with development loans, including the fact  
20 that the collateral for development loans was not sufficiently valuable, in its current unimproved state, to  
21 adequately secure the loans. Investors were not advised of the financial condition of The Moyer Company  
22 or Private Lender Funding, Inc. and the limitations on its ability to fulfill its guarantees or obligations to  
23 investors. Investors were not advised The Moyer Company or Private Lender Funding, Inc. had a conflict  
24 of interest between the companies' interest in maximizing revenue from brokerage fees and minimizing its

1 risks as an investor on its own behalf and its obligation to act for the benefit of investors to find loans where  
2 the risks did outweigh the potential rewards. Where borrowers were unable to pay loans to investors,  
3 Moyer, The Moyer Company, Private Lender Funding, Inc. sometimes acquired collateral at bargain prices  
4 and then created new business entities to hold and use those assets. Among those assets were a tile machine  
5 and a door and window installation company. Moyer and The Moyer Company have created at least two  
6 corporations to build houses on land that was foreclosed when the Moyer, The Moyer Company, and Private  
7 Lender Funding, Inc. borrower was unable to pay loans Moyer, The Moyer Company, and Private Lender  
8 Funding, Inc. arranged.

9 Investors relied on Moyer, The Moyer Company, and Private Lender Funding, Inc. to protect the  
10 investors' interest. In fact, Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged loans  
11 on behalf of borrowers with reckless disregard to the borrowers' ability to pay. A child care operation, for  
12 which Moyer, The Moyer Company, and Private Lender Funding, Inc. arranged loans, failed with more than  
13 \$600,000 worth of loans of investor funds outstanding. The loans Moyer, The Moyer Company, and Private  
14 Lender Funding, Inc. arranged for the child care business started with a loan to purchase a building with an  
15 antique business, which was followed by loans to convert the building to a child care facility, and then by  
16 loans to allow the business to make its payroll on time. At least fourteen investors had loaned money to the  
17 company through Moyer, The Moyer Company, and Private Lender Funding, Inc. When the business  
18 failed, only three investors were paid, as the collateral for the loans to the other investors was inadequate.  
19 The loan for one of those investors had been guaranteed by Moyer, The Moyer Company, and Private  
20 Lender Funding, Inc. Moyer, The Moyer Company, and Private Lender Funding, Inc. also arranged a series  
21 of loans to a single developer on several projects where the success of most of those projects depended on  
22 the successful completion of each of multiple phases in order to fund the completion of the project.  
23 Investors were told that the developer had an excellent track record of payment on an earlier development.  
24 This statement was misleading because the investors were not told that the payments were made from

1 holdbacks of the investors' money rather than from the profits of the developer or that the developer was  
2 still only in the early phases of that planned development. The developer failed, leaving multiple unfinished  
3 developments and many investors who were left with interests in property that was of little value without a  
4 large infusion of capital to complete the necessary infrastructure. Investors were not told that, although the  
5 collateral they received could only be effectively developed with the cooperation of the other investors,  
6 there was no participation agreement between the investors.

7  
8 V.

9 Neither The Moyer Company nor Private Lender Funding, Inc. is currently registered to sell its  
10 securities in the state of Washington and neither has previously been so registered.

11 VI.

12 Timothy P. Moyer is not currently registered as a securities salesperson or broker-dealer in the  
13 state of Washington and has not previously been so registered.

14 VII.

15 The Securities Administrator finds that the continued offering of investments in commercial loans  
16 in the manner described in Tentative Finding of Fact III and IV, presents a threat to the investing  
17 public.

18 Based upon the Findings of Fact above, the Securities Administrator makes the following  
19 Conclusions of Law:  
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21  
22 CONCLUSIONS OF LAW

23 I.

1 The offer and/or sale of investments in commercial loans described above constitutes the offer  
2 and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: note, investment contract,  
3 and investment in the risk capital of a business.

4 II.

5 The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration  
6 or notification of claim of exemption for such offer and/or sale is on file with the Administrator of  
7 Securities, state of Washington.

8 III.

9 Timothy Moyer, The Moyer Company, and Private Lender Funding, Inc. have each violated  
10 RCW 21.20.040 by offering and/or selling said securities while not registered as a securities  
11 salesperson or broker-dealer in the state of Washington.

12 IV.

13 The offer and/or sale of said securities was made in violation of RCW 21.20.010 because  
14 statements made to investors as described in Finding of Fact IV included misrepresentations of  
15 material fact or were misleading because they omitted facts that were necessary to make the  
16 statements made not misleading.  
17

18 **CONSENT ORDER**

19 The Securities Division and Private Lender Funding, Inc.; The Moyer Company; and Timothy  
20 Moyer have agreed upon a basis for resolution of the matters alleged and concluded in SDO and Private  
21 Lender Funding, Inc.; The Moyer Company; and Timothy Moyer each agree to the entry of this Consent  
22 Order pursuant to the Securities Act of Washington without admitting or denying the Securities  
23 Division's allegations and conclusions. Private Lender Funding, Inc.; The Moyer Company; and Timothy  
24

1 Moyer each acknowledge the Securities Division's jurisdiction over this matter and its authority to enter  
2 this order.

3 Based upon the foregoing:

4 IT IS AGREED AND ORDERED that Private Lender Funding, Inc.; The Moyer Company; and  
5 Timothy Moyer each cease and desist from sales of unregistered securities in violation of RCW  
6 21.20.140.

7 IT IS ALSO AGREED AND ORDERED that Timothy Moyer cease and desist from acting as an  
8 unregistered securities broker/dealer or salesperson in violation of RCW 21.20.040.

9 IT IS ALSO AGREED AND ORDERED that Private Lender Funding, Inc.; The Moyer Company;  
10 and Timothy Moyer each cease and desist from violation of RCW 21.20.010.

11 IT IS ALSO AGREED AND ORDERED that, pursuant to RCW 21.20.395, respondents Private  
12 Lender Funding, Inc.; The Moyer Company; and Timothy Moyer shall be jointly and severally liable for  
13 and shall pay the Securities Administrator a fine of Twenty Thousand (\$20,000), with the entire of  
14 amount of said fine suspended contingent upon reimbursement by the respondents Private Lender  
15 Funding, Inc.; The Moyer Company; and Timothy Moyer, according to the schedule contained in this  
16 order, of the Department of Financial Institutions's costs of investigating this matter and contingent upon  
17 continued compliance of the respondents Private Lender Funding, Inc.; The Moyer Company; and  
18 Timothy Moyer to with the provisions of this order. The Department of Financial Institutions'  
19 investigative costs in this matter total \$12,500. Respondents will reimburse the Department of Financial  
20 Institutions according to the following schedule: a payment of \$2,500 at the time of the entry of this  
21 order and payments of \$2,500 every three months thereafter until the full amount has been paid.  
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In consideration of the foregoing, Private Lender Funding, Inc.; The Moyer Company; and Timothy Moyer each withdraws their requests for hearing and waives their rights to a hearing on this matter and to judicial review of this Order under RCW 21.20.440.

WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

DATED this 29<sup>th</sup> day of January, 2003.

*Timothy Moyer*  
Timothy Moyer, Individually

*Deborah R. Bortner*  
Deborah R. Bortner  
Securities Administrator

Private Lender Funding by:

*Timothy Moyer Pres.*  
Timothy Moyer, President



The Moyer Company by:

*Timothy Moyer Pres.*  
Timothy Moyer, Principal

Approved as to form:

*C. Dean Little*  
C. Dean Little

Attorney for Timothy Moyer, Private Lender Funding, Inc. and the Moyer Company

Presented by:

*Suzanne Sarason*  
Suzanne Sarason

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Approved by:



Michael E. Stevenson  
Chief of Enforcement