

1 ARIZONA DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Activity of:

No. 21A-019-FIN

3 **SEAMUS CAPITAL, LLC**

ORDER TO CEASE AND DESIST

4 6417 E. Grant Road
5 Tucson, Arizona 85715

6 Respondent.

7
8 The Arizona Department of Insurance and Financial Institutions (“Department”)¹ has
9 received evidence that Seamus Capital, LLC (“Seamus” or “Respondent”) unlawfully acted as a
10 mortgage banker in Arizona without being licensed. Accordingly, the Director of the Department
11 (“Director”) makes the following Findings of Fact and Conclusions of Law and enters the
12 following Order pursuant to Arizona Revised Statutes (“A.R.S.”) § 6-137.

13 **This Order is effective at the time of mailing and remains effective and enforceable**
14 **unless it is stayed, modified, terminated, or set aside.** A.R.S. § 6-137(C).

15 Under A.R.S. Titles 6 and 41 and Arizona Administrative Code (“A.A.C.”) Title 20,
16 Chapter 4, Respondent is notified that it is entitled to a hearing to contest the allegations set forth
17 in this Order. *See* A.R.S. § 6-137(D). A notice of appeal or request for a hearing shall be filed
18 with the Department within thirty (30) days after receiving this Order and shall identify with
19 specificity the reason(s) why an administrative hearing is being sought in accordance with A.R.S.
20 § 41-1092.03(B).

21 If Respondent requests a hearing, the purpose of the hearing shall be to determine if
22 grounds exist for: (1) the issuance of this Order under A.R.S. § 6-137, directing Respondent to

23
24 ¹ The Department of Insurance, the Department of Financial Institutions (“DFI”), and the Arizona
25 Automobile Theft Authority merged on July 1, 2020, and are now the Department of Insurance
26 and Financial Institutions (“DIFI”). *See* A.R.S. § 6-101(5). Similarly, the DIFI Director now
exercises the powers once held by the DFI Superintendent. *See* A.R.S. §§ 6-101(6)–(7) and 6-110;
and A.R.S. §§ 20-101 through 20-102.

1 cease and desist from any unlawful conduct and to take the appropriate affirmative actions, within
2 the time prescribed by the Director, to correct the conditions resulting from the unlawful acts,
3 practices, and transactions; (2) the imposition of a civil monetary penalty under A.R.S. § 6-132;
4 and (3) any orders or remedies necessary or proper for the enforcement of statutes and rules
5 regulating mortgage brokers under A.R.S. §§ 6-123 and 6-131. The administrative hearing will be
6 held at the Office of Administrative Hearings in accordance with A.R.S. §§ 41-1092 through 41-
7 1092.12.

8 Respondent also has the right to request an Informal Settlement Conference (“ISC”)
9 pursuant to A.R.S. § 41-1092.06. If an ISC is requested, a person with the authority to act on
10 behalf of the Department will be present. By participating in the ISC, Respondent waives its right
11 to object to the participation of this Department representative in the final administrative decision
12 of this matter. Further, any statements, written or oral, made by Respondent or its representatives
13 at an ISC, including a written document created or expressed solely for the purpose of settlement
14 negotiations, are inadmissible in any subsequent administrative hearing.

15 **FINDINGS OF FACT**

16 1. Seamus is a limited liability company registered with the Arizona Corporation
17 Commission as an “Any legal purpose” business type.

18 2. Seamus is not licensed by the Department as a mortgage banker, or as any other
19 type of financial institution or enterprise.

20 3. Pablo Elias Hopkins (“Hopkins”) is the manager of Seamus. Hopkins has been an
21 Arizona licensed loan originator (License No. LO-0940513) since March 2, 2017, and he has been
22 sponsored and employed as a loan originator by Arizona mortgage banker Nova Financial and
23 Investment Corporation (“Nova”) (License No. BK-0902429) since July 26, 2017.

24 4. Seamus and Nova are separate entities, are not related in any way, and have no
25 working relationship.

26 5. In the calendar year 2020, Seamus made and closed six (6) separate loans using

1 Arizona real property as collateral for the loans. Those six (6) loans involved the following
2 properties and loan amounts:

- 3 a. 4436 N. 20th St., Phoenix, AZ 85016 (\$52,500);
- 4 b. 1908 W. Three Kings Rd., Vail, AZ 85641 (\$42,000);
- 5 c. 1947 Calle Guadalupe, Nogales, AZ 85621 (\$27,200);
- 6 d. 5726 E. 24th St., Tucson, AZ 85711 (\$76,000);
- 7 e. 2366-2368 E. Cameron Vista, Tucson, AZ 85713 (\$92,100); and
- 8 f. 9526 E. 42nd St., Tucson, AZ 85730 (\$185,000).

9 6. Seamus received compensation in the form of various fees in connection with
10 arranging for or negotiating each of those six (6) loans, including an upfront fee of 2% for
11 origination of those loans.

12 7. On September 16, 2020, the Department received an email from Hopkins wherein
13 Hopkins wrote the following [typed as written]:

14 Hello

15 my name is Pablo Elias Hopkins and I'm the manager of Seamus Capital
16 LLC, we are a financial service company that focuses on short term
17 financing for mostly Real Estate Investors. I'm trying to find out if we as
18 Seamus Capital LLC need to have any specific certification so that we
19 could be on compliance with the transactions that we do here in Arizona.

20 attached is a copy of the business plan and examples of some transactions
21 that we have completed recently.

22 please let me know if you need anything else to assist us on this questions
23 and thank you in advance.

24 8. On September 18, 2020, Department Examiner Jay DeArrastia ("DeArrastia")
25 replied to Hopkins via email and requested the following information: "Out of your entire
26 portfolio, how many of your loans are using Arizona real property as collateral? Also are there
any upfront costs for loans using Arizona real property for collateral?"

9. On September 21, 2020, Hopkins replied to DeArrastia's September 18, 2020 email

1 as follows [typed as written]: “currently we have 7 loans using AZ real property as collateral, and
2 there’s an upfront fee of 2% for origination.”

3 10. Based upon the correspondence received from Hopkins, the Department determined
4 that Seamus was engaged in unlicensed mortgage banker activities.

5 11. On September 22, 2020, the Department sent a letter to Seamus informing Seamus
6 of the unlicensed mortgage banker activities and inviting Seamus to “present ... any information
7 ... relevant and material to [the Department’s] determination.”

8 12. On October 5, 2020, an attorney representing Seamus sent a letter to the
9 Department containing the following passage: “This firm represents Seamus Capital, LLC
10 (“Seamus Capital”). We received your September 22 letter regarding Seamus Capital. As of the
11 date of this letter, Seamus Capital has voluntarily ceased operations.”

12 **CONCLUSIONS OF LAW**

13 13. Under A.R.S. Title 6, the Director has the authority and the duty to regulate all
14 persons engaged in the mortgage banker business and to enforce the statutes, rules, and regulations
15 relating to mortgage bankers.

16 14. Respondent’s conduct as alleged above constitutes a violation of the following
17 statutes and regulations governing mortgage bankers:

18 A.R.S. § 6-943(A) states:

19 A person shall not act as a mortgage banker if he is not licensed under
20 this article.

21 A.R.S. § 6-947(B) states:

22 A person is not entitled to receive compensation in connection with
23 arranging for or negotiating a mortgage banking loan or mortgage loan if
24 the person is not licensed pursuant to this article. A mortgage banker
25 shall not pay compensation to, contract with or employ as an
26 independent contractor a person who is acting as a mortgage broker or
mortgage banker but who is not licensed under this chapter.

1 A.R.S. § 6-941(5) defines “Mortgage banker” as:

2 [A] person who is not exempt under § 6-942 and who for compensation
3 or in the expectation of compensation either directly or indirectly makes,
4 negotiates or offers to make or negotiate a mortgage banking loan or a
5 mortgage loan.

6 A.R.S. § 6-941(6) defines “Mortgage banking loan” as:

7 [A] loan which is funded exclusively from the mortgage banker’s own
8 resources, which is directly or indirectly secured by a mortgage or deed
9 of trust or any lien interest on real estate located in this state and which
10 is created with the consent of the owner of the real property.

11 A.R.S. § 6-941(8) defines “Mortgage loan” as:

12 [A]ny loan, other than a mortgage banking loan, secured by a mortgage
13 or deed of trust or any lien interest on real estate located in this state and
14 created with the consent of the owner of the real estate.

15 A.R.S. § 6-941(2) defines “Compensation” as:

16 [A]nything of value or any benefit including points, commissions,
17 bonuses, referral fees, loan origination fees and other similar fees but
18 excluding periodic interest resulting from the application of the note rate
19 of interest to the outstanding principal balance remaining unpaid from
20 time to time.

21 A.A.C. R20-4-102(14) states:

22 “Engaged in the business of making mortgage loans,” as that phrase is
23 used in A.R.S. § 6-902, and “engaged in the business of making
24 mortgage loans or mortgage banking loans,” as that phrase is used in
25 A.R.S. § 6-942, mean the direct or indirect making of a total of more
26 than five mortgage banking loans or mortgage loans, or both in a
calendar year. Each loan counts only once as of its closing date. A
person is not “engaged in the business of making mortgage loans or
mortgage banking loans” if the person makes loans solely in commercial
finance transactions in which no more than 35% of the aggregate value
of all security taken by the investor on the closing date is a lien, or liens,
on real property.

A.A.C. R20-4-102(20) defines “Person” as:

[A] natural person or any legal or commercial entity including a
corporation, business trust, estate, trust, partnership, limited partnership,
joint venture, association, limited liability company, limited liability
partnership, or limited liability limited partnership.

1 15. Respondent violated A.R.S. § 6-943(A) by unlawfully conducting business as a
2 mortgage banker in Arizona without being licensed by the Department.

3 16. Respondent violated A.R.S. § 6-947(B) by receiving compensation in connection
4 with arranging for or negotiating mortgage banking loans or mortgage loans without being
5 licensed as a mortgage banker by the Department.

6 17. Under A.R.S. § 6-132, Respondent's violations of the aforementioned statute(s) are
7 grounds for a civil penalty against Respondent of not more than five thousand dollars (\$5,000.00)
8 for each violation per day.

9 18. The violations set forth above constitute grounds for: (1) the issuance of this Order,
10 under A.R.S. § 6-137, directing Respondent to cease and desist from the prohibited acts, practices,
11 or transactions and to take appropriate affirmative actions to correct the conditions resulting from
12 those prohibited acts, practices, or transactions, within the time prescribed by the Director; (2) the
13 imposition of a civil money penalty under A.R.S. § 6-132; and (3) any other orders or remedies
14 necessary or proper for the enforcement of the statutes and rules regulating mortgage bankers
15 under A.R.S. §§ 6-123 and 6-131.

16 **ORDER**

17 19. **Seamus shall immediately cease and desist from committing the violations** set
18 **forth in the Findings of Fact and Conclusions of Law.**

19 20. **Seamus shall immediately stop all mortgage banking activity in Arizona** until
20 such time as Respondent has obtained a mortgage banker license from the Department as
21 prescribed by A.R.S. § 6-941, *et. seq.*

22 21. **Seamus shall pay to the Department a civil money penalty in the amount of ten**
23 **thousand dollars (\$10,000.00) within thirty (30) days after this Order is mailed by the**
24 **Department.**

25 22. The provisions of this Cease and Desist Order shall be binding upon Seamus, its
26 employees, agents, representatives, and all other persons participating in the business affairs of

1 Seamus, as to mortgage banker activities in Arizona.

2 23. **This Cease and Desist Order shall become effective upon service**, and shall
3 remain effective and enforceable until such time as, and except to the extent that, it shall be stayed,
4 modified, terminated, or set aside by a court of competent jurisdiction or by the Director.

5 SO ORDERED this 5th day of **May**, 2021.

6
7 Evan G. Daniels, Director
 Arizona Department of Insurance and Financial Institutions

8
9 By: 
 Shane Foster, Deputy Director of Financial Institutions
10 Arizona Department of Insurance and Financial Institutions

1 **ORIGINAL** of the foregoing filed
2 this 5th day of **May**, 2021, in the office of:

3 Evan G. Daniels, Director
4 Attn: Ana Starcevic, Paralegal
5 Arizona Department of Insurance and Financial Institutions
6 100 North 15th Avenue, Suite 261
7 Phoenix, AZ 85007
8 Ana.Starcevic@difi.az.gov

9 **COPY** of the foregoing mailed/delivered same date to:

10 Tammy Seto, Division Manager
11 Jay DeArrastia, Financial Institutions Examiner
12 Attn: Ana Starcevic, Paralegal
13 Arizona Department of Insurance and Financial Institutions
14 100 North 15th Avenue, Suite 261
15 Phoenix, AZ 85007
16 Ana.Starcevic@difi.az.gov

17 **COPY** of the foregoing mailed by Certified Mail,
18 Return Receipt Requested, same date to:

19 Seamus Capital, LLC
20 Attn: Pablo Elias Hopkins
21 6417 E. Grant Road
22 Tucson, Arizona 85715
23 Respondent

9489 0090 0027 6155 1647 30

24 Seamus Capital, LLC
25 Statutory Agent: Juan Francisco Moreno
26 2415 E. Camelback Road, Suite 700
Phoenix, AZ 85016
Statutory Agent for Respondent

9489 0090 0027 6139 7385 51

Oscar S. Lizardi
Rusing Lopez & Lizardi
6363 N. Swan Road, Suite 151
Tucson, Arizona 85718
Attorney for Respondent

9489 0090 0027 6139 7385 68

27 *Ana Starcevic*

28 _____
29 Doc. # 9344296