

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

PITON, INC.
DBA KMS MORTGAGE
System ID No. Unlicensed

ENFORCEMENT CASE NO. 13-11826

Respondent.

_____ /

Issued and entered
on December 10, 2013
By Rhonda J. Fossitt
Senior Deputy Director

ORDER ACCEPTING STIPULATION

Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS) in this matter, the Senior Deputy Director finds and concludes that:

1. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. The Senior Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 (APA), as amended, MCL 24.201 *et seq.*, and the Mortgage Brokers, Lenders, and Servicers Licensing Act (Act), 1987 PA 173, MCL 445.1651 *et seq.*
3. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
4. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
5. All applicable provisions of the APA have been met.
6. Respondent violated Section 2(1) of the Act, MCL 445.1652(1), by acting as a mortgage broker without the requisite license.

Now therefore, based on the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

7. Respondent shall CEASE and DESIST from violating the Act.
8. Respondent shall pay a civil fine in the amount of \$1,000.00, which amount shall be made payable to the "State of Michigan" within 30 days after receipt of an invoice from DIFS.
9. The Senior Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Act. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.


Rhonda J. Fossitt
Senior Deputy Director

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STIPULATION TO ENTRY OF ORDER

Piton, Inc. dba KMS Mortgage, (Respondent) and the State of Michigan, Department of Insurance and Financial Services (DIFS), stipulate to the following:

1. Respondent and DIFS conferred for the purpose of resolving this matter.
2. At all pertinent times, Respondent was an unlicensed entity.
3. All parties have complied with the procedural requirements of the APA and the Act.
4. Respondent is owned and operated by one individual, Kevin Stackpoole.
5. Kevin Stackpoole is a licensed mortgage loan originator and a minority owner of King Financial, Inc. (King Financial), a licensed mortgage broker and lender.
6. During the years of 2010, 2011, and 2012, Stackpoole originated mortgage loans through King Financial.
7. During this time period, a portion of Stackpoole's compensation was paid directly to Respondent through three IRS Form 1099-Misc.
8. Respondent, Stackpoole, and King Financial knew or should have known that Section 2 of the Act, MCL 445.1652(1) provides that "[a] person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license under this act."
9. Section 1a(p)(ii) of the Act, MCL 445.1651a(p)(ii) defines a mortgage broker, in part, as someone who "[s]erves or offers to serve as an agent for a person who makes or offers to make mortgage loans."
10. Because King Financial, who makes or offers to make mortgage loans, paid compensation to Respondent through IRS Form 1099-Misc, Respondent was serving as an agent of King Financial and was, in turn, acting as a mortgage broker.

11. Because Respondent was acting as a mortgage broker under the terms and conditions of the Act, Respondent was required to be licensed.
12. Respondent agrees that it will CEASE and DESIST from operating in a manner that violates the Act.
13. Respondent agrees that it will pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$1,000.00. Respondent further agrees to pay the fine within 30 days after receipt of an invoice from DIFS.
14. Respondent understands and agrees that this Stipulation to Entry of Order will be presented to the Senior Deputy Director for approval.
15. The Senior Deputy Director may, in his sole discretion, decide to accept or reject this Stipulation to Entry of Order. If the Senior Deputy Director accepts the Stipulation to Entry of Order, Respondent waives the right to a hearing in this matter and consents to the entry of the Order Accepting Stipulation. If the Senior Deputy Director does not accept the Stipulation to Entry of Order, Respondent waives any objection to the Director holding a formal administrative hearing and making his decision after such hearing.
16. The Parties acknowledge and represent that: (a) each party has read this Stipulation to Entry of Order in its entirety and fully understands all of its terms and conditions and the ramifications and consequences thereof; (b) each party unconditionally consents to the terms of this Stipulation to Entry of Order; (c) each party has either consulted with or had ample opportunity to consult with legal counsel of their choosing prior to executing this Stipulation to Entry of Order; (d) each party has freely and voluntarily signed this Stipulation to Entry of Order; and (e) the consideration received by each party as described in this Stipulation to Entry of Order is adequate.
17. It is further stipulated that the amount of fines and/or fees has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of said fines and/or fees. Should Respondent fail to pay the fines and/or fees in accordance with the terms of this Stipulation and the Director's Order, the parties agree that an action will commence to determine if the Respondent has, in fact, failed to pay, and, if so, Respondent agrees that the fines and/or fees will immediately increase to the maximum amount allowed under the Act and shall be immediately due in full and the DIFS Director may pursue any available administrative or judicial remedies.
18. The signatories to this Stipulation to Entry of Order below represent and warrant that they have the legal capacity and authority to enter into this Stipulation to Entry of Order on behalf of the respective party and to bind the respective party to the promises and covenants contained herein.

IN WITNESS WHEREOF, the below signatories hereto have agreed to and executed this

Stipulation to Entry of Order, with the intent to be legally bound hereby.



Piton, Inc.
dba KMS Mortgage

11-26-2013

Date

DIFS Staff approve this stipulation and recommend that the Senior Deputy Director issue the above Order.



Scott Basel (P68335)
DIFS Staff Attorney

12-9-13

Date