

**STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Before the Commissioner of the Office of Financial and Insurance Regulation**

**In the matter of:**

**Financial Guaranty Insurance Company  
NAIC No. 12815**

**Enforcement Case No. 10-11120**

**Respondent**  
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**Issued and entered  
On January 19th 2011  
by Stephen R. Hilker  
Chief Deputy Commissioner**

**CONSENT ORDER AND STIPULATION**

**A. FINDING OF FACTS AND CONCLUSIONS OF LAW**

1. Financial Guaranty Insurance Company (“Financial Guaranty”) is a New York domiciled insurer licensed to transact insurance in the State of Michigan.
2. For an insurer, such as Financial Guaranty, to remain qualified for a certificate of authority it must meet certain statutory requirements including, not limited to Section 403 of the Michigan Insurance Code of 1956, as amended, (“Code”), MCL 500.403, and Section 410(2) and (3), MCL 410(2) and (3).
3. Financial Guaranty knew or had reason to know that Section 403 of the Code, MCL 500.403 provides that:

“A domestic, foreign, or alien insurer shall not be authorized to do business in this state or continue to be authorized to do business in this state if the insurer is not or does not continue to be safe, reliable, and entitled to public confidence.”

4. Financial Guaranty further knew or had reason to know that Section 410 of the Code, MCL 500.410, provides in part that:

“(2) To qualify for and maintain authority to transact insurance in this state on or after January 1, 1999, a domestic, foreign, or alien insurer shall possess and thereafter maintain unimpaired capital and surplus in an amount determined adequate by the commissioner to continue to comply

with section 403 but not less than \$7,000,000.00. The commissioner shall take into account the risk based capital requirements as developed by the national association of insurance commissioners in order to determine adequate compliance with section 403.

(3) In addition to the minimum capital and surplus specified in subsections (1) and (2), an insurer applying for an initial certificate of authority after July 21, 1965 in this state shall possess and maintain surplus or additional surplus in an amount determined by the commissioner adequate to comply with section 403 for the kind or kinds of insurance it writes or proposes to write, but in no event less than \$500,000.00.”

5. On or about November 30, 2009, the Office of Financial and Insurance Regulation (“OFIR”) sent a letter to Financial Guaranty notifying them of their non-compliance with Section 403, 410(2) and (3) of the Code and requested that Financial Guaranty submit a plan of compliance (a “Plan”) to restore their capital and surplus to the minimum requirements of Section 410(2) and (3) of the Code.
6. In January 2010, after discussions about the Plan and other matters, OFIR and Financial Guaranty informally agreed that Financial Guaranty would not write any new business in the State of Michigan until such time as Financial Guaranty was in compliance with Section 410(2) and (3) of the Code and if Financial Guaranty did not restore compliance with Section 410(2) and (3) of the Code by June 30, 2010, Financial Guaranty would voluntarily surrender their Certificate of Authority.
7. As of June 30, 2010, Financial Guaranty’s Quarterly Statement reported capital and surplus less than the levels required in Section 410(2) and (3) of the Code.
8. Financial Guaranty has failed to restore compliance with Section 403, and 410(2) and (3) of the Code by June 30, 2010.
9. To continue to be authorized in this State, the Commissioner of the Office of Financial and Insurance Regulation must be satisfied that the insurer is safe, reliable, and entitled to public confidence, as well as being satisfied that the insurer has met all other statutory requirements.
10. Section 436 of the Code, MCL 500.436 sets forth the standards that the Commissioner may consider, in addition to any other relevant standards, to determine if an insurer’s Certificate of Authority should be suspended, revoked, or limited.
11. Section 436a of the Code, MCL 500.436a sets forth the standards that the Commissioner may consider, in addition to any other relevant standards, to determine if an insurer is safe, reliable, and entitled to public confidence.

12. The Commissioner has reviewed Financial Guaranty's statutory financial statements and has considered recommendations of OFIR staff. Based upon that review, the Commissioner determines that Financial Guaranty fails to meet requirements for a Certificate of Authority because Financial Guaranty's June 30, 2010 and September 30, 2010 Quarterly Statement reported capital and surplus that is inadequate given Section 410 of the Code and the size of the insurer as measured by its assets, capital and surplus reserves, premium writings, insurance in force, and other appropriate criteria.
13. As a result, Financial Guaranty does not meet the requirements of capital and surplus requirements of Section 410 of the Code and is not, in the opinion of the Commissioner, safe, reliable, and entitled to public confidence, as required in Section 403 of the Code.

**B. ORDER**

Based upon the findings of fact and conclusions of law above, and Financial Guaranty Insurance Company's stipulation to said facts, it is hereby ORDERED that:

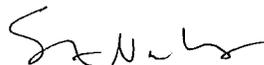
1. Financial Guaranty Insurance Company's Certificate of Authority is **SUSPENDED**.
2. Financial Guaranty Insurance Company's Certificate of Authority shall remain suspended until such time as Financial Guaranty is in compliance with Section 403, 410(2) and (3) of the Code and the Commissioner of the Office of Financial and Insurance Regulation notifies Financial Guaranty Insurance Company of the reinstatement of its Certificate of Authority.
3. Financial Guaranty Insurance Company shall immediately stop writing any new business in the State of Michigan. Financial Guaranty Insurance Company shall provide the Office of Financial and Insurance Regulation with written notification and receive prior written approval before modifying or refinancing any existing business in the State of Michigan.
4. Financial Guaranty Insurance Company shall continue to file quarterly and annual financial statements, pay any fees and taxes required to be paid under the Code.

OFFICE OF FINANCIAL AND  
INSURANCE REGULATION

By:   
Stephen R. Hilker  
Chief Deputy Commissioner

**C. STIPULATION**

FGIC acknowledges that the Commissioner has jurisdiction and authority to issue this Consent Order pursuant to the Insurance Code. FGIC hereby waives the right to a hearing in this matter if this Consent Order is issued. FGIC acknowledges that this Stipulation and Consent Order will be presented to the Commissioner for approval and the Commissioner may or may not issue this Consent Order and waives any objection to the Commissioner's deciding this case following a hearing in the event the Consent Order is not approved. FGIC admits the facts set forth in the above Consent Order and agree to the entry of this Order.



\_\_\_\_\_  
Authorized Representative of Financial Guaranty  
Insurance Company  
NAIC No. 12815

Name & Title STEVEN NATKO, VP & ASST SEC.  
Dated: 1/14/11

The OFIR staff approves this stipulation and recommends that the Commissioner issue the above Consent Order.



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William R. Peattie  
OFIR Staff Attorney

Dated: 1/18/11