

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:
EMC Mortgage Corporation
License Nos.: FR-0532, SR-0013188

Enforcement Case Nos. 10-11058
10-11059
11-11139

Respondent.
_____ /

CONSENT ORDER REQUIRING COMPLIANCE AND PAYMENT OF FINES

Issued and entered
on June 14, 2011
by Catherine J. Kirby
"Acting" Chief Deputy Commissioner

Based upon the Stipulation to Entry of Consent Order and the files and records of the Office of Financial and Insurance Regulation (OFIR) in this matter, the Chief Deputy Commissioner finds and concludes that:

1. The Chief Deputy Commissioner has jurisdiction and authority to adopt and issue this Consent Order in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969, as amended, MCL 24.201 *et seq.*, the Mortgage Brokers, Lender, and Servicers Licensing Act, as amended, (MBLSLA), MCL 445.1651 *et seq.* and the Secondary Mortgage Loan Act as amended, (SMLA), MCL 493.51 *et seq.* to accept or reject this Stipulation and Consent Order resolving these proceedings.
2. Respondent violated Section 22(g) of the MBLSLA and Section 24(2)(d) of the SMLA, thereby subjecting Respondent's registration to revocation, suspension, and/or a civil fine of not more than \$3,000 for each violation, by the Commissioner's authority pursuant to Section 29(2) of the MBLSLA, MCL 445.1679(2) and Section 27(3) of the SMLA, MCL 493.
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 parties' Stipulation to Entry of Consent Order is reasonable and in the public interest.

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

- A. Respondent agrees that it will pay to the State of Michigan, through OFIR, administrative and civil fines in the amount of \$1,500 within 30 days of invoicing.
- B. Respondent shall not engage in any violations of sections of the MBLSLA or SMLA.
- C. Failure to abide by the terms and provisions of the Stipulation to Entry of Consent Order and this Consent Order may result in the commencement of additional proceedings.



Catherine J. Kirby
"Acting" Chief Deputy Commissioner

**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:
EMC Mortgage Corporation
License Nos.: FR-0532, SR-0013188

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STIPULATION TO ENTRY OF CONSENT ORDER

EMC Mortgage Corporation (Respondent) and the Office of Financial and Insurance Regulation (OFIR) stipulate to the following:

1. Respondent is a registered mortgage broker, lender and servicer under the Mortgage Brokers, Lender, and Servicers Licensing Act, as amended, (MBLSLA), MCL 445.1651 *et seq.* and the Secondary Mortgage Loan Act as amended, (SMLA), MCL 493.51 *et seq.* in the State of Michigan.
2. On or about January 29, 2011, OFIR served Respondent with a Notice of Opportunity to Show Compliance (NOSC) alleging the Respondent violated provisions of the MBLSLA and the SMLA, setting forth the applicable laws and penalties which could be taken.
3. Respondent exercised its right to its opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (MAPA), MCL 24.201 *et seq.*
4. OFIR and Respondent have agreed that it is in the parties' best interest to resolve this matter pursuant to the terms set forth below.
5. Based upon the allegations set forth in the NOSC and communications with the Respondent, the following facts are established:
 - a. As a registered mortgage broker, lender and servicer, Respondent knew or had reason to know that Section 22(g) of the MBLSLA, MCL 445.1672(g), and Section 24(2)(d) of the SMLA, MCL 493.74(2)(d), requires that a licensee or registrant furnish, within a reasonable time frame, any information that may be requested by the Commissioner.
 - b. As described in the following counts, Respondent violated Section 22(g) of the MBLSLA and Section 24(2)(d) of the SMLA, thereby subjecting Respondent's registration to revocation, suspension, and/or a civil fine of not more than \$3,000 for each violation, by the Commissioner's authority pursuant to Section 29(2) of the MBLSLA, MCL 445.1679(2) and Section 27(3) of the SMLA, MCL 493.

COUNT I

- c. On August 25, 2010, OFIR sent a letter via facsimile to Respondent's fax number on record, requesting a detailed response in regards to a complaint filed with OFIR. Respondent was given until September 15, 2010, to respond to this inquiry. A review of OFIR's records confirms that the fax was successfully transmitted. Respondent did not respond to this inquiry.
- d. On September 22, 2010, OFIR sent a second letter via facsimile to Respondent's fax number on record, notifying Respondent of his failure to respond and repeating the request for a response. Respondent was given until September 29, 2010, to respond to this inquiry. A review of OFIR's records confirms that the fax was successfully transmitted. Respondent did not respond to this inquiry.
- e. On or about October 11, 2010, OFIR offered Respondent a proposed settlement agreement as a means of resolving the failure to respond to the requests in Allegations 5 and 6. The settlement agreement was sent via certified mail (receipt # 7010 1870 0002 6938 5423). According to the United States Postal Service, the certified mail was delivered to Respondent's address on October 15, 2010. The offer advised Respondent of an October 25, 2010, deadline. Respondent failed to respond to the aforementioned offer.

COUNT II

- f. On July 21, 2010, OFIR sent a letter via facsimile to Respondent's fax number on record, requesting a detailed response in regards to a complaint filed with OFIR. Respondent was given until August 11, 2010, to respond to this inquiry. A review of OFIR's records confirms that the fax was successfully transmitted. Respondent did not respond to this inquiry.
- g. On September 21, 2010, OFIR sent a second letter via facsimile to Respondent's fax number on record, notifying Respondent of his failure to respond and repeating the request for a response. Respondent was given until September 28, 2010, to respond to this inquiry. A review of OFIR's records confirms that the fax was successfully transmitted. Respondent did not respond to this inquiry.
- h. On or about October 11, 2010, OFIR offered Respondent a proposed settlement agreement as a means of resolving the failure to respond to the requests in Allegations 9 and 10. The settlement agreement was sent via certified mail (receipt # 7010 1870 0002 6938 5416). According to the United States Postal Service, the certified mail was delivered to Respondent's address on October 15, 2010. The offer advised Respondent of an October 25, 2010, deadline. Respondent failed to respond to the aforementioned offer.

COUNT III

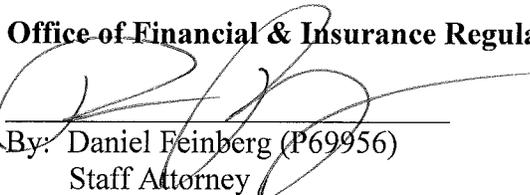
- i. On November 5, 2010, OFIR sent a letter via facsimile to Respondent's fax number on record, requesting a detailed response in regards to a complaint filed with OFIR. Respondent was given until November 26, 2010, to respond to this inquiry. A review of OFIR's records confirms that the fax was successfully transmitted. Respondent did not respond to this inquiry.
 - j. On December 1, 2010, OFIR sent a second letter via facsimile to Respondent's fax number on record, notifying Respondent of his failure to respond and repeating the request for a response. Respondent was given until December 8, 2010, to respond to this inquiry. A review of OFIR's records confirms that the fax was successfully transmitted. Respondent did not respond to this inquiry.
 - k. On or about December 29, 2010, OFIR offered Respondent a proposed settlement agreement as a means of resolving the failure to respond to the requests in Allegations 13 and 14. The settlement agreement was sent via certified mail (receipt # 7010 1870 0002 6938 5416). According to the United States Postal Service, the certified mail was delivered to Respondent's address on January 7, 2011. The offer advised Respondent of a January 12, 2011, deadline. Respondent failed to respond to the aforementioned offer.
6. Respondent agrees that it will pay to the State of Michigan, through OFIR, administrative and civil fines in the amount of \$1,500 within 30 days of invoicing.
 7. Respondent agrees that it will comply with the requirements of the MBLSLA and SMLA.
 8. Respondent has had an opportunity to review the Stipulation and Consent Order and have the same reviewed by legal counsel.
 9. The Chief Deputy Commissioner has authority under the provisions of MAPA, MBLSLA, and SMLA to accept or reject this Stipulation and Consent Order resolving these proceedings.
 10. If accepted, failure to abide by the terms and conditions of this Stipulation and Consent Order may result in further administrative actions.

EMC Mortgage LLC


By: Robert Blankenship
Its: Vice President

5/19/2011
Dated

Office of Financial & Insurance Regulation


By: Daniel Feinberg (P69956)
Staff Attorney

6/13/11
Dated