

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Petitioner

v

Berkshire Capital LLC

Enforcement Case No. 19-15755

License No. FL-4280
Registration No. SR-1947
NMLS No. 129799

Agency No. 19-468-ML

Respondent.

_____ /

Issued and entered
on August 13, 2021
by Judith A. Weaver
Senior Deputy Director

ORDER ACCEPTING STIPULATION AND REQUIRING COMPLIANCE AND PAYMENT OF FINES

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

1. The Senior Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation and Requiring Compliance and Payment of Fines in this proceeding pursuant to the Michigan Administrative Procedures Act (APA), MCL 24.201 *et seq.*, the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA), MCL 445.1651 *et seq.*, and the Secondary Mortgage Loan Act (SMLA), MCL 493.51 *et seq.*
2. All required notices have been issued in this case and the notices and service thereof were appropriate and lawful in all respects.
3. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
4. All applicable provisions of the APA have been met.
5. Respondent violated Sections 4(1), 5, 21(1), 21(2), and 22(a) of the MBLSLA, MCL 445.1654(1), 445.1655, 445.1671(1), and 445.1672(a), Sections 6(1)(a)(i) and 6(8) of the SMLA, MCL

493.56(1)(a)(i) and 493.56(8), and stipulated terms in a Director's Order issued January 3, 2018, for Enforcement Case No. 17-14729.

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

- A. Respondent shall comply with all terms agreed to in the Stipulation to Entry of Order.
- B. Respondent shall pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$15,500.00. Respondent may pay the \$15,500.00 in three equal installments of \$5,167.00 starting within 30 days after entry of this Order, the second payment within 90 days thereafter, and the third and final payment within 90 days after the second payment.
- C. If it has not already done so, Respondent shall retain a compliance specialist within 15 days of the date of this Order who shall be responsible for the following:
 1. To complete a comprehensive review and evaluation of Respondent's compliance with the MBLSLA and SMLA and compliance management procedures within 45 days of the date of this Order;
 2. To develop a compliance plan and management system that Respondent will adopt and implement to improve Respondent's compliance management procedures within 90 days of the date of this Order;
 3. To, thereafter, conduct written audits of the effectiveness of Respondent's compliance management procedures every 6 months from the 24 month period beginning on the date of entry of this Order and that said written audit will be made available to the DIFS upon written request.
- D. Respondent shall not engage in any violations of sections of the Act identified in paragraph 5 of this Order. A finding that Respondent has knowingly or through lack of due care violated this provision of the Order shall result in the revocation of its licenses under the MBLSLA and SMLA.
- E. 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.



Judith A. Weaver
Senior Deputy Director

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DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

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_____ /

STIPULATION TO ENTRY OF ORDER

Berkshire Capital LLC (Respondent) stipulates to the following:


1. On or about February 3, 2020, the Department of Insurance and Financial Services (DIFS) issued a Notice of Intention to Revoke (NOIR) and Administrative Complaint alleging that Respondent had violated provisions of the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA), MCL 445.1651 *et seq.*, the Secondary Mortgage Loan Act (SMLA), MCL 493.51 *et seq.*, and a Director's Order issued on January 3, 2018, in Enforcement Case 17-14729.
2. The NOIR contained allegations that Respondent violated Sections 4(1), 5, 21(1), 21(2), and 22(a) of the MBLSLA, MCL 445.1654(1), 445.1655, 445.1671(1), and 445.1672(a), Sections 6(1)(a)(i) and 6(8) of the SMLA, MCL 493.56(1)(a)(i) and 493.56(8), and stipulated terms in a Director's Order issued January 3, 2018, for Enforcement Case No. 17-14729, and set forth the applicable laws and the penalties which apply.
3. Respondent exercised its right to an opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (APA), MCL 24.201 *et seq.*
4. DIFS and Respondent have conferred and have agreed this matter may be resolved pursuant to the terms set forth below.
5. At all pertinent times, Respondent was licensed with DIFS under the MBLSLA and SMLA.
6. Respondent neither admits to the allegations contained in the NOIR, recognizes that revocation of its license would have been a sanction available to the Director upon the finding of a violation of the

- MBLSLA, SMLA, and a previous Director's Order, and desires to avoid the time and expense of formal proceedings and agrees to resolve this matter pursuant to this Stipulation to Entry of Order.
7. Respondent shall pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$15,500.00. Respondent may pay the \$15,500.00 in three equal installments of \$5,167.00 starting within 30 days after entry of this Order, the second payment within 90 days thereafter, and the third and final payment within 90 days after the second payment.
 8. If it has not already done so, Respondent shall retain a compliance specialist within 15 days of the date of this Order who shall be responsible for the following:
 - a. To complete a comprehensive review and evaluation of Respondent's compliance with the MBLSLA and SMLA and compliance management procedures within 45 days of the date of this Order;
 - b. To develop a compliance plan and management system that Respondent will adopt and implement to improve Respondent's compliance management procedures within 90 days of the date of this Order;
 - c. To, thereafter, conduct written audits of the effectiveness of Respondent's compliance management procedures every 6 months from the 24 month period beginning on the date of entry of this Order and that said written audit will be made available to the DIFS upon written request.
 9. Both parties have complied with the procedural requirements of the APA and the Act.
 10. Respondent understands and agrees that this Stipulation to Entry of Order will be presented to the Senior Deputy Director for approval.
 11. The Senior Deputy Director may, in her sole discretion, decide to accept or reject the 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 and Requiring Compliance and Payment of Fines. 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 a decision after such hearing.
 12. Respondent has had an opportunity to review the Stipulation to Entry of Order and the proposed Order Accepting Stipulation and Requiring Compliance and Payment of Fines and have the same reviewed by legal counsel.
 13. It is further stipulated that failure to comply with the Order of the Director accepting this Stipulation by failing to pay the administrative and civil fines as set forth above shall result in the commencement of an action to revoke all licenses and registrations under the Act held by Respondent.

14. It is further stipulated that the amount of administrative and civil fines 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 administrative and civil fines. Should Respondent fail to pay the administrative and civil fines in accordance with the terms of this Stipulation and 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 administrative and civil fines will immediately increase to the maximum amount allowed under the Act and shall be immediately due in full.

BERKSHIRE CAPITAL LLC

GRIFFEN HOCK


By: 
Its: _____

8/1/2021

Dated

DIFS Staff approve this Stipulation to Entry of Order and recommend that the Director issue an Order Accepting Stipulation and Requiring Compliance and Payment of Fines.

Department of Insurance and Financial Services



By: Diego R. Avila (P72657)
Staff Attorney

8/11/2021

Dated