

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

**Before the Director of the Department of Insurance and Financial Services**

In the matter of:

**Harbour Mortgage Company**  
License No. FL-1070

**Enforcement Case No. 19-15675**

Respondent.

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**ORDER TO REFUND GOOD FAITH DEPOSIT**

**WHEREAS**, the Director (Director) of the Department of Insurance and Financial Services (DIFS) is statutorily charged with the responsibility and authority to administer and implement the Mortgage Brokers, Lenders, and Servicers Licensing Act (MBLSLA), 1987 PA 173, as amended, MCL 445.1651 *et seq.*, pursuant to provisions therein; and,

**WHEREAS**, at all relevant times, Harbour Mortgage Company (Respondent) was a licensed first mortgage broker, lender, and servicer and Robert Baxter was the Owner and President of Respondent; and,

**WHEREAS**, in the exercise of its statutory authority and responsibility, DIFS conducted an examination of Respondent from July 12, 2017 through August 2, 2017, pursuant to the MBLSLA; and,

**WHEREAS**, the purpose of the examination was to assess the adequacy of management and review records to determine compliance with findings of previous examinations and applicable state and federal laws; and,

**WHEREAS**, DIFS' examination found that Respondent collected a 1% fee (\$3,300) from a loan applicant, as a good faith deposit for Respondent to proceed with a mortgage loan application. Respondent indicated to the loan applicant that the funds would be credited back to the applicant at closing. During the loan process, the applicant decided to not proceed with the loan application, as the approved loan was not in line with the terms applied for and requested the deposit be returned; and,

**WHEREAS**, Respondent told DIFS Staff it would not refund the funds as it received an approval for the applicant's loan and never promised to deliver a closed loan. Respondent told DIFS Staff that the actual costs incurred were \$34.65, leaving \$3,265.35 that should be refunded to the applicant; and,

**WHEREAS**, Respondent knew or had reason to know that Section 23(1) of the MBLSLA, MCL 445.1673(1), provides that "[a] licensee or registrant may require a borrower to pay reasonable and necessary charges which are the actual expenses incurred by the licensee or registrant in connection with the making, closing, disbursing, extending, readjusting, or renewing of a mortgage loan and a loan processing fee." and,

**WHEREAS**, in response to the examination findings, Respondent neither admitted nor denied the findings, but stated Respondent ceased operations on or about March 1, 2015. Mr. Baxter indicated he was having

financial hardship, he could not refund the applicant's good faith deposit, and the monies could be taken out of the surety bond;

**WHEREAS**, the Director finds and concludes as a matter of law and fact that Respondent violated Section 23(1) of the MBLSLA, MCL 445.1673(1). Respondent had \$34.65 in actual expenses incurred and failing to refund \$3,265.35, the portion of the applicant's good faith deposit that was not actual expenses incurred by Respondent during the loan application process.

**NOW THEREFORE, IT IS ORDERED** that:

1. Respondent shall refund \$3,265.35 to the loan applicant within 14 days of this Order.
2. Respondent shall provide proof of payment of the refund within 21 days of this Order.

**DEPARTMENT OF INSURANCE AND  
FINANCIAL SERVICES**



Randall S. Gregg  
Senior Deputy Director & General Counsel

Dated : 1.14.2020