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APR 25 2012

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

DEPT. OF LEG Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

David J. Russell  
System ID No. 328394

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Enforcement Case No. 11-11424

APR 26 2012

Respondent

OFIR/OGC

CONSENT ORDER AND STIPULATION

Issued and entered,  
on 4-30, 2012,  
by Annette E. Flood  
Chief Deputy Commissioner

I.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. David J. Russell (Respondent) is a licensed resident insurance producer with qualifications in credit products and is authorized to transact the business of insurance in Michigan.
2. Beginning on or about March 31, 2006, and continuing forward, OFIR conducted various investigations of Shores Area Credit Union (SACU) that revealed unsafe and unsound activities and practices at SACU.
3. During the period of OFIR's examinations, Respondent was the manager and chief executive officer of SACU.
4. In June of 2007, when an employee left SACU and cashed out her 401K, Respondent failed to maintain the appropriate records showing that the appropriate taxes were forwarded to the federal government.
5. From June 2008 through June 2010, Respondent granted loans in violation of Section 423 of the Michigan Credit Union Act (MCUA). Despite having these issues identified, Respondent did not correct them as of June 30, 2010.
6. From June 2008 through June 2010, Respondent disbursed loans without performing sufficient underwriting analyses, disbursed loans while lacking the proper documentation substantiating the borrower's capacity to repay, and failed to obtain current credit reports, verify income, or perfect liens on collateral securing loans in a timely manner.

7. From June 2008 through June 2010, Respondent added high-risk loan products without adequate due diligence.
8. Respondent failed to ensure that SACU's general ledger accounts were regularly and accurately reconciled resulting in six general ledger accounts being out-of-balance as far back as October 2009.
9. In June of 2008, Respondent failed to properly write off the expense of demolishing SACU's former office, resulting in an overstatement of SACU's June 2008 income.
10. The December 2009 examination revealed that Respondent granted a loan to a director of SACU outside of SACU's lending guidelines and without proper due diligence.
11. On or about September 11, 2011, Respondent entered into a Stipulation and Consent to the Issuance of an Order of Prohibition (Stipulation and Consent) with OFIR regarding Respondent's actions as the former manager of the SACU.
12. In the Stipulation and Consent, OFIR made certain Findings of Fact, specifically that Respondent:
  - a. Engaged in improper loan administration;
  - b. Made inaccurate financial reports;
  - c. Violated SACU policy;
  - d. Engaged in inadequate financial and strategic planning; and
  - e. Failed to comply with the MCUA requirements and National Credit Union Administration (NCUA) regulations.
13. Pursuant to the Stipulation and Consent, on September 19, 2011, Chief Deputy Commissioner Stephen R. Hilker, entered a Consent Order of Prohibition, prohibiting Respondent from further participation in any manner in the conduct of the affairs of any domestic credit union, and incorporating the Stipulation and Consent by reference.
14. The Consent Order of Prohibition remains in effect.
15. As a licensed resident insurance producer, Respondent knew or had reason to know that **Section 1239(1)(h) of the Code, MCL 500.1239(1)(h)**, provides that the Commissioner may place on probation, suspend or revoke insurance producers license, or may levy a civil fine for:
  - (h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
16. As a licensed resident insurance producer, Respondent knew or had reason to know that **Section 1244(1)(a-c), MCL 500.1244(1)(a-c)**, provides that the Commissioner may order the payment of a civil fine of up to \$500.00 for each violation and up to \$2,500 for each violation if the Commissioner finds that the person knew or reasonably should have known that he or

she was in violation of the Code. The Commissioner may also require the person to refund any overcharges and pay restitution to cover losses, damages, or other harm they may have caused by violating the Code.

17. Based on the above facts, Respondent's conduct gives cause for discipline by demonstrating, as manager and chief executive officer of SACU, incompetence, untrustworthiness, and financial irresponsibility while conducting business in the state of Michigan.
18. Based on the above facts, Respondent has committed acts that are grounds for the Commissioner to order that Respondent's insurance producer license be REVOKED PURSUANT TO Section 1239(1)(h) of the Code.

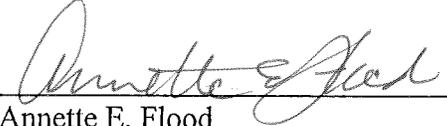
## II. ORDER

Based upon the Findings of Fact and Conclusions of Law above and Respondent's stipulation, the Commissioner ORDERS that:

1. Respondent shall CEASE and DESIST from violating the Michigan Insurance Code.
2. Respondent's resident insurance producer license issued pursuant to the provisions of the Michigan Insurance Code is hereby REVOKED.
3. Respondent shall CEASE and DESIST from engaging in any activity requiring licensure under the Michigan Insurance Code.

IT IS SO ORDERED

Dated: 4/30/12

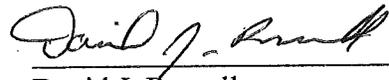
  
\_\_\_\_\_  
Annette E. Flood  
Chief Deputy Commissioner

### III. STIPULATION

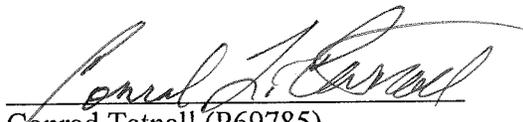
Respondent has read and understands the consent order above. Respondent agrees that the Chief Deputy Commissioner has jurisdiction and authority to issue this consent order pursuant to the Insurance Code. Respondent waives the right to a hearing in this matter if this consent order is issued. Respondent understands that this stipulation and consent order will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this consent order. Respondent waives any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. Respondent admits the findings of fact and conclusions of law set forth in the above consent order and agrees to the entry of this order. Respondent admits that both parties have complied with the procedural requirements of the Michigan Administrative Procedures Act (MAPA) and the Michigan Insurance Code (Code). Respondent has had an opportunity to review the Stipulation and Consent Order and have the same reviewed by legal counsel.

Respondent understands and intends that by signing this Stipulation, Respondent is waiving the right, pursuant to the Code, the rules promulgated thereto, and the MAPA, to a hearing before an administrative law judge, at which the OFIR would be required to prove the charges set forth by presentation of evidence and legal authority and at which Respondent would be entitled to appear to cross-examine all witnesses presented by the OFIR and to present such testimony or other evidence or legal authority deemed appropriate as a defense to said charges.

Dated: 4-19-12

  
\_\_\_\_\_  
David J. Russell

The Office of Financial and Insurance Regulation staff approves this Settlement Agreement and Stipulation and recommends that the Chief Deputy Commissioner accept it.

  
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Conrad Tatnall (P69785)  
Attorney

Dated: 4/30/12