

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND  
SECURITIES, COMPLIANCE OFFICE

PA DEPARTMENT OF  
BANKING AND SECURITIES

v.

Docket No. 16-0005 (BNK-CAO)

MGE MORTGAGE CORPORATION

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities (“Department”), Compliance Office, conducted a review of MGE Mortgage Corporation (“MGE Mortgage”), and its officers, employees and directors. Based on the results of the review, the Compliance Office (“Office”) determines that MGE Mortgage operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* The parties to the above-captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (“Order”).

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the Mortgage Licensing Act (“MLA”).
2. The Office is primarily responsible for administering and enforcing the MLA for the Department.
3. MGE Mortgage’s principal place of business is located at 476 Blackman Street, Wilkes-Barre, PA 18702.

4. MGE Mortgage is corporation licensed by the Department under the MLA with the license no. 21631 and a Nationwide Mortgage Licensing System and Registry (“NMLS”) identification no. 129823.

#### Advance Fees

5. On March 23, 2015, the Bureau of Non-Depository Examinations conducted a routine examination of MGE Mortgage.

6. The MLA requires all mortgage brokers who do not meet the exception set forth in section 6131(e)(2) to maintain a bond in the amount of \$100,000 if the mortgage broker accepts any advance fees. 7 Pa. C.S. § 6131(e)(1).

7. The exception in Section 6131(e)(2) only applies if a mortgage broker “...demonstrates to the satisfaction of the department that they do not and will not accept advance fees...”. 7 Pa. C.S. § 6131(e)(2).

8. The MLA defines an advance fee as “[a]ny funds requested by or to be paid to a person in advance of or during the processing of a mortgage loan application, excluding those fees paid by a consumer directly to a credit agency reporting bureau, title company or real estate appraiser.” 7 Pa. C.S. § 6102.

9. The examination revealed that MGE Mortgage had accepted checks written to MGE Mortgage during the processing of mortgage loan applications.

10. MGE Mortgage explained that the checks served as collateral for the payment of appraiser fees by MGE Mortgage on behalf of the consumer in the event the mortgage did not close.

11. Mortgage brokers may accept a check from a client if the check is payable to third-party provider. 7 Pa. C.S. § 6123(8).

12. Mortgage brokers may not accept a check from a client if the check is payable to the mortgage broker, unless the mortgage broker maintains the bond required by section 6131(e)(1).

13. The examination showed that MGE Mortgage paid the appraiser the fee on behalf of the consumer.

14. MGE Mortgage did not cash the checks unless the mortgage did not close.

15. However, because MGE Mortgage accepted a check written out to the company and MGE Mortgage could have cashed that check and not paid the consumer, the MLA requires MGE to post the bond required by section 6131(e)(1) for compensation to be available if MGE Mortgage at some point in time misuses a consumer's funds.

#### Advertising

16. The examination revealed that MGE Mortgage did not include the company's unique identifier on the company website or newspaper advertisements.

17. The MLA requires a licensee to include the licensee's unique identifier in all advertisements. 7 Pa. C.S. § 6135(a)(4).

18. The Department previously pointed this violation out the MGE Mortgage after a routine examination in May 2012.

#### Authority of the Department

19. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

20. The Mortgage Licensing Act permits the Department to suspend, revoke or refuse to renew a license of a licensee where that licensee is a mortgage broker and "[f]ailed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department under this chapter." 7 Pa. C.S. § 6139(a)(2).

21. Section 6140(b) of the Mortgage Licensing Act provides, in relevant part, that "[a] person licensed under this chapter or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this chapter or who commits any action which would subject the licensee

to suspension, revocation or nonrenewal under section 6139 may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(b).

#### VIOLATION

22. MGE Mortgage violated the Mortgage Licensing Act by failing to obtain a bond as required by section 6131(e)(1). 7 Pa. C.S. § 6131(e)(1).

23. MGE Mortgage violated the Mortgage Licensing Act by not including the company’s unique identifier on the company website or newspaper advertisements as required by section 6135(a)(4). 7 Pa. C.S. § 6135(a)(4).

#### RELIEF

24. Fine. MGE Mortgage agrees to pay a fine of one thousand dollars (\$1,000) which shall be due to the Department within thirty (30) days of the Effective Date of this Order as defined in paragraph 31. The payment shall be remitted by certified check made payable to the Pennsylvania Department of Banking and Securities and sent to the attention of: Pennsylvania Department of Banking and Securities, Compliance Office, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

25. Corrective Action. MGE Mortgage shall:

a. Either obtain the surety bond required by section 6131(e)(1) or cease and desist from accepting checks payable to MGE Mortgage from consumers prior to the close of a mortgage.

b. Include unique identifiers on all advertisements.

c. Update all information with the Department within ten (10) days as required by the MLA.

#### FURTHER PROVISIONS

26. Consent. MGE Mortgage hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Office’s order authority under the Mortgage Licensing Act and agrees that it understands all of the terms and conditions contained herein. MGE

Mortgage, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

27. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking and Securities Code. 71 P.S. § 733-302.A.(5).

28. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Office and MGE Mortgage.

29. Binding Nature. The Department, MGE Mortgage, and all officers, owners, directors, employees, heirs and assigns of MGE Mortgage intend to be and are legally bound by the terms of this Order.

30. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

31. Effectiveness. MGE Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Office executes the Order (the "Effective Date").

32. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against MGE Mortgage in the future regarding all matters not resolved by this Order.

b. MGE Mortgage acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

33. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

34. Counterparts. This Order may be executed in separate counterparts, by facsimile and electronic mail in portable document format (PDF).

35. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department and MGE Mortgage Corporation intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES  
COMPLIANCE OFFICE**

Redacted \_\_\_\_\_

Ryan Walsh, Director  
Department of Banking and Securities  
Compliance Office

Date: January 20, 2016

**FOR MGE MORTGAGE CORPORATION**

Redacted \_\_\_\_\_  
(Officer Signature)

EMMA KLUGER  
(Print Officer Name)

President  
(Title)

Date: 1-15-16