

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Banker License of:

No. 12F-BD014-SBD

3 **GMAC MORTGAGE, LLC #1 and**
4 **STEVEN M. ABREU, PRESIDENT and**
5 **MEMBER**

CONSENT ORDER

6 1100 Virginia Drive
Fort Washington, PA 19034

Respondents.

7 On September 15, 2011, the Arizona Department of Financial Institutions (“Department”)
8 issued Notice of Assessment alleging that Respondents had violated Arizona law. Wishing to
9 resolve this matter in lieu of an administrative hearing, and without admitting liability, Respondents
10 consent to the following Findings of Fact and Conclusions of Law, and consent to the entry of the
11 following Order.

12 FINDINGS OF FACT

13 1. Respondent GMAC Mortgage, LLC #1 (hereafter “Respondent Company”) is a
14 Delaware limited liability company authorized to transact business in Arizona as a mortgage banker,
15 license number BK0908590, within the meaning of A.R.S. § 6-941 *et seq.*

16 2. Respondent Steven M. Abreu (“Mr. Abreu”) is the President and Member of
17 Respondent Company and is authorized to transact business in Arizona as a mortgage banker within
18 the meaning of A.R.S. § 6-941 *et seq.*

19 3. An examination of Respondent Company conducted by the Department, commencing
20 on November 8, 2010 and concluding on June 3, 2011, revealed:

21 a. Respondents failed to produce adequate evidence that reasonable employee investigations
22 had been conducted before certain employees were hired. Specifically:

23 i. Respondents failed to collect, review and retain records of its investigation conducted
24 in the process of obtaining a completed Employment Eligibility Verification (Form I-
25 9) prior to hiring at least twenty two (22) employees;

26 ii. Respondents failed to obtain completed and/or signed employment applications prior

- 1 to hiring at least six (6) employees;
- 2 iii. Respondents failed to obtain a signed statement attesting to an applicant's felony
- 3 convictions prior to hiring at least thirty four (34) employees;
- 4 iv. Respondents failed to consult the applicant's most recent or next most recent
- 5 employer prior to hiring at least two (2) employees;
- 6 v. Respondents failed to inquire regarding an applicant's qualifications and competence
- 7 for the position prior to hiring at least forty seven (47) employees;
- 8 vi. Respondents failed to conduct further investigation of at least sixteen (16) employees
- 9 who had derogatory credit reports; and
- 10 vii. Respondents failed to obtain a credit report from a credit reporting agency prior to
- 11 hiring at least forty seven (47) employees.

12 4. Respondents failed to keep and maintain original documents or clearly legible copies

13 of all mortgage banking loan transactions. Specifically, Respondents failed to provide a document

14 from the loan file of at least one (1) borrower showing the application's final disposition, such as a

15 settlement statement, or a denial or withdrawal letter.

16 5. Respondents failed to issue federal disclosure forms as required and did not maintain

17 either originals or clearly legible copies of same within mortgage files for the appropriate time

18 period. Specifically, Respondents' Mortgage Servicing Transfer Disclosure Statements, Good Faith

19 Estimates and Truth-in-Lending Statements were prepared on dates from eleven (11) to twenty five

20 (25) days after the initial application was taken by the loan officer in at least two (2) borrowers' loan

21 files.

22 6. Respondents allowed borrowers to sign regulated documents containing blank spaces

23 without the benefit of the borrowers' written authorization to complete the documents. Specifically,

24 Respondents consistently required borrowers to sign a "Department of the Treasury Internal

25 Revenue Service Form 4506-T Request for Transcript of Tax Return," which was consistently left

26 blank.

1 originators who actually conducted the mortgage loan application interview process.

2 3. The violations set forth above constitute grounds for: (1) the issuance of an order
3 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
4 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
5 Superintendent to correct the conditions resulting from the unlawful acts, practices, and transactions;
6 (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132; and (3) an order or any
7 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
8 bankers and commercial mortgage bankers pursuant to A.R.S. § 6-941 *et seq.*

9
10 **ORDER**

11 1. Respondents shall immediately stop the violations set forth in the Findings of Fact
12 and Conclusions of Law.

13 2. Respondent Company shall amend its employment documentation process for
14 employees conducting Respondent Company's business in Arizona to require that (i) copies of
15 supporting I-9 documents be made at the time the I-9 is completed and signed; and (ii) the
16 photocopies be retained for not less than two years following the employee's termination.
17 Respondent Company shall implement this change for new hires no later than March 1, 2012.

18 3. Respondents shall pay to the Department an assessment in the amount of **seven
19 thousand dollars and five hundred dollars (\$7,500.00).**

20 4. Respondent Company and Mr. Abreu are jointly and severally liable for payment of
21 the civil money penalty.

22 5. Should Respondent Company and Mr. Abreu fail to comply with this Order, the
23 Superintendent shall institute further disciplinary proceedings.

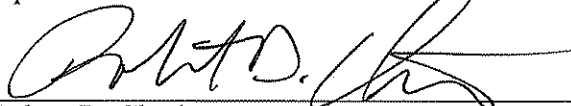
24 6. The provisions of this Order shall be binding upon Respondents, its employees,
25 agents and other persons participating in the conduct of the affairs of Respondent.

26 7. This Order shall become effective upon service, and shall remain effective and

1 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated
2 or set aside.

3 SO ORDERED this 27 day of December, 2011.

4 Lauren Kingry
5 Superintendent of Financial Institutions

6 By: 
7 Robert D. Charlton
8 Assistant Superintendent of Financial Institutions

9 **CONSENT TO ENTRY OF ORDER**

10 1. Respondents GMAC Mortgage, LLC ("Respondent Company") and Steven M. Abreu
11 ("Mr. Abreu") acknowledge that they have been served with a copy of the foregoing Findings of
12 Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware
13 of their right to an administrative hearing in this matter, and have waived the same.

14 2. Without admitting liability, Respondents admit that the Superintendent has
15 jurisdiction over this matter and authority to enter into this Consent Order. Respondents have
16 communicated to the Department their disagreement with a number of the alleged violations and are
17 entering into this Consent Order to avoid the expense of adversarial proceedings.

18 3. Respondents state that no promise of any kind or nature has been made to induce
19 them to enter into this Consent Order.

20 4. Respondents agree and acknowledge that the acceptance of this Consent Order by the
21 Superintendent is solely to settle this matter and does not preclude this Department, any other agency
22 or officer of this state or subdivision thereof from instituting other proceedings as may be
23 appropriate now or in the future.


24 5. To the extent Respondent Company accepts and acknowledges that certain of the
25 conduct set forth in the foregoing Findings of Fact, Conclusions of Law, and Order constitutes a
26 violation of applicable law or regulations, Respondent Company agrees to cease immediately from

1 engaging in the violative conduct. Failure to correct the violations set forth above in this Order or
2 any future findings of repeat violations shall result in disciplinary action which may include a greater
3 civil money penalty.

4 6. Steven M. Abreu, on behalf of Respondent Company, represents that he is the
5 President and Member of Respondent Company, and that, as such, has been authorized to consent to
6 the entry of this Order and to execute this Consent Order on Respondent Company's behalf.

7 7. Respondents waive all rights to seek administrative or judicial review or otherwise to
8 challenge or contest the validity of this Consent Order.

9 DATED this 7 day of Dec., 2011.

10
11 By: 
12 Steven M. Abreu, President and Member of GMAC
13 Mortgage, LLC #1

14 ORIGINAL of the foregoing filed this 27th
15 day of December, 2011, in the office of:

16 Lauren W. Kingry, Superintendent of Financial Institutions
17 Arizona Department of Financial Institutions
18 ATTN: June Beckwith
19 2910 N. 44th Street, Suite 310
20 Phoenix, AZ 85018

21 COPY mailed/delivered same date to:


22 Natalia A. Garrett, Assistant Attorney General
23 Office of the Attorney General
24 1275 W. Washington St.
25 Phoenix, AZ 85007

26 Robert D. Charlton, Assistant Superintendent
Gabriela Macias, Examiner-in-Charge
ATTN: Sabrina Hampton
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Steven M. Abreu, President and Member
4 GMAC Mortgage, LLC #1
5 1100 Virginia Drive
6 Fort Washington, PA 19034
7 Respondents

8 William H. Finlay, Esq.
9 Ally Financial Inc.
10 Legal Staff/190-FTW-L95
11 1100 Virginia Drive
12 Fort Washington, PA 19034
13 Attorneys for Respondents

14 By: 
15 # 2447102

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