**BEFORE THE ADMINISTRATOR OF CONSUMER CREDIT**
**STATE OF OKLAHOMA**

FILED
JUL 31 2012
STATE OF OKLAHOMA
DEPARTMENT OF
CONSUMER CREDIT

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|---|---|---|
| STATE OF OKLAHOMA, ex rel, DEPARTMENT OF CONSUMER CREDIT | ) | |
| Petitioner | ) | |
| v. | ) | Case No. 12-0097-DIS |
| CAPITAL MORTGAGE CORPORATION | ) | |
| Respondent | ) | |

## NOTICE OF HEARING

The State of Oklahoma, ex rel., Department of Consumer Credit, alleges and states as follows:

## JURISDICTION, AUTHORITY AND REQUIREMENTS

The Administrator of Consumer Credit (Administrator) has administrative authority to administer, interpret and enforce the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, 59 O.S. §§ 2095 et seq., (SAFE Act). 59 O.S. § 2095.1 (2).

### Penalties

1. In order to ensure the effective supervision and enforcement of the SAFE Act, the Administrator may, after notice and hearing pursuant to Article II of the Administrative Procedures Act, 75 O.S. §§ 308a et seq., impose any or any combination of the following penalties:

(a) deny, suspend, revoke, censure, place on probation or decline to renew a license issued pursuant to the SAFE Act for a violation of the SAFE Act, any rules promulgated pursuant to the SAFE Act and any order of the Administrator issued pursuant to the SAFE Act;

(b) deny, suspend, revoke, censure, place on probation or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of the SAFE Act or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(c) order restitution against entities or individuals subject to the SAFE Act for violations of the SAFE Act or

(d) issue orders or directives under the SAFE Act as follows:

(i) order or direct entities or individuals subject to the SAFE Act to cease and desist from conducting business, including immediate temporary orders to cease and desist;

(ii) order or direct entities or individuals subject to the SAFE Act to cease any harmful activities or violations of the SAFE Act, including immediate temporary orders to cease and desist;

(iii) enter immediate temporary orders to cease business under a license issued pursuant to the authority of the SAFE Act if the Administrator determines that such license was erroneously granted or the licensee is currently in violation of the SAFE Act;

(iv) order or direct such other affirmative action as the Administrator deems necessary, or

(v) impose a civil penalty of not less than One Hundred Dollars ($100.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each violation of the SAFE Act against a licensee or any other entity or individual subject to the SAFE Act, not to exceed Five Thousand Dollars ($5,000.00 for all violations resulting from a single incident or transaction. 59 O.S. § 2095.17.

**Appointment of independent hearing examiner**

The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the SAFE Act. The independent hearing examiner shall have authority to exercise all powers granted by Article II of the Administrative Procedures Act in conducting hearings.

The independent hearing examiner shall have authority to recommend penalties authorized by the SAFE Act and issue proposed orders, with proposed findings of fact and proposed conclusions of law, to the Administrator pursuant to Article II

of the Administrative Procedures Act. The Administrator shall review the proposed order and issue a final agency order in accordance with Article II of the Administrative Procedures Act. 59 O.S. § 2095.17(D).

**Hearing costs**

Hearing costs may be assessed by the hearing examiner against the Respondent, unless the Respondent is the prevailing party.

**Appeals**

A final agency order issued by the Administrator shall be appealable by all parties to an Oklahoma district court as provided by Article II of the Administrative Procedures Act.

**Requirements for individual proceedings at the Department of Consumer Credit**

The Respondent is responsible for reviewing the administrative rules regarding procedures and requirements for references of parties, entries of appearances, continuances, subpoenas and Consent Orders for individual proceedings at the Department of Consumer Credit. The administrative rules regarding individual proceedings are located at OKLA. ADMIN. CODE § 160:3-1-4. A copy of the individual proceeding rules has been attached to this Notice of Hearing for reference.

**Reporting of violations and enforcement actions**

The Administrator is required to regularly report violations of the SAFE Act as well as enforcement actions and other relevant information to the Nationwide Mortgage Licensing System and Registry. 59 O.S. § 2095.25. Final agency orders and Consent Orders are public records included in the Nationwide Mortgage Licensing System and Registry (NMLS) for access by the public.

**Enforcement of final agency order or settlement agreement**

Any administrative order or settlement agreement imposing a civil penalty pursuant to the SAFE Act may be enforced in the same manner as civil judgments in the State of Oklahoma. The Administrator may file an application to enforce an administrative order or settlement agreement imposing a civil

penalty in the district court of Oklahoma County. 59 O.S. § 2095.17(C).

**Representation by licensed attorney**

1. A corporation is required by Oklahoma law to be represented by a licensed attorney in this matter. *Massongill v. McDevitt*, 1989 OK CIV APP 82; 828 P.2d 438.

**ALLEGATIONS OF FACT**

1. The licensing system of record for mortgage brokers and mortgage loan originators in the State of Oklahoma is NMLS.

2. The Respondent is licensed as a mortgage broker in the State of Oklahoma pursuant to the SAFE Act with the following licensing information indicated by NMLS:

(a) Oklahoma license number MB000490, original license date of January 10, 2000.

(b) NMLS unique identifier number/company ID 193932;

(c) Mailing address of record at 9014 South Yale Avenue, 103, Tulsa, OK 74137;

3. As of July 31, 2012, the Mortgage Call Report (MCR) Filing History on NMLS indicates that the following mortgage call report was required to be filed by the Respondent:

(a) 2011 quarter two Oklahoma Standard Residential Mortgage Loan Activity Report (Standard RMLA), filing deadline of August 14, 2011;

4. As of July 31, 2012, Respondent's 2011 Quarter two (Q2) Standard RMLA had not been filed through NMLS.

**ALLEGED VIOLATIONS OF LAW**

1. The Respondent has violated 59 O.S. § 2095.24 by failing to submit through NMLS reports of condition, which shall be in such form and shall contain such information as NMLS may require by failing to file the 2011 quarter two Standard RMLA.

## TIME, PLACE AND NATURE OF HEARING

1. A hearing will be held before an independent hearing examiner on August 30, 2012 at 9:00 a.m. at the office of the Administrator of Consumer Credit, 3613 N.W. 56th Street, Suite 240, Oklahoma City, Oklahoma 73112.

2. The purpose of the hearing is to address the allegations contained in this Notice and to determine if any penalties authorized by the SAFE Act shall be imposed against the Respondent.

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**ENTRY OF APPEARANCE**

Roy John Martin, enters his appearance as attorney for the Petitioner, State of Oklahoma, ex rel., Department of Consumer Credit in the above-captioned action.

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