

STATE OF NORTH CAROLINA

WAKE COUNTY

IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS

IN THE MATTER OF:

Docket No. 17:025:MBB

OCWEN LOAN SERVICING, LLC  
NMLS No. 1852  
1661 Worthington Rd., Suite 100  
West Palm Beach, FL 33409

**CEASE AND DESIST ORDER**

The Commissioner of Banks (“Commissioner”) having determined that Ocwen Financial Corporation has engaged in, or is engaging in, or is about to engage in, acts or practices constituting violations of state and federal law and applicable regulations, hereby issues the following FINDINGS OF FACT and ORDER TO CEASE AND DESIST.

**A. PARTIES AND JURISDICTION**

1. Ocwen Financial Corporation (“OFC”) is a Florida corporation with headquarters in West Palm Beach, Florida. Ocwen Mortgage Servicing, Inc. (“OMS”) is a U.S. Virgin Islands corporation with headquarters in St. Croix, US Virgin Islands and an assigned NMLS identifier number of 1089752. Ocwen Loan Servicing, LLC (“OLS”) is a Delaware limited liability company with headquarters located in West Palm Beach, Florida and an assigned NMLS identifier number of 1852. OLS at all relevant times herein was a wholly-owned subsidiary of OMS, which was a wholly-owned subsidiary of OFC (collectively referred to herein as “Ocwen”).

2. Ocwen and certain of its subsidiaries are licensed by the Commissioner as a mortgage loan servicer under the North Carolina Secure and Fair Enforcement Mortgage Licensing Act (“NC SAFE Act”), Article 19B of Chapter 53 of the North Carolina General Statutes.

3. The Commissioner has jurisdiction over the licensing and regulation of persons and entities engaged in the business of residential mortgage loan servicing in North Carolina pursuant to the NC SAFE Act and its implementing rules at 04 NCAC 03M .0101, *et seq.*

4. The Multi-State Mortgage Committee (“MMC”) is a committee of state mortgage regulators who have agreed to address their enforcement concerns with Ocwen in a collective and coordinated manner. On February 28, 2015, the states of Florida, Maryland, Massachusetts, Mississippi, Montana, and Washington (collectively, the “Examining States”) conducted a Multi-State Examination of Ocwen in order to determine Ocwen’s compliance with applicable federal and state laws and regulations, financial condition, and control and supervision of the licensed mortgage servicing operations. The Multi-State Examination of Ocwen covered the period of January 1, 2013 to February 28, 2015.

5. Pursuant to N.C. Gen. Stat. § 53-244.115, the Commissioner is authorized to inspect the books, accounts, papers, records, and files of mortgage loan servicers, transacting business in North Carolina to determine compliance with the provisions of the NC SAFE Act, and any rule, or regulation issued thereunder, and with any law, rule, or regulation applicable to the conduct of the licensed business. In addition to the MMC examination, the Commissioner independently examined OLS, and a Report of Examination was issued on November 22, 2016. This examination covered the period of May 17, 2013 to May 17, 2016.

6. Pursuant to N.C. Gen. Stat. §§ 53C-2-7(d) and 53-244.120, the Commissioner is authorized to enter into written agreements with other government agencies to share confidential information. In addition, pursuant to N.C. Gen. Stat. § 53-244.115(f), the Commissioner may:

- (2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, documents, records, information, or evidence obtained under this section[.]; and

- (4) Accept and rely on examination or investigation reports made by other government officials, within or without this State.

## **B. FINDINGS OF FACT**

7. During the examination, the Examining States identified several violations of state and federal law, including, but not limited to, consumer escrow accounts that could not be reconciled and willful and ongoing unlicensed activity in certain states. Additionally, it was determined that Ocwen's financial condition was significantly deteriorating.

8. Although the Examining States were unable to gather comprehensive documentation of the extent of unlicensed activity because Ocwen's management failed to respond to requests for information in a timely manner, the examination found that Ocwen subsidiaries were conducting unlicensed servicing activity in numerous jurisdictions. This unlicensed activity was cited in the report of exam. The Examining States had numerous conversations with the Board of OFC in which the Examining States communicated that these continuing violations were unacceptable and would not be tolerated. Although OFC partially addressed the unlicensed activity two years after it was initially cited, unlicensed activity is believed to continue in certain jurisdictions.

9. The MMC examination found that Ocwen has been unable to accurately reconcile many of the consumer escrow accounts in its portfolio. Consumer escrow accounts are accounts that contain consumer funds held for the payment of taxes and insurance. The MMC examination further found that Ocwen failed to make timely disbursements to pay for taxes and insurance from escrow accounts on numerous loans. The MMC examination also found that Ocwen routinely sent consumers inaccurate, confusing, and/or misleading escrow statements.

10. In 2015, Ocwen failed to provide key financial documents and reconcilements of its financial statements to regulators.

11. Based on the findings of the examination and subsequent communications with OFC, the state regulators and Ocwen entered into a Memorandum of Understanding (MOU) on December 7, 2016.

12. The MOU required Ocwen to retain an independent auditing firm to perform a comprehensive audit and reconciliation of all consumer escrow accounts, with a report to be furnished by the Auditor to Ocwen and the MMC within five business days thereafter. The audit plan was to be submitted to, and approved by, the MMC no later than January 13, 2017.

13. Ocwen's response to the state regulators on January 13, 2017, was that the reconciliation of escrow accounts, which is paramount in ensuring the appropriate management of consumer funds, would cost \$1.5 billion and be well beyond Ocwen's financial capacity to fund. Ocwen has suggested instead that a sample of 457 escrow accounts be reconciled out of 2.5 million active first lien escrow accounts that Ocwen has serviced since January 2013. This proposal could leave a vast number of consumers with unaudited and inaccurate escrow accounts.

14. The company is currently facing numerous substantiated consumer complaints regarding escrow accounts that have been mismanaged, resulting in significant harm to consumers, and request for reimbursement of monies wrongfully withheld or misapplied.

15. The MOU required Ocwen to provide, among other things, a viable going forward business plan that encompassed an analysis of its financial condition going forward. The purpose of the plan was to analyze Ocwen's future financial condition incorporating and encompassing all known or reasonably certain liabilities.

16. Ocwen's going forward plan submitted in response to the MOU did not provide a complete assessment of its financial condition because it excluded significant liabilities. If the going forward plan accurately accounted for known or anticipated regulatory penalties and other operational costs, including, but not limited to, the expenses of moving to a new servicing platform and complete reconciliation of consumer escrow accounts with restitution to impacted borrowers, it would indicate that Ocwen continuing as a going concern would be in doubt.

### **C. CONCLUSION OF LAW**

17. Based upon the information contained in Paragraphs 1 through 16, pursuant to N.C. Gen. Stat. § 53-244.114(b)(1), the Commissioner has reason to believe that:

- a. Ocwen has engaged in, is engaging in, or is about to engage in, acts or practices which warrant the belief that the company is not operating honestly, fairly, soundly, and efficiently in the public interest, and /or in violation of standards governing the licensing and conduct of a mortgage loan servicer including, but not limited to, the provisions of N.C. Gen. Stat. § 53-244.060(4), and Ocwen has engaged in, is engaging in, or is about to engage in acts prohibited by N.C. Gen. Stat. § 53-244.111.
- b. The public interest will be irreparably harmed by delay in issuing a cease and desist order to Ocwen.

### **CEASE AND DESIST ORDER**

**IT IS HEREBY ORDERED** that:

1. Ocwen shall immediately cease acquiring new mortgage servicing rights, and acquiring or originating new residential mortgages serviced by Ocwen, until Ocwen can show it is a going concern by providing a financial analysis that encompasses all of the liabilities Ocwen currently maintains, as well as liabilities it has knowledge it will incur in the course of its business;

2. Ocwen shall immediately cease from acquiring new mortgage servicing rights, and acquiring or originating new residential mortgages serviced by Ocwen, until Ocwen can provide the state regulators with a reconciliation of its escrow accounts showing that consumer funds are appropriately collected, properly calculated, and disbursed accurately and timely; and

3. This Order is effective immediately upon signing and shall remain in effect unless modified or vacated by the Commissioner.

4. This Order shall not be construed as approving any act, practice, or conduct not specifically set forth herein which was, is, or may be in violation of relevant state or federal laws and regulations.

### **NOTICE**

Pursuant to N.C. Gen. Stat. § 53-244.113(b), Ocwen may, within 20 days of receiving this Order, submit a written request for a hearing before the Commissioner. Upon receipt of such a request, the Commissioner shall calendar a hearing within 15 days or at such time as the parties may mutually agree. If a hearing is not requested, this Order shall remain in full force and effect until it is modified or vacated by the Commissioner.

The Commissioner will post a copy of any final order or decision in this matter to the NMLS under regulatory actions which will be viewable by regulators and the public.

**IT IS SO ORDERED** on this the 20<sup>th</sup> day of April, 2017.

s/ Ray Grace  
Commissioner of Banks

## CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that she has this day served a copy of the foregoing Cease and Desist Order by email to the individuals identified below and by placing a copy of the same with a delivery service authorized by law and addressed to:

Phyllis R. Caldwell, Chair of the Board  
c/o Timothy Hayes, General Counsel (via email only)  
[timothy.hayes@ocwen.com](mailto:timothy.hayes@ocwen.com)

Robert A. Salcetti, Vice Chair of Board  
C/O Timothy Hayes, General Counsel (via email only)  
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Ronald M. Faris, President  
[ronald.faris@ocwen.com](mailto:ronald.faris@ocwen.com)

Ocwen Loan Servicing, LLC (via Federal Express)  
1661 Worthington Road, Suite 100  
West Palm Beach, FL 33409

This the 20<sup>th</sup> day of April, 2017.

s/ Kristin A. Rice, Counsel  
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