

TERMS COMPLETE

ORDER SUMMARY – Case Number: C-11-0639

Name(s): Mortgage Investors Corporation

Order Number: C-11-0639-14-CO01

Effective Date: January 6, 2015

License Number: DFI: 48904 NMLS ID: 3510

Or NMLS Identifier [U/L] _____

License Effect: Voluntary surrender

Not Apply Until: January 6, 2020

Not Eligible Until: January 6, 2020

Prohibition/Ban Until: January 6, 2020

Investigation Costs	\$2,760	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12/12/14
Fine	\$25,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12/12/14
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: _____

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING:
Whether there has been a violation of the
Consumer Loan Act of Washington by:

No.: C-11-0639-14-CO01

CONSENT ORDER

MORTGAGE INVESTORS CORPORATION,

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his
designee Deborah Bortner, Division Director, Division of Consumer Services, and Mortgage
Investors Corporation (Respondent MIC), by and through its attorney Lesli Esposito, and finding that
the issues raised in the above-captioned matter may be economically and efficiently settled, agree to
the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of the
Revised Code of Washington (RCW) and RCW 34.05.060 of the Administrative Procedure Act,
based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department), and
Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges
No. C-11-0639-13-SC01 (Statement of Charges), entered February 5, 2014, (copy attached hereto).
Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the
Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent
Order and further agrees that the issues raised in the above-captioned matter may be economically
and efficiently settled by entry of this Consent Order. Respondent is agreeing not to contest the
Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

CONSENT ORDER
C-11-0639-14-CO01
Mortgage Investors Corporation

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

ORIGINAL

1 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
2 of the activities discussed herein.

3 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
4 hearing before an administrative law judge, and hereby waives its right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached
6 herein. Accordingly, Respondent, by the signature of its representative below, withdraws its appeal
7 to the Office of Administrative Hearings.

8 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
9 Statement of Charges and agree that Respondent does not admit to any wrongdoing by its entry.

10 **D. Fine.** It is AGREED that Respondent shall pay a fine to the Department in the amount of
11 \$25,000, in the form of a cashier's check made payable to the "Washington State Treasurer," upon
12 entry of this Consent Order.

13 **E. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
14 investigation fee of \$2,760, in the form of a cashier's check made payable to the "Washington State
15 Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee may be paid together
16 in one \$27,760 cashier's check made payable to the "Washington State Treasurer."

17 **F. License Surrender.** Respondent has voluntarily surrendered its Washington State
18 consumer loan license. The Department acknowledges that Respondent stated that it has not
19 participated in the affairs of a consumer loan company in Washington State since October 2013.

20 **G. Agreement Not to Apply.** It is AGREED that Respondent shall not apply for a consumer
21 loan license with the Department for a period of five years.

22 **H. Records Retention.** It is AGREED that Respondent will maintain records in compliance
23 with the Act and provide the Director with the location of the books, records, and other information

1 relating to Respondent's consumer loan company business, and the name, address, and telephone
2 number of the individual responsible for maintenance of such records in compliance with the Act.

3 **I. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
4 consent of any person or entity not a party to this Consent Order to take any action concerning their
5 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
6 Order, this Consent Order does not limit or create any private rights or remedies against Respondent,
7 limit or create liability of Respondent, or limit or create defenses of Respondent to any claims.

8 **J. Authority to Execute Order.** It is AGREED that the undersigned has represented and
9 warranted that he has the full power and right to execute this Consent Order on behalf of Respondent.

10 **K. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to
11 abide by the terms and conditions of this Consent Order may result in further legal action by the
12 Director. In the event of such legal action, Respondent may be responsible to reimburse the Director
13 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

14 **L. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this
15 Consent Order, which is effective when signed by the Director's designee.

16 **M. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read
17 this Consent Order in its entirety and fully understands and agrees to all of the same.

18
19 **RESPONDENT:**
20 **Mortgage Investors Corporation**

21 By: 

22 Jeffrey Colley
23 CEO
24 //

December 4, 2014
Date

CONSENT ORDER
C-11-0639-14-CO01
Mortgage Investors Corporation

1 Approved as to Form:

2 [REDACTED]

3 Lesli Esposito
4 Attorney at Law
5 DLA Piper
6 Attorney for Respondent

12/5/14
Date

DO NOT WRITE BELOW THIS LINE

7 THIS ORDER ENTERED THIS 6th DAY OF January, 2015.

8 [REDACTED]

9 CHARLES E. CLARK
10 Director
11 Division of Consumer Services
12 Department of Financial Institutions

11 Presented by:

12 [REDACTED]

13 DEBORAH TAEILLIOUS
14 Financial Legal Examiner



15 Approved by:

16 [REDACTED]

17 STEVEN C. SHERMAN
18 Enforcement Chief

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

MORTGAGE INVESTORS
CORPORATION,

Respondent.

NO. C-11-0639-13-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO SUSPEND LICENSE,
PROHIBIT FROM INDUSTRY, IMPOSE
FINE, AND COLLECT INVESTIGATION
FEE

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent Mortgage Investors Corporation (MIC) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on or about June 10, 2008, and continues to be licensed to date. Respondent's main office is located at 6090 Central Avenue, St. Petersburg, Florida 33707. Respondent has no licensed locations in Washington State.

1 **1.2 Examination 2009.** From December 8, 2009, through December 11, 2009, the Department
2 conducted an on-site examination of Respondent for the period of June 10, 2008, through October 31,
3 2009. Based upon its examination findings, the Department produced a Report of Examination (2009
4 ROE), which was mailed to Respondent on December 29, 2009. In the 2009 ROE, the Department
5 cited Respondent for engaging in Deceptive Advertising Practices, specifically that Respondent
6 engaged the following prohibited practices:

- 7 A. Use of direct mail solicitations that use official looking emblems designed to resemble
8 government mailings,
9 B. Use of direct mail solicitations that use warnings that are not required by the Postmaster,
10 and
11 C. Use of direct mail solicitations that use codes that are intended to resemble government
12 codes.

13 The Department also found that Respondent transacted business using the unauthorized trade name
14 Amerigroup Mortgage Corporation. The 2009 ROE was mailed to Respondent on or about December
15 29, 2009.

16 **1.3 Examination 2011.** Between about December 6, 2011, through December 16, 2011, the
17 Department examined Respondent's loan portfolio and business practices under the Act for the time
18 period of July 15, 2009, through October 31, 2011.¹

19 **1.4 False or Deceptive Advertising.** The December 2011 examination revealed that during the
20 relevant time period Respondent's direct mail solicitations contained numerous violations of the Act,
21 including:

22 A. **Skip a Payment.** Respondent's solicitations contained information stating that the
23 consumer could skip a payment; however, payments could not actually be skipped.

24 ¹ The 2009 and 2011 examinations overlapped for the period of July 15, 2009, through October 31, 2009, but none of the
25 materials reviewed in 2011 examination were duplicates from the 2009 examination.

1 **B. Described Rates as Lowest or Best.** Respondent's solicitations described its rates as the
2 "lowest" in several advertisements.

3 **C. False Sense of Urgency.** Respondent's solicitations included the following phrases:

- 4 i. "time sensitive material"
5 ii. "immediate response required"
6 iii. "extended government program notification"
7 iv. "this VA benefit is going to expire soon"
8 v. "open immediately-time dated material"
9 vi. "open immediately-response required"

10 Respondent was unable to sufficiently substantiate program changes, such as expiration of
11 programs or offers or the extension of government programs warranting urgency. The use of
12 unnecessary warnings is a repeat violation from the 2009 ROE.

13 **D. False Government Affiliation.** Respondent's solicitations suggested or represented
14 that Respondent MIC was affiliated with a governmental agency. Many of the solicitation included
15 the following characteristics:

- 16 • A return address of: 2020 Pennsylvania AVE NW, Benefit Department 742,
17 Washington, DC 20006, without the name of the Company
18 • Warnings citing government codes that are not required to be shown by the U.S.
19 Postmaster
20 • The use of the term "official business" without the name of the Company
21 accompanying it
22 • Notifications stating the envelope contained information about government programs
23 • The envelopes were manila and similar in format to IRS tax refund envelopes
24 • Benefit Activation Code of VA ### GOV

25 Deceptive advertising is a repeat violation from the 2009 ROE.

1.5 **Use of Unauthorized Trade Name.** In Respondent's direct mail solicitations to Washington
State consumers, Respondent used the name Amerigroup Mortgage Corporation. Respondent did not
apply for and receive approval from the Director for the use of the trade name Amerigroup Mortgage
Corporation. The use of an unauthorized trade name is a repeat violation from the 2009 ROE.

1 **1.6 Failed to Timely Comply with Examination.** During the on-site examination, the examiners
2 requested information about Respondent's National Authentication Center. Respondent did not
3 provide the requested information during the on-site portion of the examination. After the on-site
4 portion of the examination ended, the examiners sent a directive to Respondent on December 29,
5 2011, directing Respondent to produce the information sought. The response was due on January 11,
6 2012. On January 12, 2012, Respondent emailed the requested information to the examiner.

7 **1.7 Failed to Accurately Provide Good Faith Estimates (GFE).** In every file reviewed on
8 site, Respondent failed to accurately complete GFEs by failing to complete the Important Dates
9 section of the GFE.

10 **1.8 Unlicensed Mortgage Loan Originators (MLO).** When a consumer chooses not to move
11 forward in the application process after the initial appointment in a consumer's home with a
12 licensed MLO, Respondent's protocol is for the licensed MLO to call MIC's National
13 Authentication Center (NAC) and have the consumer discuss the in-home appointment with a NAC
14 representative. The consumer is not directed to a NAC representative who is a Washington
15 licensed MLO.¹ The NAC employees' role appears to be, in part, to reaffirm the loan disclosures,
16 which includes reaffirming and reoffering the terms of the loan.

17 **1.9 On-Going Investigation.** The Department's investigation into the alleged violations of the
18 Act by Respondent continues to date.

19 **II. GROUNDS FOR ENTRY OF ORDER**

20 **2.1 False or Deceptive Advertising.** Based on the Factual Allegations set forth in Section I above,
21 Respondent is in apparent violation of RCW 31.04.027(1) and (2) for directly or indirectly employing
22

23 ¹ In correspondence dated December 7, 2012, Respondent informed the Department that it now forwards Washington
24 consumers to NAC representatives who are Washington licensed MLO.

1 a scheme, device, or artifice to defraud or mislead borrowers or lenders or any person and engaging in
2 an unfair or deceptive practice toward any person.

3 **2.2 Unauthorized Trade Name.** Based on the Factual Allegations set forth in Section I above,
4 Respondent is in apparent violation of RCW 31.04.027(2), WAC 208-620-420, and WAC 208-620-
5 620 for engaging in an unfair or deceptive practice toward any person by failing to apply for or obtain
6 approval of the Director for a trade name or for advertising with a trade name not approved by the
7 Director.

8 **2.3 Requirement to Comply with Examination.** Based on the Factual Allegations set forth in
9 Section I above, Respondent is in apparent violation of RCW 31.04.027(8) and RCW 31.04.145 for
10 failing to comply with the Director's investigatory authority by not timely producing books, accounts,
11 or other information as requested by the Department and required in the course of an examination by
12 knowingly and willfully making any omission of material fact in connection with any reports filed
13 with the department by a licensee or in connection with any investigation conducted by the
14 Department.

15 **2.4 Requirement to Provide Accurate GFEs.** Based on the Factual Allegations set forth in
16 Section I above, Respondent is in apparent violation of RCW 31.04.102 for failing to provide
17 complete and accurate GFEs within three days of application.

18 **2.5 Responsibility for Conduct of Employees.** Pursuant to RCW 31.04.027(2) and WAC 208-
19 620-372, a consumer loan licensee is responsible for any conduct violating the Act or the associated
20 rules by any person employed, or engaged as an independent contractor, to work in the business
21 covered by the consumer loan license.

1 **2.6 Definition of Mortgage Loan Originator.** Pursuant to RCW 31.04.015 and WAC 208-620-
2 010, a Mortgage Loan Originator “means an individual who for compensation or gain (i) takes a
3 residential mortgage loan application, or (ii) offers or negotiates terms of a residential mortgage loan.”

4 **2.7 Requirement to Obtain and Maintain a Loan Originator License.** Based on the allegations
5 set forth in Section I above, Respondent is in apparent violation of RCW 31.04.221 and WAC 208-
6 620-710(1) for permitting employees to engage in the business of a mortgage loan originator without
7 first obtaining and maintaining a license under the Act.

8 **III. AUTHORITY TO IMPOSE SANCTIONS**

9 **3.1 Authority to Suspend License.** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may
10 suspend a license if a licensee fails to comply with any specific order or demand of the Director
11 lawfully made and directed to the licensee in accordance with the Act, or violates any provision of the
12 Act or any rule adopted under the Act either knowingly or without exercise of due care.

13 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6), the Director may issue
14 an order removing from office or prohibiting from participation in the affairs of any licensee, or both,
15 any officer, principal, employee or loan originator, or any person subject to this chapter for failing to
16 comply with any order or subpoena issued under the Act, a violation of RCW 31.04.027, RCW
17 31.04.102, or RCW 31.04.221, or for failing to obtain a license for activity that requires a license.

18 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4)(a), the Director may impose fines of
19 up to one hundred dollars per day upon the licensee, its employee, or any other person subject to the
20 Act for any violation of the Act.

21 **3.4 Authority to Charge Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-
22 590, every licensee examined or investigated by the Director or the Director’s designee shall pay for
23

1 the cost of the examination or investigation, calculated at the rate of \$69 per staff hour devoted to the
2 examination or investigation.

3 **IV. NOTICE OF INTENTION TO ENTER ORDER**

4 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as
5 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
6 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW
7 31.04.205. Therefore, it is the Director's intention to ORDER that:

- 8 **4.1** Respondent Mortgage Investors Corporations' Consumer Loan license be suspended for 180
9 days.
- 10 **4.2** Respondent Mortgage Investors Corporation be prohibited from participating in the affairs of
11 a Consumer Loan licensee for 180 days.
- 12 **4.3** Respondent Mortgage Investors Corporation pay a fine which as of the date of these charges
13 totals \$75,000.
- 14 **4.4** Respondent Mortgage Investors Corporation pay an investigation fee which as of the date of
15 these charges totals \$2,760 calculated at \$69 per hour for 40 staff hours devoted to the
16 investigation.

17 **V. AUTHORITY AND PROCEDURE**

18 This Statement of Charges and Notice of Intention to Enter an Order to Suspend License,
19 Prohibit from Industry, Impose Fine, and Collect Investigation Fee (Statement of Charges) is entered
20 pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205,
21 and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act).
22 Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY
23 TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

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1 Dated this 5th day of February, 2014.

2 [Redacted Signature]

3 DEBORAH BORTNER
4 Director
5 Division of Consumer Services
6 Department of Financial Institutions

6 Presented by:

7 [Redacted Signature]

8 DEBORAH TALLIOUS
9 Financial Legal Examiner

10 Approved by:

11 [Redacted Signature]

12 CHARLES E. CLARK
13 Enforcement Chief

