

UNITED STATES DISTRICT COURT
IN THE MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,)	
)	Civil No.
Plaintiff,)	
)	
v.)	
)	
MORTGAGE INVESTORS CORPORATION)	
OF OHIO, INC., an Ohio corporation, also)	
doing business as MORTGAGE INVESTORS)	
CORPORATION, AMERIGROUP)	
MORTGAGE CORPORATION, VETERANS)	
INFORMATION DEPARTMENT, and)	
VETERANS HOME LOANS,)	
)	
Defendant.)	
)	
)	

**STIPULATED FINAL ORDER FOR
PERMANENT INJUNCTION AND CIVIL PENALTY JUDGMENT**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“Commission”), filed its *Complaint for Permanent Injunction, Civil Penalties, and Other Relief* (“Complaint”) pursuant to Sections 13(b), 19, and 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b), 57b, and 56(a)(1). Defendant has waived service of the summons and the Complaint. Plaintiff and Defendant stipulate to the entry of this *Stipulated Final Order for Permanent Injunction and Civil Penalty Judgment* (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, it is **ORDERED** as follows:

FINDINGS

1. This court has jurisdiction over this matter.
2. The Complaint charges that Defendant participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and the Mortgage Acts and Practices - Advertising Rule (“MAP Rule”), 16 C.F.R. Part 321, recodified as Mortgage Acts and Practices (“Regulation N”), 12 C.F.R. Part 1014, in connection with the telemarketing, advertising, marketing, promoting, offering for sale, or selling of mortgage credit products.
3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.
4. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.
5. Defendant and Plaintiff waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. **“Assisting others”** includes, but is not limited to: (a) performing customer service functions, including receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any

commercial communication in connection with mortgage credit products; and (c) providing names of, or assisting in the generation of, potential customers.

2. **“Commercial Communication”** means any written or oral statement, illustration, or depiction that is designed to effect a sale or create interest in purchasing goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, on-hold script, upsell script, training materials provided to telemarketing firms, program-length commercial (“infomercial”), the internet, cellular network, or any other medium.

3. **“Defendant”** means Mortgage Investors Corporation of Ohio, Inc., whether doing business as Mortgage Investors Corporation, AmeriGroup Mortgage Corporation, Veterans Information Department, Veterans Home Loans, or any other assumed name, and its successors and assigns.

4. **“Do Not Call Request”** means any statement by a person that indicates that he or she does not wish to receive telephone calls initiated to induce the purchase of goods or services or to solicit charitable contributions.

5. **“Entity-Specific Do Not Call List”** means a list of telephone numbers created to comply with Do Not Call Requests.

6. **“Established Business Relationship”** means a relationship between the seller and a person based on: (a) the person's purchase, rental, or lease of the seller's

goods or services or a financial transaction between the person and seller within 18 months immediately preceding the date of the telemarketing call; or (b) the person's inquiry or application regarding a product or service offered by the seller, within the 3 months immediately preceding the date of a telemarketing call.

7. **“Express Agreement to Call”** means a written agreement that has not been rescinded by the consumer orally or in writing and that clearly evidences the consumer's consent to receive calls made by or on behalf of a specific party and contains both the telephone number to which calls may be placed and the signature (which may include electronic or digital forms of signature to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law) of the consumer.

8. **“Mortgage Credit Product”** means any form of credit that is secured by real property or a dwelling and that is offered or extended to a consumer primarily for personal, family, or household purposes.

9. **“National Do Not Call Registry”** means the National Do Not Call Registry maintained by the Federal Trade Commission pursuant to 16 C.F.R. § 310.4(b)(1)(iii)(B).

10. **“Outbound Telephone Call”** means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

11. **“Person”** means any natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or other business entity.

12. **“Telemarketing”** means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by the use of one or more telephones and which involves more than one interstate telephone call.

ORDER

I. PROHIBITION AGAINST ABUSIVE TELEMARKETING PRACTICES

IT IS ORDERED that Defendant, Defendant's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with Telemarketing are permanently restrained and enjoined from:

A. Denying or interfering with a person's right to be placed on an Entity-Specific Do Not Call List by:

1. failing to place the telephone number of any person who makes a Do Not Call Request or states that they do not wish to receive calls offering goods or services or soliciting charitable contributions from Defendant on an Entity Specific Do Not Call List;
2. requiring any person who makes a Do Not Call Request to repeat the request to a sales manager or other person who attempts to deliver a sales solicitation before complying with the request;

B. Initiating an Outbound Telephone Call to any person who has previously stated that he or she does not wish to receive such a call made by or on behalf of the seller whose goods or services are being offered and that statement has not been rescinded by the consumer in writing;

C. Initiating an Outbound Telephone Call to any telephone number that is on the National Do Not Call Registry, unless:

1. Defendant has obtained an Express Agreement to Call the number listed with the National Do Not Call Registry; or
2. Defendant has an Established Business Relationship with the person called and that person has not made a Do Not Call Request to Defendant;

D. Assisting others to violate Paragraphs A - C of this Section.

Provided, however, that if Congress or any agency with authority over Mortgage Credit Products promulgates any rule or statute that modifies or supersedes the TSR, in whole or in part, Defendant shall comply fully and completely with all applicable requirements thereof, on and after the effective date of any such rule.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with advertising, marketing, promoting, offering for sale, or selling any Mortgage Credit Product are permanently restrained and enjoined from

misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:

- A. The terms or rates that are available for any Mortgage Credit Product;
- B. The closing costs or fees associated with any Mortgage Credit Product, including that a Mortgage Credit Product is available at no cost to consumers;
- C. Any savings associated with the Mortgage Credit Product or the length of time that such savings will be available;
- D. The variability of interest, payments, or other terms of a Mortgage Credit Product, including that a Mortgage Credit Product offers a fixed rate of interest;
- E. Any comparison of a rate or payment that will be available for a period less than the full length of the Mortgage Credit Product and any actual or hypothetical rate or payment;
- F. An association of the Mortgage Credit Product, or the provider of such product, with any other person or program, including misrepresenting that a Mortgage Credit Product or the provider of that Mortgage Credit Product is, or is affiliated with, any governmental entity or other organization, including the U.S. Department of Veterans Affairs.

III. CIVIL PENALTY

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$7,500,000.00 (Seven Million and Five Hundred Thousand Dollars) is entered in favor of Plaintiff against Defendant as a civil penalty.

B. Defendant is ordered to pay to the Plaintiff, by making payment to the Treasurer of the United States, \$7,500,000.00 (Seven Million and Five Hundred Thousand Dollars). Such payment must be made within 14 days of entry of this Order by electronic funds transfer in accordance with instructions to be provided by a representative of Plaintiff or the Commission.

IV. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of Plaintiff or the Commission to enforce its right to any payment or monetary judgment pursuant to this Order.

C. Defendant acknowledges that its Taxpayer Identification Number (Employer Identification Number), which Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

V. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtains acknowledgments of receipt of this Order:

A. Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, the Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and managers and members; (2) all employees, agents, and representatives who participate in the Telemarketing, advertising, marketing, promoting, offering for sale, or selling of any Mortgage Credit Product; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 14 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VI. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury:

Defendant must: (a) designate the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and Plaintiff may use to communicate with Defendant; (b) identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods

and services offered and the means of advertising, marketing, and sales;
(d) describe in detail whether and how Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment pursuant to this Order, unless previously submitted to the Commission.

B. For 10 years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 30 days of any change in the following:

Defendant must report any change in: (a) any designated point of contact; and (b) the structure of Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within 30 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *U.S. v. Mortgage Investors Corporation of Ohio, Inc.*, Matter No. 1223084.

VII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant in connection with Telemarketing or Commercial Communications relating to Mortgage Credit Products, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A master copy of each unique Commercial Communication relating to Mortgage Credit Products.

VIII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order:

A. Within 30 days of receipt of a written request from a representative of the Commission or Plaintiff, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate directly with Defendant through its General Counsel or, if Defendant has no General Counsel, with any of Defendant's executive officers. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission and Plaintiff may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

IX. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

DONE AND ORDERED in this _____ day of _____, 2013.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

STUART F. DELERY
Acting Assistant Attorney General
Civil Division
U.S. Department of Justice

MAAME EWUSI-MENSAH FRIMPONG
Deputy Assistant Attorney General

ROBERT E. O'NEILL
United States Attorney




Dated: June 25, 2013

LACY R. HARWELL, JR.
Chief, Civil Division
Florida Bar No. 714623
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6000
Facsimile: (813) 274-6200
Email: Randy.Harwell@usdoj.gov

MICHAEL S. BLUME
Director, Consumer Protection Branch

RICHARD GOLDBERG
Assistant Director
Consumer Protection Branch
U.S. Department of Justice
P.O. Box 386
Washington, D.C. 20044
Telephone: 202-307-2532
Fascimile: 202-514-8742
Email: Richard.goldberg@usdoj.gov

FEDERAL TRADE COMMISSION

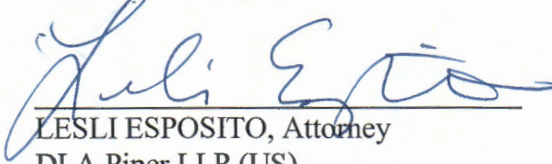


DAMA J. BROWN, Attorney
Florida Special Bar No. A5501135
Federal Trade Commission
225 Peachtree Street N.E., Suite 1500
Atlanta, Georgia 30043

Telephone: (404) 656-1361
Facsimile: (404) 656-1379
Email: dbrown1@ftc.gov

06/03/2013
Date

FOR DEFENDANT:

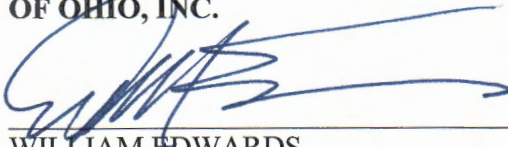


LESLI ESPOSITO, Attorney
DLA Piper LLP (US)
One Liberty Place
1650 Market Street, Suite 4900
Philadelphia, Pennsylvania 19103-7300

Telephone: (215) 656-2432
Facsimile: (215) 606-2132
Email: E lesli.esposito@dlapiper.com

5/24/13
Date

**MORTGAGE INVESTOR CORPORATION
OF OHIO, INC.**



WILLIAM EDWARDS
AS AN OFFICER OF MORTGAGE
INVESTORS CORPORATION OF OHIO, INC.

5/23/13
Date