

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
DIVISION OF FINANCE AND CORPORATE SECURITIES  
FINANCE SECTION  
BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
STATE OF OREGON

In the Matter of

EMC MORTGAGE CORPORATION

ORDER NO. O-02-0033-02

CEASE AND DESIST ORDER AND  
CONSENT TO IMPOSITION OF CIVIL  
PENALTIES

To: EMC Mortgage Corporation  
Two MacArthur Ridge  
909 Hidden Ridge Drive, Suite 200  
Irving, TX 75038

**WHEREAS** the Director of the Department of Consumer and Business Services for the State of Oregon (hereinafter "the Director") conducted an investigation of EMC Mortgage Corporation, and as a result of that investigation determined that EMC Mortgage Corporation, engaged in activities constituting violations of ORS 59.840 through 59.965 (hereinafter "the Oregon Mortgage Lender Law"); and

**WHEREAS** EMC Mortgage Corporation, wishes to resolve and settle this matter with the Director;

**NOW THEREFORE**, as evidenced by the authorized signatures subscribed on this order EMC Mortgage Corporation hereby **CONSENTS** to entry of this order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter:

**FINDINGS OF FACT**

The Director **FINDS** that:

1. EMC Residential Mortgage Corporation, incorporated in Delaware on March 17, 1994, engages in residential mortgage transactions in Oregon or

on Oregon real property in expectation of compensation and has obtained an Oregon mortgage lender license in compliance with the licensing requirements.

2. EMC Mortgage Corporation (hereinafter "Respondent") is the parent company of EMC Residential Mortgage.

3. Respondent asserts that EMC Mortgage Corporation is a mortgage servicer only and therefore is exempt from licensing in the State of Oregon.

4. Consumers Calvin and Carrie Perkins obtained a loan held by Respondent and secured by the consumer's Oregon residential real property.

5. Respondent asserts the loan to Calvin and Carrie Perkins was acquired by the Respondent on October 22, 2001 from the Resolution Trust Corporation (RTC) as receiver for Far West Federal Bank S. B. f/k/a Far West Federal Savings and Loan Association.

6. On or about March 6, 2002, Calvin and Carrie Perkins' received notification from Respondent that the loan was paid in full and that reconveyance on the Oregon residential real property owned by Calvin and Carrie Perkins would be completed within 90 days.

7. Respondent asserts the loan was acquired after it had been paid off (March 6, 2002) but the transfer to Respondent was not completed until August 20, 2002.

8. Respondent asserts that the file name and address were listed incorrectly as Warren M. Luttrell and Dorsey Luttrell at 12354 NW Kearney, rather than Calvin and Carrie Perkins at 12372 NW Kearney.

9. Respondent asserts a title search was completed that uncovered an assumption by the Perkins' and release documents were prepared on September 20, 2002 and filed for record on October 11, 2002.

10. Calvin and Carrie Perkins filed a complaint against Respondent with the Director when their property was not reconveyed in a timely manner.

11. Respondent agrees to submit to the Director's jurisdiction and accept responsibility for the failure to discharge the mortgage within 30 days.

### CONCLUSIONS OF LAW

The Director **CONCLUDES** that:

1. Respondent violated ORS 59.865(2) by engaging in an illegal, unfair or unethical practice in connection with the mortgage business by failing for more than 30 days to discharge the encumbrance on Calvin and Carrie Perkins' Oregon residential real property.

### ORDER

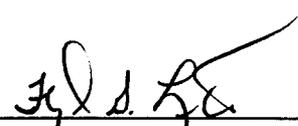
The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that EMC Mortgage Corporation and EMC Residential Mortgage Corporation will **CEASE AND DESIST** from violating any provision of Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 and any rule, order, or policy issued by the Director.

The Director, pursuant to ORS 59.996 hereby **ORDERS** EMC Mortgage Corporation to pay the State of Oregon a civil penalty of \$500.

The entry of this Order in no way limits further remedies which may be available to the Director under Oregon law.

Dated this 30th day of OCTOBER, 2003.

**Cory STREISINGER, DIRECTOR**  
**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

by   
**FLOYD G. LANTER, ADMINISTRATOR**  
**DIVISION OF FINANCE AND CORPORATE SECURITIES**

**CONSENT TO ENTRY OF ORDER**

I, Dana Dillard, state that I am the Senior Vice President of EMC Mortgage Corporation, and I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents hereof; that EMC Mortgage Corporation admits the findings of fact herein, voluntarily consents to the entry of this Order without further hearing, expressly waiving any right to a hearing in this matter; that EMC Mortgage Corporation understands that the Director reserves the right to take further actions to enforce this order or to take appropriate action upon discovery of other violations of Oregon Mortgage Lender Law; and that EMC Mortgage Corporation will fully comply with Oregon Mortgage Lender Law.

I understand that this Consent Order is a public document.

Dated this 20th day of October, 2003

By Dana Dillard Senior Vice President  
(Office Held)

(Signature)

**CORPORATE ACKNOWLEDGMENT**

There appeared before me this 20th day of October, 2003, Dana Dillard, who was first duly sworn on oath, and stated that s/he was and is the Senior Vice President of EMC Mortgage Corporation and she is authorized and empowered to sign this Consent to Entry of Order on behalf of EMC Mortgage Corporation and to bind EMC Mortgage Corporation to the terms hereof.

Linda E. Hicks  
Signature of Notary Public  
Notary Public for the State of: Texas  
My Commission expires: 03-19-04

