

LAWRENCE G. WASDEN
Attorney General

BRIAN D. NICHOLAS – I.S.B. #3585
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8092
Facsimile: (208) 332-8016
brian.nicholas@finance.idaho.gov

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

IN THE MATTER OF:

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

Docket No. 2017-8-03

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Finance (Department), pursuant to the Idaho Residential Mortgage Practices Act, codified at Idaho Code § 26-31-101 *et seq.* (hereinafter the Act) hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to Idaho Code § 26-31-205(2), requiring Ocwen Loan Servicing LLC, to immediately cease and desist from violating the statutes and rules of the Act.

The Director of the Department (Director), having reason to believe that Ocwen Loan Servicing LLC 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 rules, 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. OLS is licensed by the Department as a mortgage broker/lender under the Act.

3. The Department has jurisdiction over the licensing and regulation of persons and entities engaged in the business of residential mortgage brokering/lending under the Act and its implementing rules as contained in the Idaho Administrative Code (IDAPA 12.01.10 *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 Idaho Code §§ 26-31-204 and 26-31-209, the Department is authorized to conduct examinations of the books, records, and loan files of licensed mortgage brokers/lenders

transacting business in Idaho to determine compliance with the provisions of the Act and all applicable rules issued thereunder. Pursuant to Idaho Code § 26-31-209(2), the Director is authorized to designate a representative to conduct examinations of the books and records of out-of-state licensees. Ocwen and OLS maintain their books and records outside of Idaho and thus, the Director has appointed the MMC as his representative to conduct the examination.

B. FINDINGS OF FACT

6. 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. OLS services approximately 1.4 million accounts nationwide and approximately 5,400 in Idaho. As a mortgage servicer, OLS has a duty to process and apply borrower payments, communicate payment information and maintain borrower records. To fulfill this function, OLS set up an electronic proprietary platform called RealServicing.

7. The MMC examination found that the RealServicing platform was inadequate and fraught with errors. As a result, OLS 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 OLS failed to make timely disbursements to pay for taxes and insurance from escrow accounts on numerous loans. The MMC examination also found that OLS routinely sent consumers inaccurate, confusing and/or misleading escrow statements. These problems are all caused by the malfunctions and human errors in the RealServicing system.

8. In 2015, OLS and Ocwen failed to provide key financial documents and reconciliements of its financial statements to regulators.

9. 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.

10. 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.

12. 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 was well beyond Ocwen's financial capacity. 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 would leave a vast number of consumers with unreconciled escrow accounts.

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

14. 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.

15. 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 the company would not continue as a going concern.

C. CONCLUSION OF LAW

16. Based upon the information contained in Paragraphs 1 through 15, the Director has reasonable belief that OLS 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 in compliance with IDAPA 12.01.10.005, which incorporates Regulation X into the Rules issued pursuant to the Act.

17. The relevant provisions of Regulation X, codified at 12 CFR § 1024.38 require that a servicer provide accurate and timely disclosures to a borrower. Further, Regulation X, 12 CFR § 1024.34, as incorporated into IDAPA 12.01.10.005 requires:

Timely escrow disbursements required. If the terms of a mortgage loan require the borrower to make payments to the servicer of the mortgage loan for deposit into an escrow account to pay taxes, insurance premiums, and other charges for the mortgaged property, the servicer shall make payments from the escrow account in a timely manner . . .

18. The Director finds that based on the violations of Idaho law, it is appropriate to issue a Cease and Desist Order.

CEASE AND DESIST ORDER

The Director, having reviewed the foregoing, good cause being shown, and the public interest being served thereby,

NOW, THEREFORE, the Director has reason to believe that OLS has violated the Rules pursuant to the Idaho Mortgage Practices Act as set forth above.

Pursuant to Idaho Code § 26-31-205(2), IT IS HEREBY ORDERED that OLS and its agents and employees immediately CEASE AND DESIST from acts, practices, or omissions which constitute a violation of the Act and corresponding rules, including specifically misapplying consumer escrow accounts, and providing inaccurate information to consumers about their escrow accounts.

This ORDER TO CEASE AND DESIST is effective upon issuance.

DATED this 20th day of April, 2017.

STATE OF IDAHO
DEPARTMENT OF FINANCE



MARY HUGHES, Acting Director



NOTICE

OLS is HEREBY NOTIFIED that this ORDER TO CEASE AND DESIST is a final order of the Director.

OLS may file a motion for reconsideration or request for hearing concerning this final order within fourteen (14) days of the service date of this order. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of such motion for reconsideration or request for a hearing shall also be served on the Department's counsel, Brian D. Nicholas, Deputy Attorney General, at the same address.

The Department will dispose of a motion for reconsideration within twenty-one (21) days of the receipt of a motion for reconsideration, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Idaho Rules of Administrative Procedure of the Attorney General (IRAP) at IDAPA 4.11.01.740.02.a. Should OLS make a timely request for a hearing, the Department shall schedule a hearing within the twenty-one (21) day time period.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal to the district court by filing a petition in the district court of the county in which:

- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

See IDAPA 04.11.01.740.02.b.

An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration or schedule a hearing, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. See IDAPA 04.11.01.740.02.c.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April, 2017, I caused a true and correct copy of the foregoing fully-executed ORDER TO CEASE AND DESIST to be served on the following by the designated means:

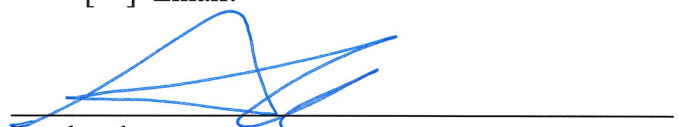
Phyllis R. Caldwell, Chair of the Board [] U.S. mail, postage prepaid
C/O Timothy Hayes, General Counsel [] Certified mail
[] Facsimile:
[x] Email: timothy.hayes@ocwen.com

Robert A. Salcetti, Vice Chair of Board [] U.S. mail, postage prepaid
C/O Timothy Hayes, General Counsel [] Certified mail
[] Facsimile:
[x] Email: timothy.hayes@ocwen.com

President [] U.S. mail, postage prepaid
Ronald M. Faris [] Certified mail
[] Facsimile:
[x] Email: Ronald.faris@ocwen.com

General Counsel [] U.S. mail, postage prepaid
Timothy Hayes [] Certified mail
[] Facsimile:
[x] Email: timothy.hayes@ocwen.com

Ocwen Loan Servicing, LLC [x] U.S. mail, postage prepaid
C/O Timothy Hayes, General Counsel [] Certified mail
1661 Worthington Road Suite 100 [] Facsimile:
West Palm Beach FL , 33409 [] Email:



Paralegal