



**COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET DEPARTMENT OF FINANCIAL INSTITUTIONS  
ADMINISTRATIVE AGENCY CASE NO. 2023-AH-2021**

**DEPARTMENT OF FINANCIAL INSTITUTIONS**

**COMPLAINANT**

**v.**

**MARLIN MORTGAGE CAPITAL, LLC**

**RESPONDENT**

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**AGREED ORDER**

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STATEMENT OF FACTS

1. The Department of Financial Institutions (“DFI”) is responsible for regulating and licensing entities and certain individuals engaged in the business of mortgage brokering, origination, and processing in accordance with the provisions set forth in Kentucky Revised Statutes (KRS) Chapter 286.9 (“The Act”).

2. On June 22, 2022, Marlin Mortgage Capital, LLC (“the Respondent”) applied for a mortgage loan company license with DFI.

3. In the application, Respondent self-disclosed that Respondent had previously purchased Master Servicer Rights (“MSRs”), including MSRs for loans made to Kentucky residents, prior to filing the application and did not file a claim of exemption from licensure for such activity.

4. Respondent acknowledged that it purchased MSRs for loans secured by Kentucky residences.

STATUTORY AUTHORITY

5. KRS 286.8-220(1)(a) states, “It is unlawful for any person to transact business in Kentucky, either directly or indirectly, as a mortgage loan company or mortgage loan broker if

the mortgage loan company or mortgage loan broker is not licensed in accordance with the requirements of this subtitle, unless that person is exempt under KRS 286.8-020 and, if required by KRS 286.8-020(3) has timely filed a completed application for a claim of exemption, and the filed application for a claim of exemption has been approved by the commissioner.

6. DFI possesses a range of administrative authority in addressing the violations of Chapter 286.8, including license revocation or denial, the imposition of civil penalties in an amount up to \$25,000 per violation, imposition of costs and fees, and the ability to offer a settlement.

#### VIOLATIONS

7. DFI alleges that Respondent violated KRS 286.8-220(1)(a) when it obtained MSRs on Kentucky properties prior to obtaining an approved license.

#### AGREEMENT AND ORDER

8. To resolve this matter without litigation or other adversarial proceedings, DFI and Respondent agree to compromise and settle all claims arising from the above-referenced factual background in accordance with the terms set forth herein.

9. In the interest of economically and efficiently resolving the violations described herein, DFI and Respondent agree as follows:

- a. Respondent agrees to pay Twenty Thousand Dollars (\$20,000) for the alleged violations described herein, which shall be payable within 5-business days of acceptance by the Respondent of this Order;
- b. All payments shall be made electronically through the NMLS system;

- c. DFI shall approve Respondent's application for a mortgage loan company license upon Respondent making the payment;
- d. Respondent shall devote time and resources necessary to ensure continual and full compliance with all statutory requirements set forth in KRS Chapter 286.8 and related regulation;
- e. Respondent shall cease and desist from any future violations of the Kentucky Financial Services Code;
- f. Respondent waives their right to demand a hearing at which they would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on their own behalf, or to otherwise appeal or set aside this Order;
- g. Respondent consents to and acknowledges the jurisdiction of DFI over this matter and that this Agreed Order is a matter of public record and may be disseminated as such but otherwise neither admits nor denies the validity of the allegations in this Agreed Order;
- h. In consideration of this Agreed Order, Respondent hereby releases and forever discharges the Commonwealth of Kentucky, the Department of Financial Institutions, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, or may have or claim to have against any or all of the persons or entities named in this paragraph

arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration;

i. DFI hereby releases Respondent, its officers, employees, parent, subsidiary(ies) and affiliate(s) from any and all claims or liability arising out of or relating to the activity alleged to have occurred in this Agreed Order, all of which are resolved by virtue of this Agreed Order.

j. By signing below, Respondent acknowledges they have read the foregoing Agreed Order and knows and fully understands its contents; and

k. This Agreed Order shall constitute the Final Order in this matter.

SO ORDERED on this the 19th day of November, 2023.

*/s/ Marni Rock Gibson*  
~~JUSTIN BURSE~~ Marni Rock Gibson  
ACTING COMMISSIONER

**Consented to:**

This 8th day of November, 2023.

Jessica D. Sullivan

Division of Non-Depository Institutions  
Department of Financial Institutions

AND

On behalf of Marlin Mortgage Capital, LLC

This 7th day of September, 2023.

Darren Halpern COO  
Authorized Representative, Marlin Mortgage Capital, LLC  
NMLS # 1866663

**ACKNOWLEDGEMENT**

STATE OF New Jersey

COUNTY OF Bergen

On this the 7th day of September, 2023, the undersigned did personally appear before me and acknowledged in my presence that, being authorized to do so, they did enter into and execute the foregoing instrument, on behalf of Marlin Mortgage Capital, LLC for the purposes therein contained.

My Commission Expires: 3/24/2028

Elizabeth N. Rabinowitz  
Notary Public

Elizabeth N. Rabinowitz  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES March 24, 2028

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 20  
day of November, 2023, by certified mail, return receipt requested, to:

Andrew T. Weber  
646 2<sup>nd</sup> Avenue South  
St.Petersburg, FL 33701

Via hand delivery to:

Elizabeth Borders  
Staff Attorney  
Department of Financial Institutions  
500 Metro Street 2SW19  
Frankfort, Kentucky 40601

Kentucky Department of Financial Institutions

Name: Allison Reed by Victoria Word

Title: Executive Staff Advisor