

Terms Completed

ORDER SUMMARY – Case Number: C-13-1289

Name(s): Fifth Third Mortgage Company

Order Number: C-13-1289-14-CO01

Effective Date: April 2, 2014

License Number: DFI: 80392 NMLS ID: 134100

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)

License Effect: Respondent's license application may continue to be processed

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$2,556.82	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 04/01/14
Fine	\$226,070	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 04/01/14
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-13-1289-14-CO01

CONSENT ORDER

FIFTH THIRD MORTGAGE COMPANY,
NMLS #134100,
Respondent.

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COME NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Fifth Third Mortgage Company (Respondent), 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:

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FINDINGS OF FACT

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1.1 Respondent has not previously obtained a consumer loan license in accordance with chapter 31.04 RCW, the Consumer Loan Act (Act), from the Department of Financial Institutions of the State of Washington (Department).

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1.2 Since at least August 2001, Respondent has engaged in the business of a consumer loan company in the State of Washington.

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1.3 On or about November 20, 2012, Respondent voluntarily submitted an application to the Department to engage in the business of a consumer loan company under the Act, and the application is pending. During the application process, Respondent acknowledged making residential mortgage loans in Washington since 2006, and servicing residential mortgage loans in Washington since 2001.

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1.4 Respondent acknowledged making, servicing, or both making and servicing, approximately 1,739 consumer loans in Washington without a license since August 2011.

1 **CONCLUSIONS OF LAW**

2 **2.1** Based on the above Findings of Fact, Respondent violated RCW 31.04.035 by engaging in the
3 business of a consumer loan company in the State of Washington without first obtaining and
4 maintaining a license in accordance with the Act or meeting an exemption from the Act under RCW
5 31.04.025.

6 **AGREEMENT AND ORDER**

7 The Department and Respondent have agreed upon a basis for resolution of the Findings of
8 Fact and Conclusions of Law identified in this Consent Order. Pursuant to the Act and RCW
9 34.05.060 of the Administrative Procedure Act, Respondent and the Department agree to entry of this
10 Consent Order and further agree that the matters alleged herein may be economically and efficiently
11 settled by entry of this Consent Order.

12 Based upon the foregoing:

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

15 **B. Waiver of Hearing.** It is AGREED that Respondent hereby waives any right it has to a
16 hearing and any and all administrative and judicial review of the issues raised in this matter, or of the
17 resolution reached herein.

18 **C. Consumer Loan License Required.** Subject to paragraph G of this Consent Order, it is
19 AGREED that Respondent understands that in order to make and service consumer loans in
20 Washington, Respondent must obtain a consumer loan license in accordance with the Act or qualify
21 for an exclusion from licensing as delineated in the Act. It is further AGREED that on or about
22 December 19, 2013, Respondent agreed to cease making consumer loans to Washington consumers
23 until Respondent obtains a consumer loan license or meets an exemption under the Act; and that
24 Respondent has not initiated any new consumer loans to Washington consumers since that date.

1 **D. Fine.** It is AGREED that Respondent shall pay a fine to the Department in the amount of
2 \$226,070, in the form of a cashier's check made payable to the "Washington State Treasurer," upon
3 entry of this Consent Order.

4 **E. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
5 investigation fee of \$2,556.82, in the form of a cashier's check made payable to the "Washington
6 State Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee may be paid
7 together in one \$228,626.82 cashier's check made payable to the "Washington State Treasurer."

8 **F. Records Retention.** It is AGREED that Respondent, its officers, employees, and agents
9 shall maintain records in compliance with the Act and provide the Director with the location of the
10 books, records and other information relating to Respondent's consumer loan company business, and
11 the name, address and telephone number of the individual responsible for maintenance of such
12 records in compliance with the Act.

13 **G. Application for Consumer Loan License.** It is AGREED that the entry of this Consent
14 Order will not preclude Respondent from obtaining a consumer loan license pursuant to Respondent's
15 pending consumer loan license application with the Department and that, SO LONG AS Respondent
16 complies with the terms and conditions of this Consent Order, this Consent Order resolves and settles
17 all violations of the Act arising from Respondent engaging in the business of a consumer loan
18 company without a consumer loan license, until the time Respondent is issued a license or its
19 application is denied. It is further AGREED that upon payment to the Department of the sums
20 required under paragraphs D and E of this Consent Order, SO LONG AS all requirements under
21 chapter 31.04 RCW and 208-620 WAC are satisfactorily met and the application is complete as
22 determined by the Department, the Department will process Respondent's pending consumer loan
23 license application in due course. Respondent will be timely notified of any additional licensing
24 requirements. Respondent agrees to timely respond to any such requests.

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

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

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

9 **K. Authority to Execute Order.** It is AGREED that the undersigned have represented and
10 warranted that they have the full power and right to execute this Consent Order on behalf of the
11 parties represented.

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1 **RESPONDENT:**

Fifth Third Mortgage Company

2 By:

[Redacted Signature]

3 Robert D. Lewis
4 President

3-28-14

Date

5 Approved for Entry:

[Redacted Signature]

6 Gwen M. Morris, Ohio Registration No. 0069267
7 Attorney at Law
8 Graydon Head & Ritchey LLP
9 Attorney for Respondent

3-31-14

Date

10 DO NOT WRITE BELOW THIS LINE

11 THIS ORDER ENTERED THIS 2nd DAY OF April, 2014.



[Redacted Signature]

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13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

[Redacted Signature]

18 RACHELLE VILLALOBOS
19 Financial Legal Examiner

20 Approved by:

[Redacted Signature]

22 CHARLES E. CLARK
23 Enforcement Chief