

**BEFORE THE ARKANSAS SECURITIES COMMISSIONER  
CASE NO. C-11-0241  
ORDER NO. C-11-0241-11-OR01**

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ARKANSAS SECURITIES DE

**IN THE MATTER OF:  
21<sup>st</sup> MORTGAGE CORPORATION**

**RESPONDENT**

**CONSENT ORDER**

This Consent Order is entered pursuant to the Arkansas Fair Mortgage Lending Act (“FMLA”), codified at Ark. Code Ann. §§ 23-39-501 through 23-39-518, the Rules of the Arkansas Fair Mortgage Lending Act (“Rules”) and the Arkansas Administrative Procedures Act, codified at Ark. Code Ann. §§ 25-15-101 through 25-15-219, in accordance with an agreement between the Staff of the Arkansas Securities Department (“Staff”) and the Respondent, 21<sup>st</sup> Mortgage Corporation (“21<sup>st</sup> Mortgage”).

21<sup>st</sup> Mortgage admits the jurisdiction of the FMLA and the Arkansas Securities Commissioner (“Commissioner”), waives its right to a formal hearing and appeal, consents to the entry of this Consent Order, and agrees to abide by its terms in settlement of any possible violations committed by 21<sup>st</sup> Mortgage concerning the matters detailed herein.

**FINDINGS OF FACT**

1. 21<sup>st</sup> Mortgage is a mortgage banker and mortgage servicer located in Knoxville, Tennessee, Nationwide Mortgage Licensing System Registry (“NMLS&R”) number 2280. 21<sup>st</sup> Mortgage is currently licensed as a mortgage broker, mortgage banker, and mortgage servicer by the Arkansas Securities Department (“Department”). 21<sup>st</sup> Mortgage’s license as a mortgage broker, mortgage banker, and mortgage servicer is scheduled to expire on December 31, 2011.

2. On September 29, 2010, the Staff initiated a desktop examination on 21<sup>st</sup> Mortgage for the time period commencing January 1, 2008, and ending August 31, 2010. Through its examination, the Staff determined that in 2009 and 2010 the following employees of 21<sup>st</sup> Mortgage engaged in mortgage loan activity without being licensed under the FMLA:

a. In December 2009, while Ryan Doolan (“Doolan”) was employed by 21<sup>st</sup> Mortgage, Doolan was involved in accepting a mortgage loan application and assisting in the process of originating a loan from 21<sup>st</sup> Mortgage to one Arkansas resident without being properly licensed by the Commissioner.

b. Between March and April 2010, while Adam McMahan (“McMahan”) was employed by 21<sup>st</sup> Mortgage, McMahan was involved in accepting mortgage loan applications and assisting in the process of originating loans from 21<sup>st</sup> Mortgage to two Arkansas residents without being properly licensed by the Commissioner.

c. Between June and September 2010, while Joe Connard (“Connard”) was employed by 21<sup>st</sup> Mortgage, Connard was involved in accepting mortgage loan applications and assisting in the process of originating loans from 21<sup>st</sup> Mortgage to two Arkansas residents without being properly licensed by the Commissioner.

d. In August 2010, while Joy Allen (“Allen”) was employed by 21<sup>st</sup> Mortgage, Allen was involved in accepting a mortgage loan application and assisting in the process of originating a loan from 21<sup>st</sup> Mortgage to one Arkansas resident without being properly licensed by the Commissioner.

3. The unlicensed mortgage loan officer activity of Doolan as detailed above constitutes one violation of Ark. Code Ann. § 23-39-503(c) by 21<sup>st</sup> Mortgage in 2009. The

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unlicensed mortgage loan officer activity of McMahan, Connard, and Allen as detailed above constitutes five separate violations of Ark. Code Ann. § 23-39-503(c) by 21<sup>st</sup> Mortgage in 2010.

4. 21<sup>st</sup> Mortgage fully cooperated with the Staff during the Staff's investigation of this matter. 21<sup>st</sup> Mortgage specializes in providing manufactured home financing and has stated that any violations of the FMLA were due to the mistaken belief that its loan activities were not covered by the FMLA and that its employees, while working under the supervision of a licensed loan officer, were exempt from registration. 21<sup>st</sup> Mortgage has assured the Staff that it has in place the internal controls and supervision necessary to ensure future compliance with the FMLA and the Rules.

#### **LEGAL AUTHORITY AND CONCLUSIONS OF LAW**

5. Pursuant to Ark. Code Ann. § 23-39-503(c), it is unlawful for any person other than an exempt person to employ, to compensate, or to appoint as its agent any person to act as a loan officer unless the loan officer is licensed as a loan officer under the FMLA. The acts of 21<sup>st</sup> Mortgage and the unlicensed loan officers employed by 21<sup>st</sup> Mortgage as detailed above in paragraphs 2-3 constitute six separate violations of Ark Code Ann. § 23-39-503(c) by 21<sup>st</sup> Mortgage.

6. Pursuant to Ark. Code Ann. § 23-39-514(a)(1), the entry of this Consent Order is in the public interest.

7. Pursuant to Ark. Code Ann. § 23-39-514(b)(1) and (2), the Commissioner by order may impose a civil penalty that shall not exceed \$10,000.00 for each violation by a mortgage broker, banker, or servicer upon a licensee or any partner, officer, director, member, manager, or other person occupying a similar status or performing a similar function on behalf of a licensee for any violation of the FMLA. The acts and violations of the FMLA by 21<sup>st</sup>


Mortgage as detailed above in paragraphs 2-3 warrant the entry of appropriate civil penalties against 21<sup>st</sup> Mortgage as authorized by Ark. Code Ann. § 23-39-514(b)(1) and (2).

8. Pursuant to Ark. Code Ann. § 23-39-514(k), the FMLA permits the informal disposition of an allegation by consent order. The acts and violations of the FMLA by 21<sup>st</sup> Mortgage as detailed in paragraphs 2-3 warrant the entry of this Consent Order.


**ORDER**

By agreement and with the consent of the Staff and the authorized representative of 21<sup>st</sup> Mortgage, it is hereby ordered that 21<sup>st</sup> Mortgage shall pay a civil penalty of \$6,000.00 to the Arkansas Securities Department. This amount represents full and final settlement of the matters set out herein, and 21<sup>st</sup> Mortgage has agreed to this settlement without admitting or denying the findings of fact or conclusions of law made by the Arkansas Securities Department herein. The payment of said civil penalty by 21<sup>st</sup> Mortgage shall be made to the Arkansas Securities Department within ten calendar days of the entry of this Consent Order.


IT IS SO ORDERED.

  
A. Heath Abshure  
Arkansas Securities Commissioner  
July 11, 2011  
Date

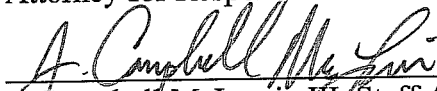
*Approved as to Content and Form:*

  
Rich Ray, CFO and Authorized Officer  
21<sup>st</sup> Mortgage Corporation, Respondent

7/5/11  
Date

  
Matthew D. Webb, Corporate Counsel  
Attorney for Respondent

7/5/11  
Date

  
J. Campbell McLaurin III, Staff Attorney  
Arkansas Securities Department

7/11/11  
Date