

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. C-11-0350

IN THE MATTER OF:

PRIMARY RESIDENTIAL  
MORTGAGE, INC NMLS&R NO. 3094

C-11-0350-12-OR01

RESPONDENT

CONSENT ORDER

This Consent Order (“Order”) is entered pursuant to the Arkansas Fair Mortgage Lending Act, Ark. Code Ann. §§ 23-39-501 through 23-39-518 (“Act”), the Rules of the Fair Mortgage Lending Act (“Rules”), promulgated under the Act, and the Arkansas Administrative Procedures Act (“Procedures”), codified at Ark. Code Ann. §§ 25-15-201 through 25-15-219 in accordance with an agreement by and between the Staff of the Arkansas Securities Department and Primary Residential Mortgage, Inc. (“PRM”) in full and final settlement of all claims that could be brought against PRM by the Staff on the basis of the facts set forth herein.

PRM has cooperated with the Department in its investigation by responding to inquiries, providing documentary evidence and other materials, and providing the Department with access to facts related to the investigation.

By signing below, PRM admits to the jurisdiction of the Act and the Arkansas Securities Commissioner (“Commissioner”), waives its rights to a formal hearing and appeal. PRM neither admits nor denies the findings of fact made herein, but in the interest of resolving this matter without further administrative proceedings, consents to the entry of this Order, and agrees to abide by its terms.

## FINDINGS OF FACT

1. PRM is a corporation organized and existing under the laws of Utah, with its principal place of business located at 1001 Highway 4750 West Wiley Post Way, Suite 200, Salt Lake City, UT 84116. PRM has been licensed as a mortgage broker, mortgage banker, and mortgage servicer by the Arkansas Securities Department (“Department”) since April 9, 2003, Nationwide Mortgage Licensing System Registry number 3094. PRM’s mortgage broker, mortgage banker, or mortgage servicer license is scheduled to expire on December 31, 2012.

2. Amy Wallace (“Wallace”) was employed as a loan officer by PRM during the relevant time period when the violations alleged in this order occurred. According to the Department’s records, Wallace was never granted a loan officer license by the Department for her employment with PRM, nor was a loan officer application filed on her behalf. However, on January 12, 2009, Wallace originated a mortgage loan for an Arkansas resident. This mortgage loan application was accepted by PRM.

3. Brian Lee Robinson (“Robinson”) was employed as a loan officer by PRM during the relevant time period when the violations alleged in this order occurred. According to the Department’s records, Robinson was never granted a loan officer license by the Department for his employment with PRM, nor was a loan officer application filed on his behalf. However, on March 18, 2009, Wallace originated a mortgage loan for an Arkansas resident. This mortgage loan application was accepted by PRM.

4. Marcus Rush (“Rush”) was employed as a loan officer by PRM during the relevant time period when the violations alleged in this order occurred. According to the Department’s records, Rush was never granted a loan officer license by the Department for his employment with PRM, nor was a loan officer application filed on his behalf. However, on January 13, 2009, Rush originated a mortgage loan for an Arkansas resident. This mortgage loan application was accepted by PRM.

5. Pursuant to Ark. Code Ann. §§ 23-39-514(b)(1)-(2), the Commissioner may impose a civil penalty against PRM that shall not exceed \$10,000.00 for each violation under the Act.

6. PRM fully cooperated with the Staff during the Staff's examination of PRM's operations. In addition, PRM has assured the Staff that it has instituted significant internal controls and supervisory changes necessary to ensure that the above alleged violations will not occur in the future. PRM additionally assured the Staff that the changes to its internal controls and supervision of employees were instituted prior to the commencement of the Staff's examination.

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

7. The acts by PRM described in ¶¶ 2-5 constitutes three violations of Ark. Code Ann. § 23-39-503(c). In addition, said acts warrant the entry of an order under Ark. Code Ann. § 23-39-514(a)(2)(B) with the appropriate civil penalty against PRM as authorized by Ark. Code Ann. § 23-39-514(b).

8. It is unlawful for any person, other than an exempt person, to act or attempt to act as a mortgage loan officer in Arkansas without first obtaining a license under the Act. Ark. Code Ann. § 23-39-503(c). Wallace, Robinson, and Rush acted outside the scope of an "exempt person" as defined by Ark. Code Ann. § 23-39-502(9), and therefore, the actions by PRM of employing an unlicensed loan officer as detailed in ¶ 2-5 were in violation of Ark. Code Ann. § 23-39-503(c).

9. Pursuant to Ark. Code Ann. § 23-39-514(a)(1) the entry of this order is in the public interest.

10. The Commissioner by order may impose a civil penalty that shall not exceed \$10,000.00 for each violation by a mortgage broker, mortgage banker or mortgage servicer upon a licensee or 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 Act. Ark. Code Ann. § 23-39-514(b)(1) and (2).

**ORDER**

By agreement and with the consent of the Staff and the authorized representative of PRM, it is hereby ordered that PRM shall be responsible for the payment of a civil penalty in the amount of \$1,500.00 to the Arkansas Securities Department. The payment of the civil penalty shall be made by PRM within thirty days of the entry of this Consent Order.

WITNESS MY HAND AND SEAL on this 21<sup>st</sup> day of March, 2012.



A. Heath Abshire  
Arkansas Securities Commissioner

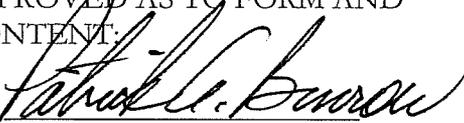
APPROVED AS TO FORM AND  
CONTENT:

By: 

H. Burton Embry,  
Vice President; Primary Residential  
Mortgage, Inc.

Date: MARCH 20, 2012

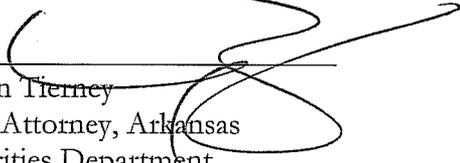
APPROVED AS TO FORM AND  
CONTENT:

By: 

Patrick Burrow  
Quattlebaum, Grooms, Tull  
& Burrow, PLLC

Date: March 21, 2012

APPROVED AS TO FORM AND  
CONTENT:

By:   
Karyn Tierney  
Staff Attorney, Arkansas  
Securities Department

Date: 3-21-12