

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

NOV 2012
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Dept. of Insurance

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE COMMISSIONER
OF INSURANCE

REPUBLIC MORTGAGE INSURANCE
COMPANY,

Petitioner,

**FINAL ORDER APPROVING
CORRECTIVE PLAN**

v.

NORTH CAROLINA DEPARTMENT
OF INSURANCE,

Docket No. 1651

Respondent

THIS matter came on for hearing before the undersigned on October 16, 2012, pursuant to N.C. Gen. Stat. §§ 58-30-60, *et seq.* and the North Carolina Administrative Code §§ 11 NCAC 1.0413 through 1.0430. The undersigned has been designated by the Commissioner of Insurance ("Commissioner") pursuant to N.C.G.S. §58-2-55 to serve as the hearing officer in this matter.

Respondent, the North Carolina Department of Insurance (hereinafter the "Department"), was present and represented by the Regulatory Actions and Actuarial Service Divisions. The Department was represented by Special Deputy Attorney General David W. Boone and Assistant Attorney General M. Denise Stanford. Republic Mortgage Insurance Company ("Petitioner") was represented by William T. Barnett, Jr. and J. Mitchell Armbruster, of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP.

Intervenor Federal Home Loan Mortgage Corporation ("Freddie Mac") was represented by David K. Liggett and James L. Conner II, of Ragsdale Liggett PLLC. Intervenor Federal National Mortgage Association ("Fannie Mae") was represented by Clay C. Wheeler, of Kilpatrick Townsend & Stockton LLP, James M. Pacious, of Fannie Mae, admitted *pro hac vice*, and Andrew R. Holland, of Sidley Austin, LLP, admitted *pro hac vice*. Intervenor Bank of America, N.A. ("Bank of America") and PNC Bank, N.A. ("PNC Bank"), were represented by Johnny M. Loper, of Womble Carlyle Sandridge & Rice, LLP.

After careful consideration of the evidence presented, and based upon the record as a whole, the undersigned renders the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. A Notice of Hearing ("Notice") was issued by the undersigned on September 20, 2012. Pursuant to the Notice, Petitioner sent an email notice of the hearing to all of its master policy holders and posted notice of the hearing on its website.

2. The purpose of this hearing was to consider the proposed Corrective Plan ("Plan") dated September 14, 2012 submitted by Petitioner to the Department, as required by the Commissioner's Summary Order dated January 19, 2012 ("Summary Order"), and to determine whether the Plan should be approved and incorporated into the Summary Order.

3. The stated objectives and elements of the Plan are set forth in Exhibit 1A which was admitted into evidence and is part of the record of this proceeding.

4. Petitioner's high loss ratio forecasts showed that by December 21, 2021, it would be in a position to honor approximately eighty-eight percent (88%) of Petitioner's deferred payment obligations, for a total of ninety-five and two-tenths percent (95.2%) of all valid claims amounts, while remaining solvent on a statutory basis.

5. Susan B. Coble, Senior Regulatory Specialist for the North Carolina Department of Insurance, appointed as Assistant Supervisor of Petitioner in the Summary Order, testified that Petitioner had been transparent and cooperative with the Department and recommended that the Plan be approved.

6. Kevin Conley, Chief Actuary of the North Carolina Department of Insurance, also testified on behalf of the Department. Without objection, Mr. Conley was tendered as an expert in actuarial analysis and admitted as an expert.

7. Mr. Conley testified that he had reviewed the Corrective Plan and all supporting materials, and recommended that the Plan be approved. Mr. Conley reviewed the standard and high loss ratio financial forecasts presented by Petitioner in support of the plan, and testified that in his opinion Petitioner's forecasts were reasonable and that a sixty percent/forty percent (60%/40%) claim payment structure could be implemented without jeopardizing Petitioner's statutory solvency during the ten-year forecast period.

8. The Department retained Risk & Regulatory Consulting, LLC ("RRC") to perform an independent actuarial review of the standard and high loss ratio financial forecasts presented by Petitioner in support of its Plan. RRC concluded that the current fifty percent (50%) rate for deferred payment obligations would maximize the payment amount for all valid claims while providing adequate invested assets throughout the run-off period and, accordingly, recommended that the cash and deferred portions of all claims be continued under the current fifty percent/fifty percent (50%/50%) structure.

9. Mr. Conley testified that in his opinion the Corrective Plan was superior to the recommendation of RRC, and that he did not agree with the RRC recommendation that the

current fifty percent/fifty percent (50%/50%) structure of payments should be continued.

10. Christopher S. Nard, Petitioner's Chairman and Chief Executive Officer, testified in support of the Plan. Mr. Nard testified as to the adequacy of Petitioner's staffing, its management, and its claims handling and policy servicing structures to support an orderly and effective run-off under the proposed sixty percent/forty percent (60%/40%) claims payment structure.

11. The circumstances of Petitioner's financial condition which gave rise to the Summary Order remain substantially as they were when the Summary Order was issued.

12. Pursuant to the Plan and witness testimony offered by Petitioner and Respondent, Petitioner's financial forecasts project compliance with the capital and surplus and minimum policyholder's position requirements by December 31, 2021.

13. Intervenors Fannie Mae, Freddie Mac, Bank of America, and PNC Bank, were granted intervention rights at the outset of the hearing, per the *Order Granting Limited Intervention and Admission Pro Hac Vice* entered on October 18, 2012. Intervenors did not introduce any evidence at the hearing, but were permitted to submit written comments and questions no later than 5:00 pm on October 19, 2012.

14. Three post-hearing submissions from intervenors, one from Freddie Mac, one from Fannie Mae, and one joint submission by Bank of America and PNC Bank, were received for inclusion in the record before 5:00 pm on October 19, 2012. The submissions have been reviewed and considered, though they were not considered as evidence. The submissions of intervenors propose certain changes to the Plan and/or request that the Department consider taking certain actions during the continuing course of its administrative supervision of Petitioner. Intervenors did not offer any witnesses or evidence at the hearing in support of these proposals, or show that the recommendation of the Department and its witnesses that the Plan be adopted was not sound.

CONCLUSIONS OF LAW

1. Under Article 30 of Chapter 58 of the North Carolina General Statutes, the Commissioner has certain powers to institute administrative supervision, rehabilitation, and liquidation on insurers.

2. This matter is properly before the undersigned under the administrative supervision powers of the Commissioner, and the undersigned has subject matter jurisdiction pursuant to the provisions of N.C. Gen. Stat. §58-30-60 *et seq.* and the Summary Order.

3. The Plan is designed to bring Petitioner into compliance with all relevant and pertinent provisions of Chapter 58 of the North Carolina General Statutes.

4. The Plan should be approved pursuant to the provisions of N.C. Gen. Stat. §58-30-60 *et seq.* and the Summary Order, in the discretion of the undersigned.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Petitioner will remain under the Commissioner's administrative supervision pursuant to the provisions of N.C. Gen. Stat. § 58-30-60 *et seq.*
2. The Plan is hereby approved and the Summary Order is hereby amended to incorporate the Plan, subject to the following conditions:
 - (a) If at any time prior to December 21, 2021, the Commissioner has reason to believe that Petitioner's financial condition has changed in any material respect, he may order further hearings to determine whether any other aspect of the Plan should be revised.
 - (b) The order to defer a portion of all claims settlement payments during the term of the Plan is based upon the particular circumstances of Petitioner and the Commissioner's broad discretionary supervision authority under N.C. Gen. Stat. §§ 58-30-60 and 58-30-62, and the provisions of this Order are applicable only in this proceeding.
 - (c) The statutory accounting treatment for the deferred payment obligations described in the Plan is likewise permitted for the duration of the Plan, based strictly upon the particular circumstances of Petitioner and the Commissioner's broad discretionary authority under N.C. Gen. Stat. §§ 58-30-60 and 58-30-62, and such treatment is permitted in this proceeding only and does not constitute a general precedent or rule applicable in other case or proceeding.
 - (d) The Supervisor expressly retains the authority to amend the initial cash partial payment percentage and deferred obligation percentage in the event of a material change of circumstances that would justify an amendment or modification; notice of any such proposed modification shall be given to Petitioner and its policyholders, together with notice of an opportunity to request a hearing on any amendment or modification.
 - (e) The Supervisor shall retain all supervisory powers provided for in the Commissioner's Summary Order dated January 19, 2012 and all of the powers provided for in N.C. Gen. Stat. §§ 58-30-60 and 58-30-62 until further order of the Commissioner.
 - (f) The Corrective Plan and all of its terms shall be reviewed from time to time on an ongoing basis by the Supervisor on an internal basis and in the normal course of business, but no less than annually. The terms of the Plan may be

amended or modified should circumstances warrant such an amendment or modification, after notice and hearing. Intervenors may seek a hearing on the terms of the Plan based upon changed material circumstances pursuant to applicable statutes and regulations.

- (g) The Supervisor may, in her discretion, consider allowing interest, at a to-be-determined appropriate rate, on any unpaid deferred payment obligations to be paid from surplus remaining at the conclusion of supervision and successful execution of the Plan after notice to Petitioner and its policyholders and an opportunity for a hearing.
- (h) The upward change in the initial cash partial payment percentage from 50% to 60% as provided for in the Plan shall be retroactive to January 19, 2012. Retroactive treatment of any future upward adjustments of the cash partial payment percentage shall be in the discretion of the Supervisor.
- (i) Petitioner shall post on its website (www.rmic.com), and thereby make available to all policyholders and the general public, Petitioner's quarterly and annual financial statements as filed with the North Carolina Department of Insurance. Such postings shall be made no later than the date such statements are required to be filed with the North Carolina Department of Insurance. Petitioner shall not be required to post any filing that is confidential under applicable law.

3. Except as modified herein and by the Plan, the Summary Order remains in full force and effect. In addition, this Final Order supersedes the Order issued by the undersigned on November 14, 2012.

4. Any adversely affected party, including qualifying intervenors, may appeal this Order pursuant to N.C.G.S. §58-30-60.

This 20th day of November, 2012.



William K. Hale
Hearing Officer
N.C. State Bar Number 6182
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the foregoing FINAL ORDER APPROVING CORRECTIVE PLAN with this attached certificate of service by hand-delivery to:

Mary Faulkner
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the foregoing FINAL ORDER APPROVING CORRECTIVE PLAN by mailing a copy of the same via certified U.S. mail, return receipt requested, in a first class postage prepaid envelope addressed as follows:

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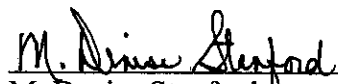
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This the 29th day of November, 2012.



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