

## ORDER SUMMARY – Case Number: C-16-1936

**Name(s):** PHH Home Loans LLC dba PHH Home Mortgage LLC  
 \_\_\_\_\_  
 \_\_\_\_\_

**Order Number:** C-16-1936-17-CO02  
 \_\_\_\_\_

**Effective Date:** 3/31/2017  
 \_\_\_\_\_

**License Number:** NMLS 2726  
**Or NMLS Identifier [U/L]** \_\_\_\_\_

**License Effect:** none  
 \_\_\_\_\_  
 \_\_\_\_\_

**Not Apply Until:** n/a  
 \_\_\_\_\_

**Not Eligible Until:** n/a  
 \_\_\_\_\_

**Prohibition/Ban Until:** n/a  
 \_\_\_\_\_

<b>Investigation Costs</b>	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
No. of Victims:				

**Comments:** Comply with WA AGO Consent Decree 17-2-03467-3  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**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-16-1936-17-CO02

CONSENT ORDER

PHH MORTGAGE CORPORATION,  
NMLS #2726,  
Respondent.

COMES NOW the Acting Director of the Department of Financial Institutions (Director), through her designee Charles E. Clark, Division Director, Division of Consumer Services, and PHH Mortgage Corporation (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 Revised Code of Washington (RCW) 31.04, the Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

**FINDINGS OF FACT**

**1.1** On or about November 4, 1999, Respondent obtained a license from the Department of Financial Institutions of the State of Washington (Department) to conduct the business of a Consumer Loan Company and continues to be licensed to date.

**1.2** On or about August 16, 2012, the Washington Supreme Court held that Mortgage Electronic Registrations Systems, Inc. (MERS) was not the “beneficiary” to a Deed of Trust in Washington as defined by RCW 61.24.005(2) if it did not hold the corresponding promissory note. *Bain v. Metropolitan Mortgage Group, Inc.*, 175 Wn.2d 83, 110 (2012). The *Bain* court further held that “characterizing MERS as the beneficiary has the capacity to deceive....” *Id.* at 117.

1 **1.3** Between August 16, 2012, and the date of this Consent Order, Respondent filed numerous  
2 appointment of successor trustee documents in several Washington county land records offices which  
3 characterized MERS as the beneficiary when MERS did not hold the corresponding promissory note.

#### 4 **CONCLUSIONS OF LAW**

5 **2.1** Based on the above Findings of Fact, the Director concludes that Respondent violated RCW  
6 31.04.027(2) and (13) by directly or indirectly engaging in a deceptive practice toward any person  
7 contrary to applicable state law relating to activities governed by the Act.

#### 8 **AGREEMENT AND ORDER**

9 The Department and Respondent have agreed upon a basis for resolution of the Findings of  
10 Fact and Conclusions of Law identified in this Consent Order. Pursuant to RCW 31.04.093(7) and  
11 RCW 34.05.060, Respondent and the Department agree to entry of this Consent Order and further  
12 agree that the matters alleged herein may be economically and efficiently settled by the entry of this  
13 Consent Order.

14 Based upon the foregoing:

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

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

20 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the matters  
21 alleged herein and agree that Respondent neither admits nor denies any wrongdoing by its entry.

1 **D. Compliance with Consent Decree.** It is AGREED that Respondent will comply with all  
2 provisions of the Consent Decree entered into with the Attorney General of Washington under King  
3 County cause 17-2-03467-3, which are incorporated herein by reference.

4 **E. Compliance with the Act.** It is AGREED that Respondent shall develop a methodology for  
5 tracking Washington appointments of successor trustee documents such that a report of activity may  
6 be expeditiously prepared upon request by the Department. The sufficiency of any such methodology  
7 shall be determined by the Department's Consumer Services Division, Examinations Unit.

8 **F. Multistate Examination.** It is AGREED and understood that Respondent has recently been  
9 subjected to a multi-state examination of which the Department was a participant and for which no  
10 resolution has yet been issued. It is further AGREED that this Consent Order does not address any  
11 aspect of said multistate examination, including fines, costs, fees, or sanctions, and shall not preclude  
12 the Department, or any other government entity participating in said multi-state examination, from  
13 addressing findings from said multi-state examination or fully participating in an action resulting  
14 from the multi-state examination.

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

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

21 **I. Completely Read, Understood, and Agreed.** It is AGREED that Respondent's  
22 representatives have read this Consent Order in its entirety and fully understand and agree to all of  
23 the same.

1 **J. Authority to Execute Order.** It is AGREED that the undersigned authorized representative  
2 has represented and warranted that he has the full power and right to execute this Consent Order on  
3 behalf of Respondent.

4 **K. Counterparts.** This Consent Order may be executed by the Respondent in any number of  
5 counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be deemed  
6 to be an original, but all of which, taken together, shall constitute one and the same Consent Order.

7 **RESPONDENT:**

PHH Mortgage Corporation

8 By:

9 /s/ \_\_\_\_\_  
10 Stephen Staid  
11 Senior Vice President, Servicing

\_\_\_\_\_3/24/2017\_\_\_\_\_  
Date

11 **APPROVED FOR ENTRY:**

12 By:

13 /s/ \_\_\_\_\_  
14 John S. Devlin III, WSBA #23988  
15 Lane Powell PC  
16 Attorney for Respondent

\_\_\_\_\_3/28/2017\_\_\_\_\_  
Date

17 **DO NOT WRITE BELOW THIS LINE**

18 THIS ORDER ENTERED THIS 31<sup>ST</sup> DAY OF March, 2017.

19 /s/ \_\_\_\_\_  
20 CHARLES E. CLARK  
21 Director  
22 Division of Consumer Services  
23 Department of Financial Institutions

24 Presented by:

25 /s/ \_\_\_\_\_  
26 STEVEN C. SHERMAN  
27 Enforcement Chief