

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



DEPARTMENT OF BUSINESS REGULATION  
DIVISION OF BANKING  
1511 PONTIAC AVENUE, BUILDING 68-2  
CRANSTON, RI 02920

IN THE MATTER OF:

Mortgage Security, Inc. D/B/A MSI Mortgage Security, Inc.

DBR No. 09-B-0226  
Civil Action No. PC-09-6571

CONSENT ORDER

**I. Introduction**

The Rhode Island Department of Business Regulation (“Department”) and Mortgage Security, Inc. D/B/A MSI Mortgage Security, Inc. (“Respondent”) agree as follows:

1. Respondent holds Rhode Island Lender License Number 98000891LL with a principal office located at 31 Teaticket Highway, East Falmouth, MA 02536. Respondent’s Nationwide Mortgage Licensing System Unique Identification Number is 20164.
2. Respondent’s president and principal officer is Robert Pena.
3. On or about March 4, 2009 the Division of Banking (“Division”) of the Department notified all licensees, including Respondent, that all Lender and Loan Broker Licensees must file with the Division the required report entitled the Rhode Island

Jurisdiction-Specific Requirement (“RIJSR”) by March 31, 2009 pursuant to R. I. Gen. Laws § 19-14-22.

4. On September 21, 2009 the Division issued a Notice of Intention to Revoke License Under R. I. Gen. Laws § 19-14-13 and of Opportunity for a Hearing (“Notice”) based upon Respondent’s failure to file the RIJSR. The effect of the Notice was made conditional upon Respondent filing the RIJSR with the Division by October 2, 2009; when Respondent failed to so file the Notice, it was executed.
5. On October 19, 2009, the Division having not yet received the RIJSR or a response to the Notice requesting hearing, issued a final order revoking Respondent’s Lender License Number 98000891LL.
6. On November 17, 2009 Respondent filed an appeal in Superior Court for Providence County, seeking a stay of the revocation of Respondent’s Lender License. The Department proposes to settle this matter in lieu of litigation.

## **II. Settlement Agreement**

In consideration of the foregoing and the mutual promises set forth herein, and to resolve all known outstanding violations Respondent acknowledges and waives its right to further notice of the fact that Respondent's actions violated R. I. Gen. Laws § 19-14-22, violation of which will result in a monetary penalty of \$25 per day that Respondent was in violation of § 19-14-22, calculated from March 31, 2009 until January 7, 2010. Respondent hereby waives its right to continue litigation, admits that the allegations in Paragraphs 1 through 6 of the Introduction above are true, and affirms that upon executing this Consent Order, Respondent shall:

1. Comply fully with R. I. Gen. Laws § 19-14-22 and any applicable rules and regulations promulgated under R. I. Gen. Laws Title 19; and

2. Comply fully with the terms of the Revocation Order by filing with the Division the RIJSR, the administrative penalty described below, and by providing an affidavit that no Rhode Island activity has occurred since revocation, that there are no pending cases filed against Respondent, and that there are no other pending fees or penalties outstanding.
3. Reapply with the Department via the Nationwide Mortgage Licensing System (“NMLS”) and demonstrating that Respondent meets all requirements of licensure.
4. File with the Division a certified copy of a resolution of the board of directors or substantially equivalent governing body of Respondent that identifies Robert Pena as the person authorized to execute this Consent Order.
5. File with the Division the RIJSR and Annual Statement along with the \$55 processing fee and the administrative penalty calculated pursuant to R.I. Gen. Laws § 19-14-22 as \$25 per day from March 31, 2009 until the date the RIJSR was filed with the Department which is two hundred and two (202) days, equaling a sum of \$5,050.
6. Put in place a compliance officer who will ensure that all future filings are made in a timely and reasonable manner.
7. Acknowledge that there are no pending or other disciplinary actions, suspensions, revocations, or other administrative or civil actions pending in any other jurisdiction.
8. Pay by check made payable to the General Treasurer, State of Rhode Island<sup>1</sup> an administrative assessment in the aggregate amount of one thousand two hundred eighty dollars (\$1,280), of which two hundred eighty dollars (\$280) represents an examination fee.
9. After the execution of this Consent Order, Respondent shall submit an application for

renewal through the Nationwide Mortgage Licensing System (NMLS) to initiate the process for the reinstatement of its loan broker and/or lender license(s). Mortgage Security shall be subject to all current licensing requirements and the Division shall have the discretion set forth within R.I. Gen. Laws §§ 19-14-1 *et seq.*, 19-14.1-1 *et seq.*, and 19-14.10-1 *et seq.*, Respondent must meet all current licensing requirements for the issuance of any license and any license issued is subject to the following terms:

- A. Respondent shall establish, implement and maintain procedures to ensure that the Corporation maintains all loan documents in the Corporation's books and records in a manner sufficient to evidence compliance with applicable state and federal statutes and regulations
- B. Respondent shall establish and implement procedures to ensure that it is capable of compiling and generating an accurate list of pending, closed, denied, and withdrawn residential mortgage loan applications taken and/or placed by the Corporation. The loan list so generated shall contain information including, but not limited to the following: the consumer's name, the date of application, loan amount requested, loan purpose, property address, loan program requested, application status, the name of the mortgage loan originator who took the application, and the name of lender to which the application was placed.
- C. For all residential mortgage loans funded by Respondent, it shall retain the entire loan file relative to each mortgage loan for a minimum of three years after final payment is made on any mortgage loan or the mortgage loan is sold, whichever occurs first. For all residential mortgage loans brokered by the

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<sup>1</sup> Payee must be "General Treasurer, State of Rhode Island". Check with any other payee will be returned for reissuance.

Respondent, it shall retain the entire loan file relative to each mortgage loan for a minimum of three years after a mortgage loan is made. The entire loan file shall include, but not be limited to, the following: all documents related to income/asset verification; settlement statement; a signed loan application form; credit report(s); appraisal(s); lender documentation, including underwriting guidelines; employment verification documentation; all required consumer disclosure forms; and all correspondence and papers relating to the mortgage loan.

- D. Respondent shall conduct on-going, periodic reviews of document filing and retention procedures, and its compliance thereto, to ensure its books, records, and accounts are maintained in a manner sufficient to evidence compliance with applicable federal and state laws, rules and regulations. At a minimum, such reviews shall be conducted on a quarterly basis.
- E. Respondent shall provide adequate training to all applicable staff persons who have form completion and/or document filing and retention responsibilities, to ensure proper implementation and execution of the revised policies and procedures adopted by the Respondent under this Paragraph of the Consent Order.
- F. Respondent shall establish, implement, and maintain procedures to ensure the full cooperation of its employees with the Division during all future examinations of the Respondent, which shall necessarily provide for the Division's access, within 72 hours of an official request, to any requested books, records, accounts, and any other additional, relevant materials,
- G. Respondent shall establish, implement and maintain procedures to ensure that

all mortgage loan originators with whom the Corporation conducts business are duly licensed as mortgage loan originators under R.I. Gen. Laws §§ 19-14.10-1 *et seq.*

10. The provisions of this Consent Order shall not limit, estop, or otherwise prevent any other state agency or department from taking any other action affecting Respondent.
11. Respondent agrees to dismiss the civil action filed by it in Providence County Superior Court Civil Action No. PC-09-6571 against the Department.
12. The provisions of this Consent Order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this Consent Order shall have been modified, terminated, suspended, or set aside by the Department or upon an order of a court of competent jurisdiction.
13. This Consent Order is the complete document representing the resolution of this matter. There are no other agreements, promises, representations, or warranties other than those set forth in this Consent Order.

### **III. Reservation of Rights**

1. The Division agrees to issue a Rhode Island Lender License to Respondent subject to compliance by Respondent with this Consent Order and the usual terms and conditions pertaining to the approval of an application for a Lender License including without limitation the payment of an application fee and an annual license fee.  
  
The Division agrees to consider Respondent's Rhode Island Lender License to be in good standing subject to compliance by Respondent with this Consent Order and applicable state and federal laws and regulations governing Respondent's lending activity.
2. The Department reserves its rights to further adjudicate, through the administrative

hearing process, the facts in this matter should it receive information related to violation of the terms of this Consent Order and/or any information which may implicate other violations by Respondent herein subject to the Respondent's right to a hearing.

Respondent:

Robert Pena

By: Robert Pena, President  
Mortgage Security, Inc.

February NSS  
Date: ~~January~~ 7, 2012

STATE OF Rhode Island  
COUNTY OF West Providence

In Providence, in said County, on the 7th day of February, 2012 before me personally appeared the above-named Robert Pena, to me known and known by me to be the President of Mortgage Security, Inc., the party executing the foregoing instrument, and he acknowledged said instrument by him so executed to be his free act and deed as such President and the free act and deed of said Mortgage Security, Inc.

Shirley P. Das Santos, Notary  
(Print or type name of Notary Name)  
Shirley P. Das Santos  
Notary Signature

Date: 2-7-2012

Department:

Neena Sinha Savage  
By: Neena Sinha Savage, Esq.  
Chief of Legal Services  
Department of Business Regulation

Joseph Torti III  
By: Joseph Torti III  
Deputy Director and Superintendent  
of Banking  
Department of Business Regulation

Date: 2-7-2012

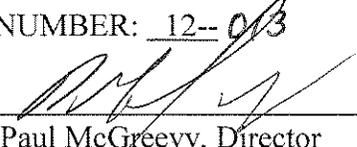
Date: 2/7/2012

**ORDER**

I hereby ✓ approve \_\_\_\_\_ reject the Consent Order as agreed to by and between the parties in the above entitled matter.

Entered: March, 14, 2012

ORDER NUMBER: 12--013

  
\_\_\_\_\_  
Paul McGreevy, Director  
Department of Business Regulation

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THIS CONSENT ORDER. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS ORDER ARE VIOLATED, RESPONDENT'S RHODE ISLAND LICENSE SHALL BE SUBJECT TO FURTHER ADMINISTRATIVE ACTIONS

**CERTIFICATION**

I hereby certify that on 14<sup>th</sup> day of March, 2012 a copy of the within Consent Order was mailed via certified, postage prepaid, to:

John B. Harwood, Esq.  
McKinnon & Harwood, LLP  
1168 Newport Avenue  
Pawtucket, RI 02861



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