# ORDER

## BEFORE THE ADMINISTRATOR
## STATE OF WISCONSIN
## DEPARTMENT OF FINANCIAL INSTITUTIONS
## DIVISION OF BANKING

TO: BMC Capital LP
3100 Monticello Ave.
Dallas, TX 75205
Respondent

## PURPOSE

1. This is an order issued by the Administrator, State of Wisconsin, Department of Financial Institutions, Division of Banking and directed to respondent.

## JURISDICTION and AUTHORITY

2. The State of Wisconsin, Department of Financial Institutions, Division of Banking ("division") shall enforce and carry out all laws relating to mortgage bankers, mortgage brokers and loan originators in the State of Wisconsin, and shall enforce and cause to be enforced every law relating to the supervision and control thereof. Ch. 224, subch. III, Stats.

3. Respondent holds a certificate of registration as a mortgage banker under ch. 224, subch. III, Stats., with the division, certificate of registration #213952. Respondent is located at the address indicated above.

4. The division may issue general and special orders necessary to prevent or correct actions by a mortgage banker, loan originator or mortgage broker that constitute cause under s. 224.77, Stats., for revoking, suspending or limiting a certificate of registration. Sec. 224.77(3)(a), Stats.

5. Special orders may direct a mortgage banker, loan originator or mortgage broker to cease and desist from engaging in a particular activity or may direct the mortgage banker, loan originator or mortgage broker to refund or remit certain amounts. Sec. 224.77(3)(b), Stats.

6. The division may assess against a person who is registered under ch. 224, Stats., a forfeiture of not more than $2,000 for each violation enumerated under ss. 224.77(1)(a) to (o) or (r), Stats. Sec. 224.77(1m), Stats.

## FINDINGS

**The division finds as follows:**

7. Section 224.72(4), Stats., sets forth financial responsibility requirements by which respondent must comply. On or about November 12, 2008, the division received a notice from Platte River Insurance Company indicating that respondent's surety bond (#41123579) would be cancelled. The effective date of the cancellation was December 12, 2008. **Ex. 1.**

8. On November 13, 2008 and December 12, 2008, the division wrote to respondent regarding the cancellation of respondent's surety bond. **Exs. 2 and 3.**

9. The division has not received a rescission of the cancellation notice, a new surety bond, or evidence that respondent is otherwise in compliance with the financial responsibility requirements set forth in s. 224.72(4), Stats.

10. Section 224.77(1)(i), Stats., indicates the division may revoke, suspend or limit a mortgage banker certificate of registration, or may reprimand a mortgage banker, if the division finds that the mortgage banker demonstrated a lack of competency to act as a mortgage banker in a way which safeguards the interest of the public. Section DFI-Bkg 43.03(17), Admin. Code, indicates that failing to maintain the requirements set forth in s. 224.72(4), Stats., demonstrates a lack of competency to act as a mortgage banker in a way which safeguards the interest of the public.

11. By not maintaining a surety bond, or otherwise meeting the financial responsibility requirements for a mortgage banker, respondent has demonstrated a lack of competency to act as a mortgage banker in a way which safeguards the interests of the public.

## ORDER

**12. Based on the foregoing, IT IS HEREBY ORDERED that respondent's certificate of registration as a mortgage banker is revoked.**

13. The provisions of this order shall be binding upon respondent and respondent's directors, officers, employees, agents, successors, assigns, and other persons participating in the conduct of its affairs. The provisions of the order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this order shall have been modified, terminated, suspended, or set aside by the division.

14. The effective date of this Order shall be the date it is served, and service is complete upon mailing. Secs. 227.48(1), Stats., and DFI—Bkg 11.09, Admin. Code.

Dated and mailed at Madison, Wisconsin this 7th day of January, 2009.

By:
Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
345 W. Washington Avenue, 4th Floor
Madison, WI 53707-7876
tel. (608) 266-0451
fax (608) 267-6889

## APPEAL

The procedures to appeal this order are set forth in s. 227.42, Stats. Pursuant to s. 227.42(1), Stats., any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

(a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;

(b) There is no evidence of legislative intent that the interest is not to be protected;

(c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and

(d) There is a dispute of material fact.

All four criteria set for in s. 227.42(1), Stats., must be met for a person to have the right to a hearing. In particular, the attention of an individual or entity requesting a hearing is directed to the requirement to demonstrate that there is a dispute of material fact regarding the basis or bases for the action being taken by the division.

The request shall be sent to:

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## NOTICE TO NON-RESIDENT ATTORNEYS

A non-resident attorney may file a pleading or appear at a proceeding in a matter before the administrator if he or she is 1) licensed to practice law in Wisconsin or 2) not licensed to practice law in Wisconsin but employed as in-house counsel for a single employer-client. *See* SCR 10.03(4), as interpreted in *Lee R. Krahenbuhl, DDS v. Wisconsin Department of Regulation and Licensing* (Memorandum Decision, February 26, 2003, Case No. 02-CV-1148, Dane County); *see also* SCR 20:5:5. Any questions regarding this matter should be directed to the Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, tel. (608) 267-1705.