

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONSUMER FINANCIAL PROTECTION
BUREAU, et al.,

Plaintiffs,

v.

OCWEN FINANCIAL CORPORATION,
et al.,

Defendant.

Case No. 1:13-cv-02025-RMC

**THE MONITORING COMMITTEE'S UNOPPOSED MOTION TO ENFORCE THE CONSENT
JUDGMENT RELATING TO OCWEN'S UNCURED POTENTIAL VIOLATION OF METRIC 29**

The Monitoring Committee, which is comprised of certain representatives of the government parties¹ respectfully requests that this Court enter an order directing equitable relief and civil penalties to enforce the Consent Judgment relating to Ocwen's Uncured Potential Violation of Metric 29 as authorized by the Consent Judgment.² Ocwen does not oppose the relief requested in this Motion.³

I. Background

On February 26, 2014, this Court entered a Consent Judgment between the Parties to resolve claims that Ocwen engaged in unlawful conduct in the servicing of residential mortgage

¹ The following government entities currently comprise the Monitoring Committee: the federal Consumer Financial Protection Bureau; the State Attorneys General of Arizona, California, Colorado, Connecticut, Florida, Iowa, Illinois, Nevada, North Carolina, Ohio, Oregon, Texas, and Washington; and the State Mortgage Regulators of Florida, Illinois, and Maryland.

² The Consumer Financial Protection Bureau abstains from this Motion and any of the resulting relief.

³ Ocwen does not stipulate to or admit any allegations contained herein.

loans and to remediate harms allegedly caused by such conduct. *See* Consent Judgment [Dkt. 12] at p. 7-8. The Consent Judgment required Ocwen to, among other things, service residential loans in compliance with the Servicing Standards contained in Exhibit A of the Consent Judgment. *Id.* at p. 9-10.

The Consent Judgment includes detailed compliance and enforcement terms set forth in Exhibit D of the Consent Judgment. *Id.* at p. 10. Exhibit D also authorizes the appointment of an independent monitor (“Monitor”) to test Ocwen’s adherence with its consumer relief obligations and certain servicing standards under the Consent Judgment. *See* Consent Judgment at p. 10; *see also* Exhibit D, §C.5. The Servicing Standards tested by the Monitor are set forth in Schedule D-1 to Exhibit D. Schedule D-1 contains 34 “metrics,” each of which identifies the topic tested, the population of loans subject to testing, the threshold error rate, and the specific test questions used to determine compliance with the servicing standards that relate to the particular metric.

Pursuant to the Consent Judgment, a metric is deemed a “Potential Violation” when the number of failing loans exceeds the threshold error rate for that particular metric in a quarter. Exhibit D, §E.1. If a Potential Violation occurs, Ocwen has the right to cure the Potential Violation. *Id.* at §E.2. Under the monitoring structure, a Potential Violation is deemed cured if Ocwen implements a corrective action plan that addresses the deficiency and if the metric passes the next two quarters of testing. *Id.* at §E.3-4.

II. Ocwen’s Uncured Potential Violation of Metric 29

Metric 29 tests whether Ocwen met its obligation to terminate force-placed insurance policies and refund prorated premiums within 15 days of receiving evidence of the borrower’s existing insurance policy. *See* Exhibit D, Schedule D-1, §6.c.ii.

On September 8, 2016, the Monitor reported that Ocwen exceeded the threshold error rate for Metric 29 in the 4th Quarter of 2015. *See* Monitor's Report, [Dkt. 41] at p. 12, 28-30. Ocwen implemented a corrective action plan for the Potential Violation during 2016. Ocwen returned to testing starting in the first quarter of 2017. Immediately after the implementation of the Metric 29 corrective action plan, and following four dark testing periods in 2016, Ocwen exceeded the 5% threshold error rate for Metric 29 in the first quarter of 2017 with a 6.54% error rate. *See* Monitor's Report, [Dkt. 44] at p. 19. Accordingly, because this fail occurred in the quarter immediately following implementation of the corrective action plan, this failure constitutes an uncured Potential Violation to which the remedies of section I.3 of Exhibit D attach. *See* Exhibit D, §E.4; Exhibit D, §I.3.

III. The Monitoring Committee's Request for Relief

An action to enforce the Consent Judgment may be brought by any party or the Monitoring Committee, and the United States District Court for the District of Columbia is authorized to enforce Ocwen's obligations under the Consent Judgment. Exhibit D, §I.2. Section I.3 sets forth the relief available in an enforcement action of this Consent Judgment. Specifically, when an enforcement action is filed as the result of an uncured Potential Violation for which the Servicer's time to cure has expired, the Court may award (a) non-monetary equitable relief and (b) a civil penalty of up to \$1 million. *Id.* at §I.3. Accordingly, due to the Monitor's reporting that Ocwen failed to cure a Potential Violation of Metric 29 during the Quarter 1 2017 testing period, the Monitoring Committee requests that this Court order the following relief pursuant to Section I.3(a) of Exhibit D to the Consent Judgment:

1. Ocwen shall make a monetary payment of one million dollars (\$1,000,000.00) within fifteen (15) calendar days following an entry of an order by this Court;

2. Ocwen shall immediately begin to provide notice to all borrowers with active wind or hazard force-placed insurance policies of its failure to comply with the applicable servicing standards and an opportunity for interested borrowers with such active force-placed insurance policies to obtain an expedited review of their insurance situation, excluding those borrowers with an active wind or hazard force-placed insurance policy effective on or before November 1, 2016 and who received a notice under the Metric 28 Remediation Plan; and

3. Ocwen shall conduct its business in full compliance with all statutes, regulations, and other laws governing the termination of force-placed insurance policies, including, but not limited to, the timely termination of force-placed insurance policies and refund of prorated premiums within 15 days of receiving evidence of the borrower's existing insurance policy.

IV. Duty to Confer

In accordance with Rule 7(m) of the Rules of the United States District Court for the District of Columbia, the Monitoring Committee conferred with Ocwen in good faith to determine whether Ocwen opposed the relief sought and to narrow the areas of disagreement. After conferring with Ocwen in good faith, Ocwen has advised the Monitoring Committee that it does not oppose this Motion or the relief sought in this Motion.

Respectfully Submitted,

The Monitoring Committee of the Ocwen Mortgage
Servicing Consent Judgment

/s/ Patrick Madigan

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Chairman of the Monitoring Committee

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid to the following non-CM/ECF

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