



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

NO. C-09-125-10-FO01

NEW HOPE PROPERTY, LLC, d/b/a NEW HOPE
MODIFICATIONS, DONNA FISHER, Principal, and
BRIAN MAMMOCCIO, Principal,
Respondents.

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On October 5, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit From Industry, and Collect Investigation Fee (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated October 7, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for New Hope Property, LLC, Donna Fisher, and Brian Mammoccio. The Department served the Statement of Charges, cover letter dated October 7, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for New Hope Property, LLC, Donna Fisher, and Brian Mammoccio on Respondents on October 7, 2009, by First-Class mail and Federal Express overnight delivery. The

1 documents sent to Respondent New Hope Properties, LLC, d/b/a New Hope Modifications at its
2 business address by First-Class mail were returned as undeliverable on October 19, 2009. The
3 documents sent to Respondent New Hope Properties, LLC, d/b/a New Hope Modifications at its
4 business address by Federal Express overnight delivery were not delivered. On October 12, 2009, the
5 documents sent via Federal Express overnight delivery were delivered to Respondents' home address.
6 The documents sent via First-Class mail to Respondents' home address were not returned to the
7 Department by the United States Postal Service.

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9 Respondents did not request an adjudicative hearing within twenty calendar days after the
10 Department served them with the Notice of Opportunity to Defend and Opportunity for Hearing, as
11 provided for in WAC 208-08-050(2).

12 B. Record Presented. The record presented to the Director's designee for her review and
13 for entry of a final decision included the following:

- 14 1. Statement of Charges;
- 15 2. Cover letter dated October 7, 2009;
- 16 3. Notice of Opportunity to Defend and Opportunity for Hearing; and
- 17 4. Blank Applications for Adjudicative Hearing for New Hope Property, LLC, d/b/a
New Hope Modifications, Brian Mammoccio, and Donna Fisher, with documentation
of service.

18 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the
19 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

20 21 II. FINAL ORDER

22 Based upon the foregoing, and the Director's designee having considered the record and
23 being otherwise fully advised, NOW, THEREFORE:

1 A. IT IS HEREBY ORDERED, That:

- 2 1. Respondent New Hope Property, LLC, d/b/a New Hope Modifications is prohibited
3 from participation in the conduct of the affairs of any mortgage broker subject to
4 licensure by the Director, in any manner, for a period of five years; and
- 5 2. Respondent Brian Mammoccio is prohibited from participation in the conduct of the
6 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
7 a period of five years; and
- 8 3. Respondent Donna Fisher is prohibited from participation in the conduct of the affairs of
9 any mortgage broker subject to licensure by the Director, in any manner, for a
10 period of five years;
- 11 4. Respondents New Hope Property, LLC, d/b/a New Hope Modifications, Brian
12 Mammoccio, and Donna Fisher jointly and severally pay an investigation fee of
13 \$916.80; and
- 14 5. Respondents New Hope Property, LLC, d/b/a New Hope Modifications, Brian
15 Mammoccio, and Donna Fisher maintain records in compliance with the Act and
16 provide the Department with the location of the books, records and other information
17 relating to Respondent New Hope Property, LLC, d/b/a New Hope Modifications’
18 mortgage broker business, and the name, address and telephone number of the
19 individual responsible for maintenance of such records in compliance with the Act.

20 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a

21 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
22 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
23 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
24 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
25 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
26 Reconsideration a prerequisite for seeking judicial review in this matter.

27 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
28 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
29 notice specifying the date by which it will act on a petition.

1 C. Stay of Order. The Director's designee has determined not to consider a Petition
2 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
3 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

4 D. Judicial Review. Respondents have the right to petition the superior court for
5 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
6 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

7 E. Non-compliance with Order. If you do not comply with the terms of this order, the
8 Department may seek its enforcement by the Office of Attorney General to include the collection of the
9 fees imposed herein.

10 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
11 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
12 attached hereto.

13
14 DATED this 7 day of January, 2010.



15 STATE OF WASHINGTON
16 DEPARTMENT OF FINANCIAL INSTITUTIONS

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18 _____
19 DEBORAH BORTNER
20 DIRECTOR
21 DIVISION OF CONSUMER SERVICES

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

NEW HOPE PROPERTY, LLC, d/b/a NEW
HOPE MODIFICATIONS, DONNA FISHER,
Principal, and BRIAN MAMMOCCIO, Principal,

Respondents.

NO. C-09-125-09-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST, PROHIBIT
FROM INDUSTRY, AND COLLECT
INVESTIGATION FEE

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INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **New Hope Property, LLC, d/b/a New Hope Modifications. (New Hope Property)** is a New Jersey limited liability company located at 440 Benigno Blvd., Bellmawr, New Jersey. Respondent New Hope Property has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions.

B. **Brian Mammoccio (Mammoccio)** is a Principal of New Hope Property. Respondent Mammoccio has never been licensed to conduct the business of a Mortgage Broker or Loan Originator by the Department of Financial Institutions.

¹ RCW 19.146 (2006)

1 C. **Donna Fisher (Fisher)** is a Principal of New Hope Property. Respondent Fisher has never
2 been licensed to conduct the business of a Mortgage Broker or Loan Originator by the Department of Financial
3 Institutions.

4 **1.2 Unlicensed Activity.** Between at least December 2008, and March 2009, Respondent New Hope
5 Property assisted at least seven borrowers in applying to obtain a loan modification on property located in the
6 State of Washington from the unlicensed location discussed in paragraph 1.1. The borrowers involved in these
7 loan modifications paid fees to Respondent New Hope Property totaling at least \$12,030 as follows:

Borrower 1	\$ 1,200
Borrower 2	\$ 500
Borrower 3	\$ 2,330
Borrower 4	\$ 2,500
Borrower 5	\$ 1,500
Borrower 6	\$ 2,500
<u>Borrower 7</u>	<u>\$ 1,500</u>
Total	\$ 12,030

12 Additionally, other borrowers may have paid fees to Respondent New Hope Property.

13 **1.3 Prohibited Practices.** Employees of Respondent New Hope Property represented to the above
14 borrowers that they could obtain a loan modification from their lender if they hired Respondent New Hope
15 Property. Respondent New Hope Property obtained payment for services up-front from borrowers and
16 collected the borrowers' personal and financial information. Respondent New Hope Property did not obtain a
17 loan modification for six of the above borrowers. Respondent New Hope Property ceased communications with
18 the borrowers and did not respond to the borrowers' requests for refunds of their up-front fees.

19 **1.4 Federal Trade Commission Action.** On March 17, 2009, the Federal Trade Commission filed a
20 Complaint against Respondents in the U.S. District Court for the District of New Jersey. On March 19, 2009,
21 the U.S. District Court for the District of New Jersey entered a Temporary Restraining Order against
22 Respondents halting Respondents loan modification activities and freezing Respondents' assets.

23 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
24 Respondents continues to date.
25

1 **II. GROUNDS FOR ENTRY OF ORDER**

2 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
3 "Mortgage Broker" any person who for compensation or gain, or in the expectation of compensation or gain (a)
4 assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out
5 as being able to assist a person in obtaining or applying to obtain a residential mortgage loan.

6 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006, means a
7 natural person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or
8 negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct
9 or indirect compensation or gain. "Loan originator" also includes a person who holds themselves out to the
10 public as able to perform any of these activities. "Loan originator" does not mean persons performing purely
11 administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or
12 clerical tasks" means the receipt, collection, and distribution of information common for the processing of a
13 loan in the mortgage industry and communication with a borrower to obtain information necessary for the
14 processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not
15 performing administrative or clerical tasks.

16 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(3), "Borrower" means any person who consults
17 with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on
18 obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or
19 herself, regardless of whether the person actually obtains such a loan.

20 **2.4 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
21 apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or
22 artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or deceptive practice
23 toward any person, and obtaining property by fraud or misrepresentation.

24 **2.5 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
25 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage

1 broker or loan originator without first obtaining and maintaining a license under the Act. Individuals
2 negotiating residential mortgage loan terms act as mortgage brokers or loan originators and must be licensed
3 under the Act unless specifically exempt from the Act.

4 III. AUTHORITY TO IMPOSE SANCTIONS

5 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the Director may
6 issue orders directing a licensee, its employee or loan originator, independent contractor, agent, or other person
7 subject to the Act to cease and desist from conducting business.

8 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
9 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
10 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
11 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or RCW
12 19.146.200.

13 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(4) and
14 WAC 208-660-520(9), upon completion of any investigation of the books and records of a licensee or other person
15 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
16 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
17 hour that each staff person devoted to the investigation.

18 IV. NOTICE OF INTENTION TO ENTER ORDER

19 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
20 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
21 for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the
22 Director's intention to ORDER that:

23 **4.1** Respondents New Hope Property, LLC, d/b/a New Hope Modifications, Brian Mammoccio, and Donna
24 Fisher cease and desist offering loan modification services or otherwise conducting the business of a
25 mortgage broker or loan originator in the State of Washington;

- 1 **4.2** Respondent New Hope Property, LLC, d/b/a New Hope Modifications be prohibited from participation in
2 the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a
3 period of five (5) years;
- 3 **4.3** Respondent Brian Mammoccio be prohibited from participation in the conduct of the affairs of any
4 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;
- 4 **4.4** Respondent Donna Fisher be prohibited from participation in the conduct of the affairs of any mortgage
5 broker subject to licensure by the Director, in any manner, for a period of five (5) years;
- 6 **4.5** Respondents New Hope Property, LLC, d/b/a New Hope Modifications, Brian Mammoccio, and Donna
7 Fisher jointly and severally pay an investigation fee which as of the date of these charges totals \$916.80
8 calculated at \$48.00 per hour for the nineteen and one tenth (19.1) staff hours devoted to the investigation;
9 and
- 9 **4.6** Respondents New Hope Property, LLC, d/b/a New Hope Modifications, Brian Mammoccio, and Donna
10 Fisher maintain records in compliance with the Act and provide the Department with the location of the
11 books, records and other information relating to Respondent New Hope Property, LLC, d/b/a New Hope
12 Modification's mortgage broker business, and the name, address and telephone number of the individual
13 responsible for maintenance of such records in compliance with the Act.

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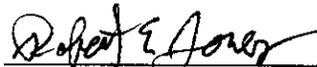
1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit From
3 Industry, and Collect Investigation Fee is entered pursuant to the provisions of RCW 19.146.220,
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
5 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth
6 in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying
7 this Statement of Charges.

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9 Dated this 5th day of October^{DEB} ~~September~~, 2009.

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11 
12 DEBORAH BORTNER
13 Director
14 Division of Consumer Services
15 Department of Financial Institutions

16 Presented by:

17 
18 ROBERT E. JONES
19 Financial Legal Examiner



20 Approved by:

21 
22 JAMES R. BRUSSELBACK
23 Enforcement Chief