

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

3 IN THE MATTER OF DETERMINING:
4 Whether there has been a violation of the
5 Consumer Loan Act of Washington by:
6 TAMMY M. FOUTS, COREY D. GILE, and
7 ROBERT K. WINSTON,

No. C-09-210-11-CO02
CONSENT ORDER AS TO
RESPONDENT TAMMY M. FOUTS

Respondents.

8 COMES NOW the Director of the Department of Financial Institutions (Director), through
9 his designee Deborah Bortner, Division Director, Division of Consumer Services, and Tammy M.
10 Fouts (Respondent), and finding that the issues raised in the above-captioned matter as related to
11 Respondent may be economically and efficiently settled, agree to the entry of this Consent Order.
12 This Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW),
13 and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

14 **AGREEMENT AND ORDER**

15 The Department of Financial Institutions, Division of Consumer Services (Department) and
16 Respondent have agreed upon a basis for resolution of the matters as related to Respondent alleged
17 in Statement of Charges No. C-09-210-10-SC01 (Statement of Charges), entered September 8, 2010,
18 incorporated herein by reference and attached hereto. Pursuant to chapter 31.04 RCW, the
19 Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent
20 hereby agrees to the Department's entry of this Consent Order as related to Respondent.

21 Based upon the foregoing:

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

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1 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
2 hearing before an administrative law judge, and hereby waives the right to a hearing and any and all
3 administrative and judicial review of the issues raised in this matter, or of the resolution reached
4 herein. Accordingly, by signing below, Respondent withdraws the appeal of the Statement of
5 Charges to the Office of Administrative Hearings.

6 **C. No Admission of Liability.** It is AGREED that the parties intend this Consent Order to
7 fully resolve the Statement of Charges as related to Respondent. Furthermore, Respondent neither
8 admits nor denies the Factual Allegations of the Statement of Charges as related to Respondent.

9 **D. Prohibition from Industry.** It is AGREED that with the exception of acting as a loan
10 originator, processor, or underwriter, for three years from the date of entry of this Consent Order
11 Respondent is prohibited from participating in the conduct of the affairs of any consumer loan
12 company or mortgage broker licensed by the Department or subject to licensure or regulation by the
13 Department, in any other capacity, including but not limited to: (1) any financial capacity whether
14 active or passive; or (2) as an officer, director, principal, partner, or member; or (3) any
15 management, control, oversight or maintenance of any trust account(s) in any way related to any
16 residential mortgage transaction; or (4) receiving, disbursing, managing or controlling in any way,
17 consumer trust funds in any way related to any residential mortgage transaction. It is further
18 AGREED that Respondent may work as a loan originator, processor, or underwriter under either the
19 Act or the Mortgage Broker Practices Act provided Respondent meets the applicable licensing
20 requirements.

21 **E. Complete Cooperation with the Department.** It is AGREED that Respondent shall
22 cooperate fully, truthfully and completely in this matter by providing the Department with any and all
23 documents, writings or materials, or objects or things of any kind in her possession or under her care,
24 custody, or control that Respondent is authorized to possess, obtain, or distribute relating directly or

1 indirectly in any manner to originating residential mortgage loans for or on behalf of Primary
2 Residential Mortgage, Inc. It is FURTHER AGREED that Respondent shall testify fully, truthfully and
3 completely at any and all proceedings related to this matter, including with respect to any and all
4 persons involved or in any way associated with originating residential mortgage loans for or on behalf
5 of Primary Residential Mortgage, Inc. A failure to cooperate fully, truthfully and completely is a breach
6 of this Consent Order.

7 **F. Fine.** It is AGREED that upon entry of this Consent Order Respondent shall pay to the
8 Department a fine of \$3,000. Payment must be made in the form of a cashier's check payable to the
9 "Washington State Treasurer."

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

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

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1 J. Completely Read, Understood, and Agreed. It is AGREED that Respondent has read
2 this Consent Order in its entirety and fully understands and agrees to all of the same.

3 **RESPONDENT:**

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5 TAMMY M. FOUTS

11/7/2011
Date

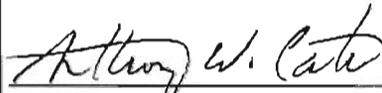
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7 DO NOT WRITE BELOW THIS LINE

8 THIS ORDER ENTERED THIS 7th DAY OF November, 2011




DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

13 Presented by:

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15 ANTHONY W. CARTER
Senior Enforcement Attorney

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17 Approved by:

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19 JAMES R. BRUSSELBACK
Enforcement Chief

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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

TAMMY M. FOUTS, COREY D. GILE, and
ROBERT K. WINSTON,
Respondents.

NO. C-09-210-10-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENT TO ENTER AN ORDER TO
REVOKE LICENSES, PROHIBIT FROM
INDUSTRY, IMPOSE FINES, AND COLLECT
INVESTIGATION FEES

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, 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:

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I. FACTUAL ALLEGATIONS

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1.1 Respondents.

A. Tammy Marie Fouts (Fouts) was licensed by the Department of Financial Institutions (Department) as a loan originator working for Loan Network, LLC (Loan Network), a Department-licensed consumer loan company based in Renton, Washington, from about January 2, 2007, through December 31, 2008. On or about December 2, 2008, the Department licensed a new branch of Loan Network located in Kent, with Respondent Fouts as the branch manager. The branch was closed on or about February 9, 2009. From around February 2009 to around April 16, 2009, Respondent Fouts worked as an independent contractor originating residential mortgage loans for Primary Residential Mortgage, Inc. (PRMJ), a Department-licensed consumer loan company based in Utah. Respondent Fouts resides in Renton, Washington, with her husband Corey D. Gile and is not presently licensed with the Department.

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B. Corey Duane Gile (Gile) was licensed by the Department as a loan originator working for Loan Network from about January 3, 2007, through December 31, 2008. From around December 2008 through

1 around February 2009 Respondent Gile worked as the sales manager for the new branch of Loan Network
2 where Respondent Fouts was the branch manager. From around February 2009 to around April 21, 2009,
3 Respondent Gile worked as an independent contractor originating residential mortgage loans for PRMI.
4 Respondent Gile is not presently licensed with the Department.

5 **C. Robert Keith Winston (Winston)** was licensed by the Department as the designated broker of BJK
6 Winston Enterprises, Inc., d/b/a Financial Advantage Home Loan Center (Financial Advantage), a Department-
7 licensed mortgage broker, from about September 28, 2004, through October 8, 2009. Financial Advantage was
8 located at 203 130th Street SE in Everett, Washington. From about December 9, 2008, through June 2, 2009,
9 Respondent Winston managed a licensed branch of PRMI at the same location. Respondent Winston is
10 presently licensed by the Department as a mortgage loan originator for Pinnacle Capital Mortgage Corporation,
11 a Department-licensed consumer loan company based in California. Respondent Winston is presently
12 managing an Everett branch at the same location under the trade name Absolute Mortgage.

13 **1.2 Background.** Shortly after opening the new branch of Loan Network, Respondents Fouts and Gile
14 decided to leave Loan Network and find a different consumer loan company with whom they could associate.
15 They were eventually referred by a PRMI recruiter to Respondent Winston.

16 **1.3** After meeting, Respondents Fouts, Gile, and Winston decided they would open a satellite branch of
17 Respondent Winston's existing PRMI branch. A satellite branch relies on the sponsoring branch's loan
18 production and finances to qualify for association with PRMI. Respondents Fouts and Gile hoped that they
19 could quickly and easily open a satellite branch by relying on Respondent Winston's loan production, finances,
20 and recent experience getting licensed through PRMI.

21 **1.4** On or about January 28, 2009, Respondent Fouts applied to PRMI to become the branch manager of the
22 new satellite branch. Around the same date, Respondent Fouts informed Loan Network that effective February
23 28, 2009, she and Respondent Gile would be transferring with their staff to another consumer loan company.

24 **1.5** On or about February 1, 2009, Respondent Gile applied to become a loan originator for PRMI. On or
25 about February 5, 2009, PRMI notified Respondent Winston that Respondent Fouts had not been approved as a

1 satellite branch manager. On or about February 11, 2009, Respondent Winston requested that PRMI consider
2 Respondent Gile as the satellite branch manager. On or about February 19 and 26, 2009, respectively,
3 Respondents Fouts and Gile were hired as loan originators for PRMI, assigned to Respondent Winston's
4 licensed Everett branch location.

5 **1.6** Sometime in March 2007, and again on April 14, 2007, PRMI notified Respondent Winston that due to
6 his financial condition, PRMI would not consider opening a satellite branch of Respondent Winston's licensed
7 Everett branch. Respondent Fouts, Gile, and Winston were never approved by PRMI to open a satellite branch
8 of PRMI. Neither Respondent Fouts nor Respondent Gile, nor any of the PRMI-approved or non-approved loan
9 originators they hired were ever approved by PRMI to originate loans from any location other than Respondent
10 Winston's licensed Everett branch.

11 **1.7 Unlicensed Locations.** Respondents Fouts, Gile, and Winston operated an unlicensed satellite branch of
12 Respondent Winston's licensed Everett branch from two locations:

- 13 A. In Kent, Washington, at 18000 72nd Avenue South, Suite 102, the South Branch was in
14 operation from on or about February 16, 2009, to on or about April 1, 2009; and
- 15 B. In Renton, Washington, at 19400 108th Avenue Southeast, Suite 100, the South Branch
16 was in operation from on or about April 1, 2009, to on or about April 16, 2009.

17 **1.8 Unlicensed Activity.** From about January 2009 through April 2009, including while operating from the
18 unlicensed locations specified in paragraph 1.7, Respondents Fouts, Gile, and Winston:

- 19 A. Originated or assisted in the origination of at least 60 residential mortgage loans on real
20 property located in Washington;
- 21 B. Hired at least eight PRMI-approved and at least nine non-approved employees and loan
22 originators;
- 23 C. Printed business cards using the Kent address and PRMI logo for some of their PRMI-
24 approved and non-approved employees and loan originators;
- 25 D. Arranged for the leasing of office space and equipment at the Renton location;
- E. Conducted a Sales Meeting at the Renton location where Respondents Fouts and Gile:
 i. Identified the Renton address, phone, and facsimile numbers;
 ii. Identified Respondents Fouts, Gile, and Winston as owners of the branch; and
 iii. Requested that questions or concerns be addressed to the Renton management team.

- 1 F. Prepared and distributed a phone list for the Renton location that:
- 2 i. Identified the unlicensed Renton location as the "South Branch," and Respondent
 - 3 Winston's licensed Everett location as the "North Branch;"
 - 4 ii. Instructed employees to use Respondent Winston's address at his licensed Everett
 - 5 location "until we receive our license;"
 - 6 iii. Identified Respondent Fouts as the "Branch/Operations Mgr" and Respondent Gile
 - 7 as the "Sales Manager;" and
 - 8 iv. Identified at least 17 employees as loan originators.

9 **1.9 Unlicensed Activity: Kent Location.** On or about February 16 and 17, 2009, Respondent Winston
10 originated at least seven residential mortgage loans on behalf of Respondents Fouts, Gile, or their staff. When
11 approved as PRMI loan originators, those loans were subsequently assigned to, and re-originated by
12 Respondents Fouts, Gile, or one of their PRMI-approved loan originators. Between about February 25, 2009,
13 and April 1, 2009, Respondents Fouts, Gile, and Winston originated, or assisted in the origination of, at least 25
14 additional residential mortgage loans on Washington property from the unlicensed Kent location.

15 **1.10 Unlicensed Activity: Renton Location.** Between about April 1, 2009, and April 16, 2009, Respondents
16 Fouts, Gile, and Winston originated, or assisted in the origination of, at least 20 additional residential mortgage
17 loans on Washington property from the unlicensed Renton location.

18 **1.11 Unlicensed Renton Location Closure.** On or about April 16, 2009, Leo McIsaac, PRMI's Vice
19 President of Human Resources, met with Respondents Fouts and Gile at the unlicensed Renton location. Mr.
20 McIsaac took photographs of the location, interviewed employees, and collected business cards and loan files.
21 Mr. McIsaac advised Respondents Fouts, Gile, and Winston that PRMI was immediately shutting down the
22 unlicensed branch location. Respondent Fouts objected to the action, claiming that the location belonged to
23 Respondent Gile and not to PRMI. Respondents Fouts and Gile secreted business cards, phone lists, and loan
24 files, and refused to provide Mr. McIsaac with some of the PRMI loan files. Respondent Gile claimed that the
25 location did not need to be licensed, asserting that loan officers can originate loans from any location.

1.12 On or about April 16, 2009, Respondent Fouts resigned from PRMI. On or about April 17, 2009,
Respondent Winston instructed one of his employees to create a new phone list, remove all references to the
unlicensed Renton location, and distribute the new list to all employees with instructions to shred the South

1 Branch phone list. Respondent Winston further instructed an employee with a copy of the South Branch phone
2 list to "make sure this disappears."

3 **1.13** On or about April 21, 2009, Mr. McIsaac informed Respondent Winston that PRMI was terminating him
4 for cause. Respondent Winston subsequently advised a client that he had been dropped by PRMI because he
5 had operated an unlicensed branch in Renton. Respondent Gile resigned from PRMI on or about the same date.
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7 **II. GROUNDS FOR ENTRY OF ORDER**

8 **2.1 Unlicensed Activity.** Based on the Factual Allegations set forth in Section II above, Respondents Fouts,
9 Gile, and Winston are in apparent violation of RCW 31.04.027(2), RCW 31.04.035, RCW 31.04.075, and
10 WAC 208-620-300 for conducting business as a consumer loan company from unlicensed locations.

11 **2.2 Requirement to Conduct Business in a Manner that is not Injurious or Illegal.** Based on the Factual
12 Allegations set forth in Section II above, Respondent Winston is in apparent violation of RCW 31.04.165 by
13 conducting business in an injurious manner that violated the Act or that created the reasonable likelihood of a
14 violation of any provision of the Act.
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16 **III. AUTHORITY TO IMPOSE SANCTION**

17 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3)(b), the Director may revoke a license if a
18 licensee violates any provision of the Act or any rule adopted under the Act.

19 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), the Director may issue an
20 order prohibiting from participation in the affairs of any licensee any person subject to the Act for a violation of
21 RCW 31.04.027.

22 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
23 hundred dollars per day upon any person subject to the Act for any violation of the Act.

24 **3.4 Authority to Charge Investigation Fees.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590, every
25 licensee investigated by the Department shall pay for the cost of the investigation.

1 **IV. NOTICE OF INTENT TO ENTER ORDER**

2 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
3 the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under
4 RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intent to ORDER that:

- 5 4.1 Respondent Tammy Marie Fouts be prohibited from participation in the conduct of the affairs of any
6 licensed consumer loan company, in any manner, for a period of five years;
- 7 4.2 Respondent Corey Duane Gile be prohibited from participation in the conduct of the affairs of any licensed
8 consumer loan company, in any manner, for a period of five years;
- 9 4.3 Respondent Robert Keith Winston's license to conduct business as a branch loan originator for Pinnacle
10 Capital Mortgage Corporation be revoked;
- 11 4.4 Respondent Robert Keith Winston be prohibited from participation in the conduct of the affairs of any
12 licensed consumer loan company, in any manner, for a period of five years;
- 13 4.5 Respondents Tammy Marie Fouts, Corey Duane Gile, and Robert Keith Winston, jointly and severally pay a
14 fine, which as of the date of these charges totals \$50,000 for the violations set forth above; and
- 15 4.6 Respondents Tammy Marie Fouts, Corey Duane Gile, and Robert Keith Winston, jointly and severally pay
16 an investigation fee, which as of the date of these charges totals \$5,865.85, calculated at \$69.01 per hour for
17 85 staff hours devoted to the investigation.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Enter an Order to Revoke Licenses, Prohibit from
3 Industry, Impose Fine, and Collect Investigation Fees is entered pursuant to the provisions of RCW 31.04.093,
4 RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of the Administrative
5 Procedure Act, chapter 34.05 RCW. Respondents may make a written request for a hearing as set forth in the
6 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
7 Statement of Charges.

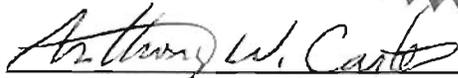
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9 Dated this 7th day of September, 2010.



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

15 Presented by:

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17 ANTHONY W. CARTER
18 Enforcement Attorney

19 Approved by:

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21 JAMES R. BRUSSELBACK
22 Enforcement Chief