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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:

NO. C-10-187-10-FO01

HOME RESCUE PROGRAMS INC, and
BRIAN SUDER , President,
Respondents.

FINAL ORDER

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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 July 15, 2010, 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, Impose Fine, Order Restitution 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 July 15, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents. The Department served the Statement of Charges, cover letter, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing (Statement of Charges Packet) on Respondents on July 15, 2010, by United States Postal Service First-Class mail (First-Class mail) and Federal Express overnight delivery. The Department also served the Statement of Charges Packet on Respondents' registered agent (National Registered Agents Inc) on July 15, 2010, by First-Class Mail and Federal Express overnight delivery. On July 20, 2010, the documents sent via Federal Express

1 overnight delivery to Respondents and Respondents' registered agent were delivered. The documents
2 sent via First-Class mail to Respondents and Respondents' registered agent were not returned to the
3 Department by the United States Postal Service. Additionally, on July 22, 2010, the Statement of
4 Charges Packet was personally served on Respondents by an Orange County Sherriff's Deputy.

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

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9 B. Record Presented. The record presented to the Director's designee for her review and
10 for entry of a final decision included the following: Statement of Charges, cover letter, Notice of
11 Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for
12 Respondents Home Rescue Programs Inc and Brian Suder, with documentation of service.

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

15 II. FINAL ORDER

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

18 A. IT IS HEREBY ORDERED, That:

- 19
20 1. Respondent Respondents Home Rescue Programs Inc and Brian Suder cease
21 and desist offering loan modification services or otherwise conducting the
22 business of a mortgage broker or loan originator in the state of Washington; and
23 2. Respondents Home Rescue Programs Inc and Brian Suder are prohibited from
24 participation in the conduct of the affairs of any mortgage broker or loan
25 originator subject to licensure by the Director, in any manner, for a period of five
(5) years; and

- 1 3. Respondents Home Rescue Programs Inc and Brian Suder jointly and severally
2 pay a fine of \$12,000; and
- 3 4. Respondents Home Rescue Programs Inc and Brian Suder jointly and severally
4 refund all fees or monies collected from the borrowers in the attached restitution
5 schedule; and
- 6 5. Respondents Home Rescue Programs Inc and Brian Suder jointly and severally
7 pay an investigation fee which totals \$2,136; and
- 8 6. Respondents Home Rescue Programs Inc and Brian Suder shall maintain records
9 in compliance with the Act and provide the Department with the location of the
10 books, records and other information relating to Respondent Home Rescue
11 Programs Inc's business, and the name, address and telephone number of the
12 individual responsible for maintenance of such records in compliance with the
13 Act.

10 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
11 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
12 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
13 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
14 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
15 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
16 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

4 E. Non-compliance with Order. If you do not comply with the terms of this order, the
5 Department may seek its enforcement by the Office of Attorney General to include the collection of the
6 fines, fees, and restitution imposed herein.

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

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11 DATED this 19 day of August, 2010.



12 STATE OF WASHINGTON
13 DEPARTMENT OF FINANCIAL INSTITUTIONS

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16 DEBORAH BORTNER
17 DIRECTOR
18 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:

HOME RESCUE PROGRAMS INC, and
BRIAN SUDER , President,

Respondents.

NO. C-10-187-10-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST, PROHIBIT
FROM INDUSTRY, IMPOSE FINE, ORDER
RESTITUTION, 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). 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Home Rescue Programs Inc (Respondent Home Rescue) is incorporated in the state of California. Respondent Home Rescue has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions (Department).

B. Brian Suder (Respondent Suder) is President of Respondent Home Rescue. Respondent Suder has never been licensed to conduct the business of a Mortgage Broker or Loan Originator by the Department.

1.2 Unlicensed Activity. Between at least April 2009 and the date of this Statement of Charges, Respondents held themselves out as able to assist at least four consumers in applying to obtain a loan modification on property located in the state of Washington. Respondents received fees totaling at least \$9,195

1 from these consumers. Respondents did not have a mortgage broker or loan originator license issued by the
2 Department during any of the time in question.

3 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
4 Respondents continues to date.

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

6 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14), "Mortgage Broker" means any
7 person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in
8 obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to
9 assist a person in obtaining or applying to obtain a residential mortgage loan.

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

20 **2.3 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
21 I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2) and (3), and RCW 19.146.200 for
22 engaging in the business of a mortgage broker without first obtaining and maintaining a license under the Act.
23 Individuals negotiating residential mortgage loan terms act as mortgage brokers or loan originators and must be
24 licensed under the Act unless specifically exempt from the Act.

1 **2.4 Requirement to Maintain Accurate and Current Books and Records.** Based on the Factual
2 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060 and WAC
3 208-660-140 for failing to make accurate and current books and records readily available to the Department
4 until at least twenty-five months have elapsed following the effective period to which the books and records
5 relate.

6 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

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

15 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2) and WAC 208-660-530, the Director may
16 impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for
17 any violations of the Act or any violations of RCW 19.146.0201(1) through (9), or RCW 19.146.200, or failure
18 to comply with a directive or order of the Director.

19 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may issue orders directing
20 a licensee or other person subject to the Act to pay restitution.

21 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(4) and
22 WAC 208-660-520(9), upon completion of any investigation of the books and records of a licensee or other person
23 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
24 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
25 hour that each staff person devoted to the investigation.

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IV. NOTICE OF INTENTION TO ENTER ORDER

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

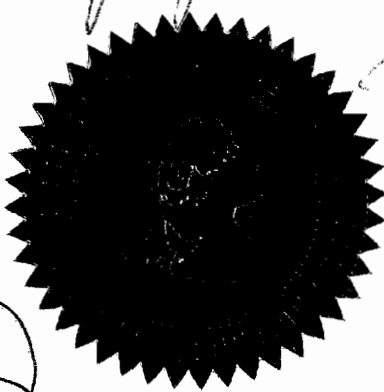
- 4.1 Respondents Home Rescue Programs Inc and Brian Suder cease and desist offering loan modification services or otherwise conducting the business of a mortgage broker or loan originator in the state of Washington; and
- 4.2 Respondents Home Rescue Programs Inc and Brian Suder be prohibited from participation in the conduct of the affairs of any mortgage broker or loan originator subject to licensure by the Director, in any manner, for a period of five (5) years; and
- 4.3 Respondents Home Rescue Programs Inc and Brian Suder jointly and severally pay a fine, which as of the date of this Statement of Charges totals \$12,000; and
- 4.4 Respondents Home Rescue Programs Inc and Brian Suder jointly and severally refund all fees or monies collected from the borrowers referenced in paragraph 1.2 above; and
- 4.5 Respondents Home Rescue Programs Inc and Brian Suder jointly and severally pay an investigation fee which as of the date of these charges totals \$2,136 calculated at \$48 per hour for the forty-four and one half hours (44.5) staff hours devoted to the investigation; and
- 4.6 Respondents Home Rescue Programs Inc and Brian Suder maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondent Home Rescue Programs Inc's business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

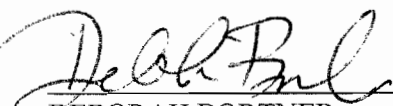
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1 **V. AUTHORITY AND PROCEDURE**

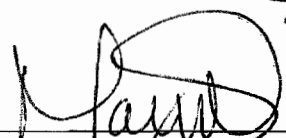
2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit from
3 Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) is entered
4 pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230,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

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9 Dated this 15th day of July, 2010.



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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 MARNIE SHEERAN
19 Financial Legal Examiner

20 Approved by:

21 
22 JAMES R. BRUSSELBACK
23 Enforcement Chief