### TERMS COMPLETED

#### **ORDER SUMMARY – Case Number: C-12-1090**

Name(s):		Law Group, LLP; Jef ices, P.A.; Brenda L	•	d ; Consumer
			•	
Order Number:	C-12-1090-13-	-CO01		
Effective Date:	October 25, 20	013		
License Number: Or NMLS Identifier [U/L] License Effect:		stayed, application denied or st specifically note the ending of		
Not Apply Until:	N/A			
Not Eligible Until:	N/A			
Prohibition/Ban Until:	N/A			
Investigation Costs	\$792	Due 10/23	Paid ⊠ Y □ N	Date: 10/23/13
Fine	\$13,500	Due 10/23	Paid ⊠ Y □ N	Date: 10/23/13
Assessment(s)	\$	Due	Paid N N	Date
Restitution	\$6,437.50	Due 10/31	Paid ⊠ Y □ N	Date: 10/23/13
Judgment	\$	Due	Paid N	Date
Satisfaction of Judgment		□ Y □ N	1	
	No. of Victims:	3		
Comments: Respondents shall cea without meeting the requirements		onducting the business of	a mortgage broke	er without licensure or

OCT 2 3 2013

Enforcement Unit Division of Consumer Services Dept. of Financial Institutions

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

3 IN THE MATTER OF DETERMINING Whether there has been a violation of the

1

2

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

Mortgage Broker Practices Act of Washington by:

CONSUMER ATTORNEY SERVICES, P.A.; THE MCCANN LAW GROUP, LLP; BRENDA L. MCCANN, Principal; and JEFFREY WHITEHEAD, Principal,

Respondents.

No.: C-12-1090-13-CO01

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Consumer Attorney Services, P.A. (CAS), The McCann Law Group, LLP (MLG), Brenda L. McCann (McCann), and Jeffrey Whitehead (Whitehead), (hereafter Respondents), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

#### AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-12-1090-13-SC01 (Statement of Charges), entered March 28, 2013, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be

1

24

23

CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al. DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
P.O. Box 41200
Olympia, WA 98504-1200
(360) 902-8703

23

24

economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

- A. Jurisdiction. It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.
- B. Waiver of Hearing. It is AGREED that Respondents have been informed of the right to a hearing before an administrative law judge, and hereby waive their right to a hearing and any and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondents, by their signatures below, withdraw their appeal to the Office of Administrative Hearings.
- C. No Admission of Liability. The parties intend this Consent Order to fully resolve the Statement of Charges and agree that Respondents do not admit to any wrongdoing by its entry.
- D. Cease and Desist. It is AGREED that Respondents shall cease and desist from conducting the business of a mortgage broker without licensure or without meeting the requirements for an exemption.
- E. Restitution. It is AGREED that Respondents CAS and MLG have paid restitution totaling \$6,437.50 to those consumers listed in Appendix A of this Consent Order in the amounts set forth therein.
- **F.** Fine. It is AGREED that Respondents CAS and MLG shall pay a fine to the Department in the amount of \$13,500, in the form of a cashier's check made payable to the "Washington State Treasurer."
- G. Rights of Non-Parties. It is AGREED that the Department does not represent or have the consent of any person or entity not a party to this Consent Order to take any action concerning their personal legal rights. It is further AGREED that for any person or entity not a party to this Consent

Order, this Consent Order does not limit or create any private rights or remedies against Respondents, limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

- H. Investigation Fee. It is AGREED that Respondents CAS and MLG shall pay to the Department an investigation fee of \$792, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee may be paid together in one cashier's check in the amount of \$14,292, made payable to the "Washington State Treasurer."
- I. Authority to Execute Order. It is AGREED that the undersigned have represented and warranted that they have the full power and right to execute this Consent Order on behalf of the parties represented.
- J. Non-Compliance with Order. It is AGREED that Respondents understand that failure to abide by the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.
- K. Voluntarily Entered. It is AGREED that the undersigned Respondents have voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.
- L. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read this Consent Order in its entirety and fully understand and agree to all of the same.

#### **RESPONDENTS:**

Consumer Attorney Services, P.A.

Brenda L. McCann Principal )

Jeffrey Whitehead

Principal

CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  $\frac{6ct. 7}{Date}$ 

C-12-1090-13-CO01 Division of Consume CONSUMER ATTORNEY SERVICES, P.A. et. al.  P.O. 1 Olympia, WA 9			
Brenda L. McCann Principal  Date  OCT. 7, 2013  Date			
Principal  Deferming the principal and the princ	[		OCT. 7, 2013
Brenda L. McCann Individually  Jeffrey Writefload Individually  Approved for entry by:  Meredith H. Leonard, Florida Bar No. 69535  Greenspoon Marder, P.A. Attorney for Respondents  Do NOT WRITE BELOW THIS LINE  Department of Financial Instit Division of Consum 222  CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  OCT. 7, 2013  Date  Date  Date  Date  Date  Do Not Write Below This Line  Department of Financial Instit Division of Consum	4		Date
Individually  Jeffrey Whitehead Individually  Approved for entry by:  Meredith H. Leonard, Flokida Bar No. 69535 Greenspoon Marder, P.A. Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  Department of Financial Institutional Consumers of Consume	5		
Individually  Jeffrey Whitehead Individually  Approved for entry by:  Meredith H. Leonard, Flokida Bar No. 69535 Greenspoon Marder, P.A. Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  Department of Financial Institutional Consumers of Consume	6	Pronds I. McCann	OCT. 7, 2013
Jeffrey Whitehead Individually  Approved for entry by:  Meredith H. Leonard, Floxida Bar No. 69535 Greenspoon Marder, P.A. Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  Date  LO   21   13  Date  LO   21   13  Date  Do Not Write Below THIS LINE  Department of Financial Institution of Consumers	7		Date
Individually  Approved for entry by:  Meredith H. Leonard, Floxida Bar No. 69535 Greenspoon Marder, P.A. Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER CONSENT ORDER CONSENT ORDER CONSENT ORDER CONSUMER ATTORNEY SERVICES, P.A. et. al.  DEPARTMENT OF FINANCIAL INSTITUTIONS OF TOP INSTITUTION OF TOP INS	8		10/10/13
Approved for entry by:    Consent order	9	Jeffrey Whitehead Individually	Date
Meredith H. Leonard, Florida Bar No. 69535  Greenspoon Marder, P.A. Attorney for Respondents  Do Not write Below this Line  Do Not write Below this Line  Consent order  Consent order  Consent order  Consent order  Consumer attorney Services, P.A. et. al.  Department of Financial Institutional Division of Consumer P.O.  Olympia, WA 9	10		
Greenspoon Marder, P.A. Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  DEPARTMENT OF FINANCIAL INSTITUTIONS DIVISIon of Consumer C	11	The proved for early sys	
Greenspoon Marder, P.A. Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  DEPARTMENT OF FINANCIAL INSTITUTIONS DIVISIon of Consumer C	12		10/21/13
Attorney for Respondents  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LINE  CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  DO NOT WRITE BELOW THIS LINE  DO NOT WRITE BELOW THIS LI	13		Date '
DO NOT WRITE BELOW THIS LINE  TO NOT		Attorney for Respondents	
15 16 17 18 19 20 21 22 23 24 CONSENT ORDER 4 DEPARTMENT OF FINANCIAL INSTIT Division of Consume C-12-1090-13-CO01 P.O.1 CONSUMER ATTORNEY SERVICES, P.A. et. al. Olympia, WA 9	14	DO NOT WRD	TE BELOW THIS LINE
17 18 19 20 21 22 23 24 CONSENT ORDER 4 DEPARTMENT OF FINANCIAL INSTIT C-12-1090-13-C001 Division of Consum CONSUMER ATTORNEY SERVICES, P.A. et. al.	15		
18 19 20 21 22 23 24 CONSENT ORDER 4 DEPARTMENT OF FINANCIAL INSTIT Division of Consumer ATTORNEY SERVICES, P.A. et. al. CONSUMER ATTORNEY SERVICES, P.A. et. al. Olympia, WA 99	16		
20 21 22 23 24 CONSENT ORDER 4 DEPARTMENT OF FINANCIAL INSTITUTE Division of Consume C-12-1090-13-C001 Division of Consume Olympia, WA 9 Olympia, WA 9 Olympia, WA 9	17		
20 21 22 23 24 CONSENT ORDER 4 DEPARTMENT OF FINANCIAL INSTIT C-12-1090-13-C001 Division of Consume CONSUMER ATTORNEY SERVICES, P.A. et. al.	18		
22 23 24 CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al. DEPARTMENT OF FINANCIAL INSTITUTE Division of Consume P.O. In Olympia, WA 90	19		
22 23 24 CONSENT ORDER C-12-1090-13-C001 CONSUMER ATTORNEY SERVICES, P.A. et. al.  DEPARTMENT OF FINANCIAL INSTIT Division of Consume P.O. I	20		•
23  24  CONSENT ORDER C-12-1090-13-C001 CONSUMER ATTORNEY SERVICES, P.A. et. al.  DEPARTMENT OF FINANCIAL INSTITUTION Division of Consumer P.O. In the consumer of the consume	21		
CONSENT ORDER C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al.  DEPARTMENT OF FINANCIAL INSTITUTE OF CONSUMER ATTORNEY SERVICES, P.A. et. al.  P.O. I Olympia, WA 9	22		
CONSENT ORDER 4 DEPARTMENT OF FINANCIAL INSTT C-12-1090-13-CO01 CONSUMER ATTORNEY SERVICES, P.A. et. al. P.O. 1 Olympia, WA 96	23		
	24	C-12-1090-13-CO01	4 DEPARTMENT OF FINANCIAL INSTITUTIONS Division of Consumer Services P.O. Box 41200 Olympia, WA 98504-1200 (360) 902-8703

### THIS ORDER ENTERED THIS 25th DAY OF OCTOBER, 2013



DEBORAH BORTNER
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

DEVON P. PHELPS Financial Legal Examiner

Approved by:



CHARLES E. CLARK Enforcement Chief

CONSENT ORDER
C-12-1090-13-CO01
CONSUMER ATTORNEY SERVICES, P.A. et. al.

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
P.O. Box 41200
Olympia, WA 98504-1200
(360) 902-8703

#### Appendix A

2	Consumer	Amount
3		\$700.00
4		\$2,187.50
5		\$3,550.00

CONSENT ORDER
C-12-1090-13-CO01
CONSUMER ATTORNEY SERVICES, P.A. et. al.

DEPARTMENT OF FINANCIAL INSTITUTIONS Division of Consumer Services P.O. Box 41200 Olympia, WA 98504-1200 (360) 902-8703

#### 1 STATE OF WASHINGTON DEPARTMENT OF FINANCIAL INSTITUTIONS 2 **DIVISION OF CONSUMER SERVICES** 3 IN THE MATTER OF DETERMINING No. C-12-1090-13-SC01 Whether there has been a violation of the 4 Mortgage Broker Practices Act of Washington by: STATEMENT OF CHARGES and NOTICE OF INTENT TO ENTER AN 5 CONSUMER ATTORNEY SERVICES, P.A.; ORDER TO CEASE AND DESIST THE MCCANN LAW GROUP, LLP; BUSINESS, PROHIBIT FROM 6 BRENDA L. MCCANN, Principal; and INDUSTRY, ORDER RESTITUTION, JEFFREY WHITEHEAD, Principal, IMPOSE FINE, AND COLLECT 7 **INVESTIGATION FEE** Respondents. 8 9 INTRODUCTION Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial 10 Institutions of the State of Washington (Director) is responsible for the administration of chapter 11 19.146 RCW, the Mortgage Broker Practices (Act). After having conducted an investigation pursuant 12 to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the 13 Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes 14 this proceeding and finds as follows: 15 I. FACTUAL ALLEGATIONS 16 17 1.1 Respondents. 18 A. Consumer Attorney Services, P.A. (Respondent CAS) was incorporated in Florida from April 1, 2011, to April 30, 2012. Respondent CAS has never been licensed by the Department of 19 20 Financial Institutions of the State of Washington (Department) to conduct business as a mortgage

**B.** The McCann Law Group, LLP (Respondent MLG), successor to CAS, was formed in Florida on April 30, 2012, and continues to date. Respondent MLG has never been licensed by the Department to conduct business as a mortgage broker.

1

STATEMENT OF CHARGES

broker.

21

22

23

24

C. Brenda L. McCann (Respondent McCann) was the President of Respondent MLG and is a General Partner of Respondent CAS. During the relevant time period, Respondent McCann was not licensed by the Department to conduct business as a mortgage broker or loan originator.

- **D.** Jeffrey Whitehead (Respondent Whitehead) is a General Partner of Respondent CAS. During the relevant time period, Respondent Whitehead was not licensed by the Department to conduct business as a mortgage broker or loan originator.
- 1.2 Unlicensed Activity. Between at least February 2012 and August 2012, Respondents were offering residential mortgage loan modification services to Washington consumers on property located in Washington State. Respondents entered into a contractual relationship with at least three Washington consumers to provide those services and collected an advance fee for the provision of those services. The Department has received at least three complaints from Washington consumers alleging Respondents provided or offered to provide residential mortgage loan modification services while not licensed by the Department to provide those services. A list of Washington consumers with whom Respondents conducted business as a mortgage broker or loan originator, and the amount paid by each is appended hereto and incorporated herein by reference.
- 1.3 Misrepresentations and Omissions. Respondents represented that they were licensed to provide the residential mortgage loan modification services or omitted disclosing that they were not licensed to provide those services.
- 1.4 On-Going Investigation. The Department's investigation into the alleged violations of the Act by Respondents continues to date.

#### II. GROUNDS FOR ENTRY OF ORDER

2.1 Mortgage Broker Defined. Pursuant to RCW 19.146.010(14) and WAC 208-660-006, "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan

1	or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person
2	in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
3	person "assists a person in obtaining or applying to obtain a residential mortgage loan' by, among
4	other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages"
5	2.2 Loan Originator Defined. Pursuant to RCW 19.146.010(11), "loan originator" means a
6	natural person who for direct or indirect compensation or gain, or in the expectation of direct or
7	indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
8	offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform
9	any of these activities.
10	2.3 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents
11	are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
12	toward any person and obtaining property by fraud or misrepresentation.
13	2.4 Requirement to Obtain and Maintain Mortgage Broker License. Based on the Factual
14	Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
15	for engaging in the business of a mortgage broker for Washington residents or property without first
16	obtaining a license to do so.
17	2.5 Requirement to Obtain and Maintain Loan Originator License. Based on the Factual
18	Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
19	for engaging in the business of a loan originator without first obtaining and maintaining a license.
20	2.6 Requirement to Maintain Accurate and Current Books and Records. Pursuant to RCW
21	19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
22	location that is on file with and readily available to the Department until at least twenty-five months
23	have elapsed following the effective period to which the books and records relate.
24	

2

3

4

business.

5

6

7

8

9

10

11

12

13

14

15

.

16

17

18

19

20

21

22

23

24

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Issue an Order to Cease and Desist. Pursuant to RCW 19.146.220(4), the Director may issue orders directing any person subject to the Act to cease and desist from conducting

- **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or (13), or RCW 19.146.200.
- **3.3** Authority to Order Restitution. Pursuant to RCW 19.146.220(2), the Director may order restitution against any person subject to the Act for any violation of the Act.
- **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines against any person subject to the Act for any violation of the Act.
- 3.5 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted to an investigation of any person subject to the Act.

#### IV. NOTICE OF INTENT TO ENTER ORDER

Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth above 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 intent to ORDER that:

- 4.1 Respondents cease and desist engaging in the business of a mortgage broker or loan originator.
- **4.2** Respondents be prohibited from participation, in any manner, in the conduct of the affairs of any mortgage broker subject to licensure by the Director for a period of five years.
- 4.3 Respondents jointly and severally pay restitution to the three consumers identified by the Department in Appendix A in the amount set forth therein, and that Respondents jointly and severally pay restitution to each Washington consumer with whom they entered into a contract for residential mortgage loan modification services related to real property or consumers

1			located in the state of Washington equal to the amount collected from that Washington consumer for those services in an amount to be determined at hearing.
2			
3		4.4	Respondents jointly and severally pay a fine, which as of the date of this Statement of Charges totals \$9,000.
4		4.5	Respondents jointly and severally pay an investigation fee, which as of the date of this Statement of Charges totals \$792.
5			
6		4.6	Respondents maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' provision of residential mortgage loan modification services in Washington, and the name, address and
7			telephone number of the individual responsible for maintenance of such records in compliance with the Act.
8	//		
9	//		
10	//		
11	//		
12	//		
13	//		
14	//		
15	//		
16	//		
17	//		
18	//		
19	//		
20	//		
21	//		
22	//		
23	//		
24	//		
	ST	ATEM	ENT OF CHARGES 5 DEPARTMENT OF FINANCIAL INSTITUTIONS Division of Consumer Services

#### V. AUTHORITY AND PROCEDURE

This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 28 th day of Mark, 2013.

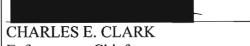


Presented by:



DEVON P. PHELPS Financial Legal Examiner

Approved by:



21 CHARLES E. CLAR Enforcement Chief

STATEMENT OF CHARGES

# Restitution

\$700.00<sup>1</sup>

**Amount** 

\$2,187.50

\$3,550.00

Consumer paid \$2,200 to Respondents but received a refund of \$1,500 on or about August 24, 2012.

Appendix A- Restitution A-I DEPARTMENT OF FINANCIAL INSTITUTIONS

Division of Consumer Services PO Box 41200 Olympia, WA 98504-1200 (360) 902-8703