

TERMS COMPLETED

ORDER SUMMARY – Case Number: C-12-1090

Name(s): The McCann Law Group, LLP; Jeffrey Whitehead ; Consumer Attorney Services, P.A.; Brenda L McCann ;

Order Number: C-12-1090-13-CO01

Effective Date: October 25, 2013

License Number: U/L
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.

License Effect:

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$792	Due 10/23	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 10/23/13
Fine	\$13,500	Due 10/23	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 10/23/13
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$6,437.50	Due 10/31	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 10/23/13
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input type="checkbox"/> N			
No. of Victims:	3			

Comments: Respondents shall cease and desist from conducting the business of a mortgage broker without licensure or without meeting the requirements for an exemption.

OCT 23 2013

Enforcement Unit
Division of Consumer Services
Dept. of Financial Institutions

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-12-1090-13-CO01

CONSENT ORDER

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

Respondents.

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

3 Based upon the foregoing:

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

6 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
7 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
8 administrative and judicial review of the issues raised in this matter, or of the resolution reached
9 herein. Accordingly, Respondents, by their signatures below, withdraw their appeal to the Office of
10 Administrative Hearings.

11 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
12 Statement of Charges and agree that Respondents do not admit to any wrongdoing by its entry.

13 **D. Cease and Desist.** It is AGREED that Respondents shall cease and desist from
14 conducting the business of a mortgage broker without licensure or without meeting the requirements
15 for an exemption.

16 **E. Restitution.** It is AGREED that Respondents CAS and MLG have paid restitution
17 totaling \$6,437.50 to those consumers listed in Appendix A of this Consent Order in the amounts set
18 forth therein.

19 **F. Fine.** It is AGREED that Respondents CAS and MLG shall pay a fine to the Department
20 in the amount of \$13,500, in the form of a cashier's check made payable to the "Washington State
21 Treasurer."

22 **G. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
23 consent of any person or entity not a party to this Consent Order to take any action concerning their
24 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent

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

3 **H. Investigation Fee.** It is AGREED that Respondents CAS and MLG shall pay to the
4 Department an investigation fee of \$792, in the form of a cashier's check made payable to the
5 "Washington State Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee
6 may be paid together in one cashier's check in the amount of \$14,292, made payable to the
7 "Washington State Treasurer."

8 **I. Authority to Execute Order.** It is AGREED that the undersigned have represented and
9 warranted that they have the full power and right to execute this Consent Order on behalf of the
10 parties represented.

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

15 **K. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
16 entered into this Consent Order, which is effective when signed by the Director's designee.

17 **L. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
18 this Consent Order in its entirety and fully understand and agree to all of the same.

19 **RESPONDENTS:**

20 **Consumer Attorney Services, P.A.**

21 By: 

22 Brenda L. McCann
Principal

23 

24 Jeffrey Whitehead
Principal

Oct. 7, 2013
Date

10/10/13
Date

1 **McCann Law Group, LLP**

By:

2 [Redacted]
3
4 Brenda L. McCann
Principal

OCT. 7, 2013

Date

5 [Redacted]
6
7 Brenda L. McCann
Individually

OCT. 7, 2013

Date

8 [Redacted]
9 Jeffrey Whitehead
Individually

10/10/13

Date

10 **Approved for entry by:**

11 [Redacted]
12 Meredith H. Leonard, Florida Bar No. 69535
13 Greenspoon Marder, P.A.
14 Attorney for Respondents

10/21/13

Date

15 **DO NOT WRITE BELOW THIS LINE**
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1 THIS ORDER ENTERED THIS 25th DAY OF OCTOBER, 2013



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

6 Presented by:



8 DEVON P. PHELPS
Financial Legal Examiner

9 Approved by:



12 CHARLES E. CLARK
Enforcement Chief

Appendix A

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Consumer



Amount

\$700.00

\$2,187.50

\$3,550.00

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.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
3 Director may issue orders directing any person subject to the Act to cease and desist from conducting
4 business.

5 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
6 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
7 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
8 (13), or RCW 19.146.200.

9 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
10 restitution against any person subject to the Act for any violation of the Act.

11 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
12 against any person subject to the Act for any violation of the Act.

13 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
14 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
15 to an investigation of any person subject to the Act.

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

17 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
18 set forth above constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221,
19 and RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

20 **4.1** Respondents cease and desist engaging in the business of a mortgage broker or loan originator.

21 **4.2** Respondents be prohibited from participation, in any manner, in the conduct of the affairs of
22 any mortgage broker subject to licensure by the Director for a period of five years.

23 **4.3** Respondents jointly and severally pay restitution to the three consumers identified by the
24 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
2 consumer for those services in an amount to be determined at hearing.

3 **4.4** Respondents jointly and severally pay a fine, which as of the date of this Statement of Charges
4 totals \$9,000.

5 **4.5** Respondents jointly and severally pay an investigation fee, which as of the date of this
6 Statement of Charges totals \$792.

7 **4.6** Respondents maintain records in compliance with the Act and provide the Department with the
8 location of the books, records and other information relating to Respondents' provision of
9 residential mortgage loan modification services in Washington, and the name, address and
10 telephone number of the individual responsible for maintenance of such records in compliance
11 with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
3 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
4 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
5 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
6 accompanying this Statement of Charges.

7
8 Dated this 28th day of March, 2013.



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

15 Presented by:



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17 DEVON P. PHELPS
Financial Legal Examiner

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19 Approved by:



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21 CHARLES E. CLARK
Enforcement Chief

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Restitution

Consumer

Amount



\$700.00¹
\$2,187.50
\$3,550.00

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