

ORDER SUMMARY – Case Number: C-13-1309

Name(s): Acocella Law Group, P.C;
Frank Anthony Acocella

Order Number: C-13-1309-14-CO01

Effective Date: December 17, 2014

License Number: Unlicensed
Or NMLS Identifier [U/L]

License Effect:	N/A
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Not Apply Until:	N/A
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Not Eligible Until:	N/A
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Prohibition/Ban Until:	N/A
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Investigation Costs	\$1,650	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 11/18/2014
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$22,270	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12/17/2014
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:				

Comments:

Restitution paid to consumers per Consent Order terms, cease and desist

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-13-1309-14-CO01

CONSENT ORDER

ACOCELLA LAW GROUP, P.C., and
FRANK ANTHONY ACOCELLA, 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 Acocella Law Group, P.C. (Respondent Acocella Law Group), and Frank A. Acocella, Esq. (Respondent Acocella), by and through their attorney, Richard Symmes, 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-13-1309-14-SCO1 (Statement of Charges), entered June 25, 2014 (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 economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

CONSENT ORDER
C-13-1309-14-CO01
Acocella Law Group, P.C.
Frank A. Acocella, Esq.

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 Based upon the foregoing:

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

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

9 C. **Cease and Desist.** It is AGREED that Respondents will cease and desist from engaging in
10 any loan modification services for consumers on residential property located in Washington State
11 without obtaining and maintaining a mortgage broker license, loan originator license, or qualifying
12 for an exemption from licensure under the Act. Respondents also acknowledge that RCW
13 19.146.020(c) applies solely to Washington licensed attorneys and not the law firm in general.

14 D. **Restitution.** It is AGREED Respondents have paid restitution to the following
15 Washington consumers as indicated:

- 16 1. R.L. - \$3,200
17 2. F.W. & T.W. - \$2,750
18 3. J.A. - \$4,800
19 4. G.C. - \$3,200
20 5. M.S. - \$1,920
21 6. B.L. - \$3,200
22 7. R.C. & D.C. - \$3,200

23 E. **Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
24 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.

F. Investigation Fee. It is AGREED that Respondent shall pay to the Department an investigation fee of \$1,650 in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

G. 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.

H. 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.

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

J. 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:

Acocella Law Group, P.C.

By:



Frank A. Acocella, Esq.
Principal



Frank A. Acocella, Esq.
Individually

11-26-14
Date

11-26-14
Date

1 Approved for Entry:

2 [REDACTED]

11/26/2014

3 Richard Symmes, Esq. WSBA No. 41475
4 Attorney at Law
5 Symmes Law Group
6 Attorney for Respondents

Date

DO NOT WRITE BELOW THIS LINE

7 THIS ORDER ENTERED THIS 17th DAY OF December, 2014.



13 [REDACTED]
14
15 DEBORAH BORTNER
16 Director
17 Division of Consumer Services
18 Department of Financial Institutions

13 Presented by:

14 [REDACTED]

15 GREGORY H. SANDOZ
16 Financial Legal Examiner

16 Approved by:

17 [REDACTED]

18 CHARLES E. CLARK
19 Enforcement Chief

**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:

ACOCELLA LAW GROUP, P.C., and
FRANK ANTHONY ACOCELLA, Principal,

Respondents.

No. C-13-1309-14-SC01

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

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:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **The Acocella Law Group, P.C. (Respondent Law Group)** has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator.

B. **Frank Anthony Acocella (Respondent Acocella)** is Owner and Chief Executive Officer for the Acocella Law Group, P.C. During the relevant time period, Respondent Acocella was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1 **1.2 Unlicensed Activity.** Between at least September 2012 and March 2014, Respondents were
2 offering residential mortgage loan modification services to Washington consumers on property
3 located in Washington State. The Department received at least one complaint alleging that on or
4 about April 24, 2013, Respondents offered to provide residential mortgage loan modification services
5 to a Washington consumer or on property located in Washington State while not licensed by the
6 Department to provide those services. Respondents requested a fee of five monthly installment
7 payments of \$640 for those services.

8 Respondents have admitted to the Department that between September 2012 and March 2014,
9 Respondents provided residential mortgage loan modification services to at least fifteen Washington
10 consumers on properties located in Washington State and collected fees for the provision of those
11 services totaling \$48,910 as identified in Attachment A.

12 **1.3 Misrepresentation and Omissions.** Respondents represented that they were licensed to
13 provide residential mortgage loan modification services or omitted disclosing that they were not
14 licensed to provide those services.

15 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
16 Act by Respondents continues to date.

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

18 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
19 "Mortgage broker" means any person who, for compensation or gain, or in the expectation of
20 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
21 loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to
22 obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a person ""assists a person in
23

obtaining or applying to obtain a residential mortgage loan' by, among other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages...."

2.2 Definition of Loan Originator. Pursuant to RCW 19.146.010(11) and WAC 208-660-006, "Loan originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker, offers or negotiates terms of a mortgage loan, performs residential mortgage loan modification services, or holds themselves out to the public as able to perform any of these activities.

2.3 Definition of Residential Mortgage Loan Modification. Pursuant to RCW 19.146.010(20) and WAC 208-660-006, "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalization of arrearages; or principal reductions.

2.4 Definition of Residential Mortgage Loan Modification Services. Pursuant to RCW 19.146.010(21) and WAC 208-660-006, "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification. "Residential mortgage loan modification services" also includes the collection of data for submission to any entity performing mortgage loan modification services.

2.5 Requirement to Obtain and Maintain Mortgage Broker License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1) and WAC 208-660-155 for engaging in the business of a mortgage broker without first obtaining and maintaining a license under the Act.

1 **2.6 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
2 Allegations set forth in Section I above, Respondent Acocella is in apparent violation of RCW
3 19.146.200(1) and WAC 208-660-155 for engaging in the business of a loan originator without first
4 obtaining and maintaining a license under the Act.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

9 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
10 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker,
11 any person subject to the Act for any violation of RCW 19.146.200.

12 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
13 restitution against licensees or other persons subject to the Act for any violation of the Act.

14 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
15 against any person subject to the Act for any violations of the Act.

16 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
17 520(9) & (11), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per hour
18 for an examiner's time devoted to an investigation of a licensee or other person subject to the Act.

19 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

- 4.1 Respondents cease and desist from engaging in the business of a mortgage broker or loan originator.
- 4.2 Respondents be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years.
- 4.3 Respondents jointly and severally pay a fine. As of the date of this Statement of Charges, the fine totals \$ 45,000.
- 4.4 Respondents jointly and severally pay restitution to each Washington consumer identified in Attachment A and with each Washington consumer with whom they entered into a contract for residential mortgage loan modification services related to real property or consumers 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.
- 4.5 Respondent jointly and severally pay an investigation fee. As of the date of this Statement of Charges, the investigation fee totals \$ 1,650.

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.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 Presented by:

2 [REDACTED]

3
4 GREGORY H. SANDOZ
Financial Legal Examiner

5 Approved by:

6 [REDACTED]

7
8 CHARLES E. CLARK
Enforcement Chief

Attachment A

**Acocella Law Group Client List for Loss Mitigation/Loan Modification Services in
Washington State**

Washington Consumer	Amount Paid
J.A.	\$3,200
B.L.	\$3,200
M.L. & P.L.	\$3,200
R.C. & D.C.	\$3,200
M.R.	\$3,250
D.B.	\$1,000
R.L.	\$3,200
F.W. & T.W.	\$2,750
P.C.	\$3,200
J.M. & J.M.	\$4,195
K.S.	\$4,195
J.A.	\$4,800
D.S.	\$4,000
W.C.	\$3,200
M.S.	\$1,920