

Terms Completed

CONSENT ORDER SUMMARY – Case Number C-15-1741

Respondent Name:	Ryan Thomas Smith
NMLS Number:	363948
Order Number:	C-15-1741-16-CO01.
Effective Date:	August 10, 2016
License Effect:	

Not Apply Until:	August 11, 2019
Not Eligible Until:	N/A
Prohibition/Ban Until:	3 year ban

Investigation Costs	\$500	Due: On entry.	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: August 10, 2016.
Fine	\$500	Due: On entry.	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: August 10, 2016.
Assessment(s)	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date

Comments:

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

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

No. C-15-1741-16-CO01

CONSENT ORDER

RYAN THOMAS SMITH, NMLS No. 363948,

Respondent.

COME NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, and Ryan Thomas Smith (Respondent Smith), by and through his attorney, J. Steven Lovejoy, 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 31.04 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 Respondent Smith have agreed upon a basis for resolution of the matters alleged in the attached Statement of Charges No. C-15-1741-16-SC01 (Statement of Charges), entered May 19, 2016. Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent Smith hereby agrees to the Department's 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 Respondent Smith has been informed of the right to a hearing before an administrative law judge, and hereby waives his right to a hearing and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, by his signature below,

CONSENT ORDER
C-15-1741-16-CO01
Ryan Thomas Smith

1 and by the signature of his authorized representative below, Respondent Smith withdraws his appeal to the Office
2 of Administrative Hearings.

3 **C. Cooperation.** The Department acknowledges that Respondent Smith has cooperated with the
4 Department's investigation of this matter, and has acknowledged that as part of New Day's established business
5 practices he paid some New Day compliance department employees to take continuing education courses and
6 related tests on his behalf. The Statement of Charges may imply that Respondent Smith was terminated by New
7 Day due to his knowledge of, or participation in, the continuing education cheating scandal at New Day; both
8 Respondent Smith and NewDay have advised the Department that Respondent Smith's termination was completely
9 unrelated to those matters.

10 **D. No Admission or Denial of Violations.** It is AGREED that with the above exceptions, Respondent
11 Smith neither admits nor denies the Factual Allegations in the Statement of Charges. It is further AGREED that
12 Respondent Smith will not take any action or make or permit to be made any public statement creating the
13 impression that this Consent Order is without factual basis, and that nothing in this paragraph affects Respondent
14 Smith's right to take legal or factual positions in defense of litigation.

15 **E. Application for License.** It is AGREED that, for a period of three years from the date of entry of this
16 Consent Order, Respondent Smith shall not apply to the Department for a mortgage loan originator license under
17 any name. It is further AGREED that should Respondent Smith apply to the Department for a mortgage loan
18 originator license under any name at any time later than three years from the date of entry of this Consent Order,
19 Respondent Smith shall be required to meet all application requirements then in effect.

20 **F. Fine.** It is AGREED that Respondent Smith shall pay a fine to the Department in the amount of \$500.00
21 upon entry of this Consent Order.

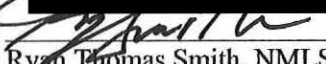
22 **G. Investigation Fee.** It is AGREED that Respondent Smith shall pay to the Department an investigation
23 fee of \$500 upon entry of this Consent Order. The Fine and Investigation Fee shall be paid together in one \$1,000
24 cashier's check made payable to the "Washington State Treasurer."
25

1 **H. Non-Compliance with Order.** It is AGREED that Respondent Smith understands that failure to abide
2 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of
3 such legal action, Respondent Smith may be responsible to reimburse the Director for the cost incurred in pursuing
4 such action, including attorney fees.

5 **I. Voluntarily Entered.** It is AGREED that Respondent Smith has voluntarily entered into this Consent
6 Order, which is effective when signed by the Director's designee.

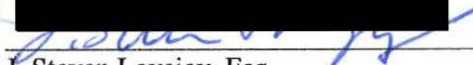
7 **J. Completely Read, Understood, and Agreed.** It is AGREED that Respondent Smith has read this
8 Consent Order in its entirety and fully understands and agrees to all of the same.

9 **BY RESPONDENT:**

10 [Redacted]
11 
12 Ryan Thomas Smith, NMLS No. 363948

7/31/2016
Date

13 **Approved for Entry:**

14 [Redacted]
15 
16 J. Steven Lovejoy, Esq.
17 Shumaker & Williams, P.C.
Attorneys for Respondent Hooper

8/4/2016
Date

18 DO NOT WRITE BELOW THIS LINE

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THIS ORDER ENTERED THIS 10th DAY OF AUGUST, 2016.





CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

Approved by:


ANTHONY W. CARTER
Senior Financial Legal Examiner


STEVEN C. SHERMAN
Chief of Enforcement

1 other New Day employees to take their continuing education (CE) course and tests. New Day
2 conducted an internal investigation in response to the complaint, and discovered that two Compliance
3 Department employees had been paid by some of New Day's MLOs to take their CE course and tests.
4 Respondent Smith admitted to paying a New Day Compliance Department employee to take CE tests
5 on his behalf.

6 **1.3 Multi-State Investigation.** On April 13, 2015, the Department entered into a Settlement
7 Agreement and Consent Order with New Day in resolution of an investigation into allegations that New
8 Day had allowed employees to cheat on state and federal CE requirements established by the National
9 Mortgage Licensing System (NMLS). The Settlement Agreement and Consent Order recites that in
10 violation of state and federal law, New Day's owners, managers, and employees had engaged other
11 employees working for New Day's Compliance Department to sit through CE courses and take the
12 associated CE tests for MLOs. In settlement of the matter, New Day agreed to pay more than five
13 million dollars in civil penalties, reform its business practices with respect to CE compliance, and
14 terminate certain key personnel.

15 **1.4 Washington Investigation.** On July 16, 2015, the Department requested that New Day identify
16 whether Respondent Smith had been terminated due to his knowledge of, or participation in, the
17 conduct at issue in the Settlement Agreement and Consent Order. In response, New Day informed the
18 Department that Respondent Smith had been terminated by New Day on February 16, 2015.

20 II. GROUNDS FOR ENTRY OF ORDER

21 **2.1 Continuing Education Requirements.** Pursuant to RCW 31.45.267, a licensed MLO must
22 annually complete a minimum of eight hours of continuing education approved by NMLS.

23 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent
24 Smith is in apparent violation of RCW 31.04.027(1), for directly or indirectly employing any scheme,

1 device, or artifice to defraud or mislead any person; (2), for directly or indirectly engaging in any unfair
2 or deceptive practice toward any person; and (13), for violating any applicable state or federal law
3 relating to the activities governed by the Act.

4 5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6), the Director may issue an
7 order prohibiting from participation in the affairs of any licensee any person subject to the Act for any
8 violation of RCW 31.04.027.

9 **3.2 Authority to Collect Investigation Fees.** Pursuant to RCW 31.04.145(3), every licensee
10 investigated by the Director or the Director's designee must pay to the Director the cost of the
11 investigation as determined by rule. Pursuant to WAC 208-620-590, the investigation fee is calculated
12 at the rate of \$69.01 per staff hour devoted to the investigation.

13 **3.3 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director may
14 recover the state's costs and expenses for prosecuting violations of the Act, including for staff time
15 spent preparing for and attending administrative hearings, and reasonable attorneys' fees.

16 17 **IV. NOTICE OF INTENT TO ENTER ORDER**

18 Respondent Smith's violations of the Act as set forth in the above Factual Allegations, Grounds
19 for Entry of Order, and Authority to Impose Sanctions, constitute a basis for the entry of an Order under
20 the Act. Therefore, it is the Director's intent to ORDER that:

21 **4.1** Respondent Ryan Thomas Smith be prohibited from participating in the affairs of
22 any licensee, or any person subject to the Act, for a period of ten (10) years;

23 **4.2** Respondent Ryan Thomas Smith pay the Department the investigation fees
24 incurred in investigating this matter, which as of the date of this Statement of
Charges totals \$275.35; and


1 4.3 Respondent Ryan Thomas Smith pay the Department's costs and expenses for
2 prosecuting this matter in an amount to be determined at hearing.

3 **V. AUTHORITY AND PROCEDURE**

4 This Statement of Charges and Notice of Intent to Enter an Order to Prohibit from Industry,
5 Collect Investigative Fees, and Recover Costs and Expenses (Statement of Charges) is entered pursuant
6 to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is
7 subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent
8 Smith may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
9 DEFEND AND FOR ADJUDICATIVE HEARING accompanying this Statement of Charges.

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11 Dated this 19th day May, 2016.




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13 
14 CHARLES E. CLARK
15 Director, Division of Consumer Services
16 Department of Financial Institutions

17
18 Presented by:

19 
20 ANTHONY W. CARTER
21 Senior Financial Legal Examiner

22
23 Approved by:

24 
DEBORAH P. TAEILLIOUS
Financial Legal Examiner Supervisor