ORDER SUMMARY – Case Number: C-10-392

Name(s): ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention; Barbara J. Weidner; Roie Raitses;

Order Number: C-10-392-16-CO01

Effective Date: 01/30/17

License Number: n/a
Or **NMLS Identifier** [U/L]

License Effect: n/a

Not Apply Until: n/a

Not Eligible Until: n/a

Prohibition/Ban Until: See C-10-392-12-FO04

Investigation Costs	$1,680	Due	Paid ☒ Y ☐ N	Date: 1/27/17
Fine	$17,175	Due	Paid ☒ Y ☐ N	Date: 1/27/17
Assessment(s)	$	Due	Paid ☐ Y ☐ N	Date
Restitution	$24,145	Due	Paid ☒ Y ☐ N	Date: Pre 1/27/17
Judgment	$	Due	Paid ☐ Y ☐ N	Date
Satisfaction of Judgment Filed?		☐ Y ☐ N		
No. of Victims:		8		

Comments: The Consent Order applies only to financial obligations. All non-financial sanctions in Final Order C-10-392-12-FO04 remain in effect.

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: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1st FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, and ROIE J. RAITSES, Vice President, Respondent(s).	No.: C-10-392-16-CO01 CONSENT ORDER AS TO FINANCIAL OBLIGATIONS

COMES NOW the Acting Director of the Department of Financial Institutions (Director), through her designee Charles E. Clark, Division Director, Division of Consumer Services, and ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, President, and Roie J. Raitses, Vice President (collectively, Respondents), and finding that the financial 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) entered Final Order C-10-392-12-FO04 in the above captioned matter on July 27, 2012, which ordered sanctions against Respondents that included a fine, an investigation fee, and restitution to seven Washington consumers more specifically set forth therein. Respondents have now established to the Department's satisfaction that they have paid the restitution to the named consumers and have requested a reduction of the fine previously ordered. Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondents

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

hereby agree to the Department's entry of this Consent Order. The parties intend this Consent Order to fully resolve the financial obligations to the Department in C-10-392-12-FO04 and agree that all non-financial sanctions set forth in C-10-392-12-FO04 shall remain in full force and effect.

Based upon the foregoing:

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

B. **Fine**. It is AGREED that Respondents shall pay a fine to the Department in the amount of $17,175 upon entry of this Consent Order. It is further AGREED that payment of this amount will satisfy the fine set forth in C-10-392-12-FO04 and that no further fine will be owed under C-10-392-11-FO01, C-10-392-11-FO02, C-11-392-12-FO03, C-10-392-12-FO04, C-10-392-12-FO05, or C-12-0923-13-FO01.

C. **Restitution**. It is AGREED that Respondents has paid restitution to the consumers set forth in C-10-392-12-FO04 and C-12-0923-13-FO01.

D. **Investigation Fee**. It is AGREED that Respondent shall pay to the Department an investigation fee of $1,680 upon entry of this Consent Order. The Fine and Investigation Fee shall be paid together in one $18,855 cashier's check made payable to the "Washington State Treasurer."

E. **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.

F. **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.

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

H. **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.

I. **Counterparts.** This Consent Order may be executed by the Respondents in any number of counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Consent Order.

RESPONDENTS:
ELM Nationwide Enterprises, LLC,
d/b/a 1st Foreclosure Prevention

By: [redacted] 12/21/16

Barbara J. Weidner
President

Date

[redacted] 12/21/16

Barbara J. Weidner
Individually

Date

[redacted] 12-21-16

Roie J. Raitses
Individually

Date

Approved for Entry:

[redacted] 1/26/17

Brian T. Moran, WSBA No. 17794
Attorney at Law
Orrick, Herrington & Sutcliffe LLP
Attorney for Respondents

Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 30th DAY OF January, 2016. VEC

[redacted]

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

Presented by:

[redacted]

STEVEN C. SHERMAN
Enforcement Chief

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING whether there has been a violation of the Mortgage Broker Practices Act of Washington by: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, and ROIE J. RAITSES, Vice President, Respondents.	NO. C-10-392-12-FO04 AMENDED & CORRECTED FINAL ORDER ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, and ROIE J. RAITSES

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) pursuant to RCW 34.05.464. On December 22, 2010, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) against ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (ELM), Barbara J. Weidner, and Roie J. Raitses (Respondents). The Statement of Charges was accompanied by a cover letter dated December 22, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for each Respondent (collectively, accompanying documents).

On December 22, 2010, the Department served Respondents with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery. On

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December 23, 2010, the documents sent via Federal Express overnight delivery were delivered. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service as undeliverable.

On or about January 10, 2011, the Department received an email from Respondent Weidner on behalf of herself and Respondent ELM disputing the allegations in the Statement of Charges and requesting a hearing. Respondent Raitses, however, did not submit his request for an adjudicative hearing until June 8, 2011; more than 20 calendar days after the Department served the Notice of Opportunity to Defend and Opportunity for Hearing as provided for in WAC 208-08-050(2), and a default Final Order was subsequently entered against him under C-10-392-11-FO01.

On February 3, 2011, the Director, through the Director's designee, issued an Amended Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Amended Statement of Charges) against ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (ELM), Barbara J. Weidner, and Roie J. Raitses (Respondents). A copy of the Amended Statement of Charges is attached and incorporated into this order by this reference. The Amended Statement of Charges was accompanied by a cover letter dated February 4, 2011, and a Notice of Opportunity to Defend and Opportunity for Hearing,

On February 7, 2011, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On February 17, 2011, OAH issued a Notice of Prehearing Conference scheduling a prehearing conference by telephone on February 24, 2011, at 11:00 a.m. On February 23, 2011, Respondent Weidner contacted OAH and requested a continuance of the hearing set for February 24, 2011. Respondent Weidner's request was granted, and on February 24, 2011, OAH

issued a Notice of Prehearing Conference rescheduling a prehearing conference by telephone for March 14, 2011, at 9:00 a.m.

On March 14, 2011, Respondent Weidner contacted OAH by facsimile prior to the hearing and requested a continuance of the telephonic prehearing conference due to a medical emergency. OAH replied to Respondent Weidner by email granting the continuance, and later the same day ALJ Thomas P. Rack issued a letter continuing the Prehearing Conference to April 7, 2011.

On April 5, 2011, attorney Chris Rosfjord entered a Notice of Appearance for Respondents. On April 7, 2011, the parties, through their legal representatives, attended a telephonic prehearing conference. On April 8, 2011, ALJ Rack issued a Notice of Hearing and Order Following Prehearing Conference of April 7, 2011, scheduling a hearing on October 24-27, 2011, at 9:00 a.m.

On June 10, 2011, attorney Rosfjord withdrew as the legal representative for Respondents and served *all* Respondents, including Raitses, with a copy of the withdrawal by U.S. Mail and email.

On September 15, 2011, ALJ Rack issued a Notice of Motions Hearing by Telephone scheduling a hearing for October 5, 2011, at 10:00 a.m. Pacific Time. The notice contained the following warning:

> *Default*: If you fail to appear or participate in the telephone conference, hearing, or any other scheduled stage of these proceedings, you may lose your right to a hearing as described in RCW 34.05.440.

The notice was served on Respondents by First Class U.S. Mail, postage prepaid, to the address previously provided to OAH by Respondents and Respondents' legal representative.

On October 5, 2011, the telephonic motions hearing was convened by ALJ Rack at 10:00 a.m. Pacific Time. The Department appeared through its legal representative. Respondents did not appear. The Department moved for an Order of Default based on Respondents' failure to appear, and on October 5, 2011, ALJ Rack issued an Order of Default dismissing Respondents' request for hearing

and affirming the Amended Statement of Charges.[1] A copy of the Order of Default was sent by OAH to Respondents ELM, Weidner and Raitses by First Class U.S. Mail, postage prepaid, to their last known address.

Pursuant to RCW 34.05.440(3), Respondents ELM, Weidner and Raitses had seven (7) days from the date of service of the Order of Default to file a written motion with OAH requesting that the Order of Default be vacated, and stating the grounds relied upon. Respondents ELM, Weidner and Raitses did not make a request to vacate during the statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents ELM, Weidner and Raitses had twenty (20) days from the date of service of the Order of Default to file a Petition for Review of the Order of Default and with the Director. Respondents ELM, Weidner and Raitses did not file a Petition for Review during the statutory period.

Subsequently, Respondent Roie J. Raitses filed an untimely Petition for Reconsideration with the Director, which was nonetheless accepted for review. By separate order of even that with this Final Order, the Director denied the Petition for Reconsideration, setting forth findings and conclusions for doing so.

B. Record Presented. The record presented to the Director for his review and for entry of a final decision included the following:

1. Statement of Charges, cover letter dated December 22, 2010, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;

2. Amended Statement of Charges, cover letter dated February 4, 2011, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;

3. Request to OAH for Assignment of Administrative Law Judge;

[1] The Order of Default erroneously affirms the "Statement of Charges." The Director has determined this to be a scrivener's as only the Amended Statement of Charges was before the ALJ for consideration.

4. Notice of Prehearing Conference dated February 17, 2011, with documentation of service;

5. Notice of Prehearing Conference dated February 24, 2011, with documentation of service;

6. OAH letter to Respondents ELM and Weidner dated March 14, 2011, continuing the March 14, 2011, Prehearing Conference to April 7, 2011, with documentation of service;

7. Notice of Appearance of attorney Chris Rosfjord dated April 5, 2011.

8. Notice of Hearing and Order Following Prehearing Conference of April 7, 2011, dated April 8, 2011, with documentation of service;

9. Amended Notice of Intent to Withdraw dated June 10, 2011, with documentation of service;

10. Notice of Motions Hearing by Telephone dated September 15, 2011, with documentation of service; and

11. Order of Default dated October 5, 2011, with documentation of service;

12. The Petition for Reconsideration of Roie J. Raitses; and

13. The Division's Reply to Petition for Reconsideration.

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the Director hereby adopts the Amended Statement of Charges, which is attached hereto.

II. FINAL ORDER

Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

A. IT IS HEREBY ORDERED, that:

1. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, and ROIE J. RAITSES are prohibited from participation in the conduct of the affairs of any mortgage broker

or consumer lender subject to licensure by the Director, in any manner, for a period of five years;

2. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, and ROIE J. RAITSES, jointly and severally pay a fine to Washington State Department of Financial Institutions of $150,000;

3. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER, jointly and severally pay restitution to the following consumers in the respective stated amounts, as follows:

L.S.	$2,095	F.M.	$3,885
I.K.	$3,885	T.P.	$2,500
A.G.	$3,000	S.K.	$1,895
R.W.	$3,090		

4. Respondent ROIE J. RAITSES shall be jointly and severally liable in the amounts stated above in paragraph 3 for restitution owed to L.S., F.M., and I.K.;

5. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER jointly and severally pay to Washington State Department of Financial Institutions an investigation fee of $1,680;

6. Respondent ROIE J. RAITSES, shall be jointly and severally liable for $912 of the amount set forth above in Paragraph 5 as an for the investigation fee; and

7. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER and ROIE J. RAITSES maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' mortgage broker business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

B. No Reconsideration. Respondents ELM and WEIDNER never filed a Petition for Reconsideration pursuant to RCW 34.05.470. Respondent RAITSES' Petition for Reconsideration has been denied by separate order of same date.

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

D. Judicial Review. Pursuant to RCW 34.05.542(2), Respondents ELM and WEIDNER had thirty (30) days after service upon them of the Final Order dated December 22, 2011, to file a Petition for Judicial Review to the Superior Court for the State of Washington. Respondents ELM and WEIDNER did not file a Petition for Judicial Review. This Final Order does *not* materially affect, as to Respondents ELM and WEIDNER, the default Final Order entered against Respondents ELM and WEIDNER dated December 22, 2011. Therefore, Respondents ELM and WEIDNER have *no* right of judicial review from either this Final Order or the Final Order dated December 22, 2011, even though it will be hereafter amended and corrected to include Roie J. Raitses. **However, Respondent ROIE J. RAITSES has the right to petition the Superior Court of the State of Washington for judicial review of this agency action under the provisions of the Washington Administrative Procedures Act, chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.**

E. Service. For purposes of filing a Petition for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service attached thereto.

DATED this 27th day of July, 2012.

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

[redacted]

SCOTT JARVIS
DIRECTOR

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING whether there has been a violation of the Mortgage Broker Practices Act of Washington by: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, and ROIE J. RAITSES, Vice President, Respondents.	NO. C-10-392-11-FO02 FINAL ORDER ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER

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) pursuant to RCW 34.05.464. On December 22, 2010, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) against ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (ELM), Barbara J. Weidner, and Roie J. Raitses (Respondents). The Statement of Charges was accompanied by a cover letter dated December 22, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for each Respondent (collectively, accompanying documents).

On December 22, 2010, the Department served Respondents with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery. On

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December 23, 2010, the documents sent via Federal Express overnight delivery were delivered. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service as undeliverable.

On or about January 10, 2011, the Department received an email from Respondent Weidner on behalf of herself and Respondent ELM disputing the allegations in the Statement of Charges and requesting a hearing. Respondent Raitses, however, did not submit his request for an adjudicative hearing until June 8, 2011; more than 20 calendar days after the Department served the Notice of Opportunity to Defend and Opportunity for Hearing as provided for in WAC 208-08-050(2), and a default Final Order was subsequently entered against him under C-10-392-11-FO01.

On February 3, 2011, the Director, through the Director's designee, issued an Amended Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Amended Statement of Charges) against ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (ELM), Barbara J. Weidner, and Roie J. Raitses (Respondents). A copy of the Amended Statement of Charges is attached and incorporated into this order by this reference. The Amended Statement of Charges was accompanied by a cover letter dated February 4, 2010, and a Notice of Opportunity to Defend and Opportunity for Hearing,

On February 7, 2011, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On February 17, 2011, OAH issued a Notice of Prehearing Conference scheduling a prehearing conference by telephone on February 24, 2011, at 11:00 a.m. On February 23, 2011, Respondent Weidner contacted OAH and requested a continuance of the hearing set for February 24, 2011. Respondent Weidner's request was granted, and on February 24, 2011, OAH

issued a Notice of Prehearing Conference rescheduling a prehearing conference by telephone for March 14, 2011, at 9:00 a.m.

On March 14, 2011, Respondent Weidner contacted OAH by facsimile prior to the hearing and requested a continuance of the telephonic prehearing conference due to a medical emergency. OAH replied to Respondent Weidner by email granting the continuance, and later the same day ALJ Thomas P. Rack issued a letter continuing the Prehearing Conference to April 7, 2011.

On April 5, 2011, attorney Chris Rosfjord entered a Notice of Appearance for Respondents. On April 7, 2011, the parties, through their legal representatives, attended a telephonic prehearing conference. On April 8, 2011, ALJ Rack issued a Notice of Hearing and Order Following Prehearing Conference of April 7, 2011, scheduling a hearing on October 24-27, 2011, at 9:00 a.m.

On June 10, 2011, attorney Rosfjord withdrew as the legal representative for Respondents and served Respondents with a copy of the withdrawal by US Mail and email.

On September 15, 2011, ALJ Rack issued a Notice of Motions Hearing by Telephone scheduling a hearing for October 5, 2011, at 10:00 a.m. Pacific Time. The notice contained the following warning:

> *Default*: If you fail to appear or participate in the telephone conference, hearing, or any other scheduled stage of these proceedings, you may lose your right to a hearing as described in RCW 34.05.440.

The notice was served on Respondents by First Class US Mail, postage prepaid, to the address previously provided to OAH by Respondents and Respondents' legal representative.

On October 5, 2011, the telephonic motions hearing was convened by ALJ Rack at 10:00 a.m. Pacific Time. The Department appeared through its legal representative. Respondents did not appear. The Department moved for an Order of Default based on Respondents' failure to appear, and on October 5, 2011, ALJ Rack issued an Order of Default dismissing Respondents' request for hearing

and affirming the Amended Statement of Charges.[1] A copy of the Order of Default was sent by OAH to Respondents ELM and Weidner by First Class US Mail, postage prepaid, to their last known address.

Pursuant to RCW 34.05.440(3), Respondents ELM and Weidner had seven (7) days from the date of service of the Order of Default to file a written motion with OAH requesting that the Order of Default be vacated, and stating the grounds relied upon. Respondents ELM and Weidner did not make a request to vacate during the statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents ELM and Weidner had twenty (20) days from the date of service of the Order of Default to file a Petition for Review of the Order of Default and with the Director. Respondents ELM and Weidner did not file a Petition for Review during the statutory period.

B. Record Presented. The record presented to the Director for his review and for entry of a final decision included the following:

1. Statement of Charges, cover letter dated December 22, 2010, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;
2. Amended Statement of Charges, cover letter dated February 4, 2011, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;
3. Request to OAH for Assignment of Administrative Law Judge;
4. Notice of Prehearing Conference dated February 17, 2011, with documentation of service;
5. Notice of Prehearing Conference dated February 24, 2011, with documentation of service;
6. OAH letter to Respondents ELM and Weidner dated March 14, 2011, continuing the March 14, 2011, Prehearing Conference to April 7, 2011, with documentation of service;

[1] The Order of Default erroneously affirms the "Statement of Charges." The Director has determined this to be a scrivener's as only the Amended Statement of Charges was before the ALJ for consideration.

7. Notice of Appearance of attorney Chris Rosfjord dated April 5, 2011.

8. Notice of Hearing and Order Following Prehearing Conference of April 7, 2011, dated April 8, 2011, with documentation of service;

9. Amended Notice of Intent to Withdraw dated June 10, 2011, with documentation of service;

10. Notice of Motions Hearing by Telephone dated September 15, 2011, with documentation of service; and

11. Order of Default dated October 5, 2011, with documentation of service.

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the Director hereby adopts the Amended Statement of Charges, which is attached hereto.

II. FINAL ORDER

Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

A. IT IS HEREBY ORDERED, that:

1. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER are prohibited from participation in the conduct of the affairs of any mortgage broker or consumer lender subject to licensure by the Director, in any manner, for a period of five years;

2. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER jointly and severally pay a fine to Washington State Department of Financial Institutions of $150,000. The fine shall also be joint and several with Respondent ROIE J. RAITSES pursuant to C-10-392-11-FO01;

3. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER jointly and severally pay restitution to the following consumers in the respective stated amounts, as follows:

L.S.	$2,095	F.M.	$3,885
I.K.	$3,885	T.P.	$2,500
A.G.	$3,000	S.K.	$1,895
R.W.	$3,090		

The above-referenced restitution owed to L.S., F.M., and I.K. shall also be joint and several with Respondent ROIE J. RAITSES pursuant to C-10-392-11-FO01;

4. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER jointly and severally pay to Washington State Department of Financial Institutions an investigation fee of $1,680. Of this amount, $912 shall also be joint and several with Respondent ROIE J. RAITSES pursuant to C-10-392-11-FO01; and

5. Respondents ELM NATIONWIDE ENTERPRISES, LLC, D/B/A 1ST FORECLOSURE PREVENTION and BARBARA J. WEIDNER maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' mortgage broker business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

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

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

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

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

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

DATED this 22nd day of December, 2011.

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

[redacted]

SCOTT JARVIS
DIRECTOR

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING: Whether there has been a violation of the Mortgage Broker Practices Act of Washington by: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, and ROIE J. RAITSES, Vice President, Respondents.	No.: C-10-392-12-FO05 ORDER VACATING FINAL DEFAULT ORDER RE: ROIE J. RAITSES DATED SEPTEMBER 6, 2011

For the reasons set forth in Order Denying Petition for Reconsideration (No.: C-10-392-12-FO03), dated July 27, 2012, NOW, THEREFORE,

IT IS HEREBY ORDER, that the Final Default Order regarding Respondent Roie J. Raitses is hereby vacated.

DATED this 30th day of July, 2012.

WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS

[redacted]

SCOTT JARVIS, Director

State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING whether there has been a violation of the Mortgage Broker Practices Act of Washington by: ELM NATIONWIDE ENTERPRISES LLC d/b/a 1st FORELCOSURE PREVENTION; BARBARA J. WEIDNER, President; and ROIE J. RAITSES, Vice President, Respondents.	NO. C-10-392-12-FO03 ORDER DENYING PETITION FOR RECONSIDERATION OF ROIE J. RAITSES

THIS MATTER comes before SCOTT JARVIS, the Director ("Director") of the Washington State Department of Financial Institutions ("Department"), pursuant to a Petition for Reconsideration dated December 20, 2011, and received by the Department on January 10, 2012 ("Petition for Reconsideration"), which was made by Respondent, ROIE J. RAITSES ("Raitses") in regard to the default Final Order dated September 6, 2011, which was issued by DEBORAH BORTNER, in her capacity as Director of the Department's Division of Consumer Services ("Division") and acting under delegated authority from the Department's Director ("Final Default Order No. 1").

1.0 Preliminary Considerations

1.1 Petition for Reconsideration Treated as If Timely. The Petition for Reconsideration was not received by the Department until January 10, 2012, even though Final Default Order No. 1 was issued and served by mail on September 6, 2011. Pursuant to the

Washington Administrative Procedures Act, at RCW 34.05.470(1), Raitses had ten (10) days from service of Final Default Order No. 1 to file with the Department his Petition for Reconsideration. Notwithstanding the apparent latency of Raitses' filing of his Petition for Reconsideration, the Director, in the exercise of his plenary authority and discretion over the Department's enforcement policies, elects to treat the Petition for Reconsideration as if it had been timely filed according to RCW 34.05.470(1).

1.2 Scope of Reconsideration. The Director's deliberation of this Petition for Reconsideration is not for the purpose of deciding whether the allegations against Raitses, as contained in the Statement of Charges, have been proven or disproven. Indeed, when a final order is entered on account of default (the failure of the respondent to request a hearing), the allegations contained in the statement of charges are conclusively presumed to be true. Rather, the question before the Director is whether the Final Default Order No. 1 against Raitses should be set aside and the matter should be referred to the Office of Administrative Hearings ("OAH") for a hearing before an administrative law judge so that Raitses may defend against the allegations as contained in the Statement of Charges. The gravamen of the Director's deliberation concerns whether Raitses (1) was served with the Statement of Charges, (2) whether he failed to request a hearing within the time allotted for doing so, and (3) whether he was served with Final Default Order No. 1. In the interest of *fair play and substantial justice*, the Director is also concerned with whether there is any merit to adjudicating Raitses' claim that he was not a Vice President of Respondent ELM NATIONWIDE ENTERPRISES LLC d/b/a 1st FORELCOSURE PREVENTION ("ELM"). However, insofar as Raitses' Petition for Reconsideration contains *unsworn* statements, there can be no adjudication of the veracity of these statements. Rather, they merely have secondary probative value in the Director's decision

whether to set aside Final Default Order No. 1 and refer the matter to the OAH for hearing. The Director's instructions to the parties in the deliberation of this Petition for Reconsideration have involved an informal approach, not atypical of petitions for reconsideration to set aside defaults. In this regard, they often rely on unsworn submissions by pro se respondents. In the exercise of his discretion, the Director will often consider information outside the record which does not necessarily meet the standards of formal rules of evidence – as the Director has done in evaluating Raitses' unsworn statements in his Petition for Reconsideration. However, even assuming that the Director accepted Raitses' unsworn statements as true, they would not have resulted in an adjudication reversing the Statement of Charges and ordering dismissal as to Raitses. The best that Raitses could have hoped for (as explained to him in email communication by Joseph M. Vincent, acting on behalf of the Director as General Counsel for the Department) was a setting aside of Final Default Order No. 1 and a referral to the OAH for hearing.

2.0 Director's Consideration of Petition for Reconsideration

The Petition for Reconsideration voices two claims: (1) That Raitses was not a Vice President of ELM (as alleged by the Division), but rather a mere non-managerial lead generator; and (2) that Raitses was not served with the Statement of Charges and lacked requisite knowledge of the entry of Final Default Order No. 1.

2.1 Raitses' Claim – Not a Vice President of Elm. Raitses claims (in an unsworn statement) he was only an independent lead generator, and not Vice-President or any officer of ELM. However, this is inconsistent with clear, cogent, and convincing evidence to the contrary, in pre-existing documents received with consumer complaints to the Division regarding ELM,

including the following documents supplied as attachments to the Division's Response to Petition for Reconsideration ("DRPR"):

2.1.1 The Loss Mitigation Service Proposal dated February 23, 2009, received with the Division's Consumer Complaint #34554, states on page 3 thereof, that it was "[p]repared and qualified by Roie Raitses-Vice President, Loss Mitigation Division."[1]

2.1.2 The Loss Mitigation Service Proposal dated February 29, 2009, received with a second consumer complaint (complaint #37532), states on page 3 that it was "[p]repared and qualified by Roie Raitses-Vice President, Loss Mitigation Division."[2]

2.1.3 The fax cover sheet from a third consumer complaint (#36604) indicates that the complainant was faxing documents to the attention of "Roie Raitses" on February 10, 2010.[3]

2.1.4 The Division's initial contact with ELM and Mr. Raitses came in complaint 31525, which was prior to the three complaints mentioned above (*subparagraphs 2.1.1 through 2.1.3*). Around August 2009, the Division sent documents to ELM (then known only as 1st Foreclosure Prevention) at its address in Huntingdon Valley, PA. The Division documents sent included a proposed Assurance of Compliance (agreeing to obtain a license before operating as a mortgage broker in Washington) and a Directive and Requirement for Production of Records and Explanation. On October 22, 2009, the Division received the Assurance of Compliance from ELM signed by Mr.

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[1] *See* Exhibit 1, DRPR.

[2] *See* Exhibit 2, DRPR.

[3] *See* Exhibit 3, DRPR.

Raitses as "Representative of Respondent.[4] On October 28, 2009, the Division received the Directive and Requirement from ELM signed under penalty of perjury by "Roie Raitses, Manager."[5] This declaration also included an email address for contact: roieraitses@gmail.com (which is the same address from which Raitses sent his recent memorandum to the Director). That Declaration states that Raitses signed it in Huntingdon Valley, Pennsylvania – not Lake Success, New York.

A collective review of this evidence brought forth in the Division's Response to the Petition for Reconsideration strongly inclines the Director to *disregard* the unsworn statements of Raitses claiming that he was not a Vice President and lacked a managerial role. Indeed, the evidence presented clearly indicates otherwise. In any event, this issue is not of foremost consideration in a case in which the issue is service of process and failure to apply for a hearing.

The Director now turns his attention to the service of process issue.

2.2 Original Statement of Charges. Respondent Raitses was served with the original Statement of Charges ("SC No. 1") by U.S. mail at the ELM corporate office (3422 Old Capitol Trail #1371, Wilmington, DE 19808) on December 22, 2010. It was *not* returned to the Division as undeliverable. Service was proper under the Washington Administrative Procedures Act and the Washington Administrative Rules.[6] Raitses indicates he first became aware of SC No. 1 "around February 2010." This is impossible, because SC No. 1 was not issued until ten months later, in December 2010. Raitses' Application for Administrative Hearing ("AAH") was due to the Division no later than January 11, 2011 (or at the latest January 14, 2011, considering the

[4] *See* Exhibit 4, DRPR.

[5] *See* Exhibit 5, DRPR.

[6] RCW 34.05.437; WAC 10-08-110(2).

"mailbox rule"). When the AAH did not arrive by that date, Mr. Raitses was in default, and the Division was entitled to enter a default Final Order.[7]

2.3 Amended Statement of Charges. The Amended Statement of Charges ("SC No. 2") was served on Mr. Raitses on or about February 3, 2011, by U.S. mail at the ELM corporate office.[8] On April 6, 2011, the Division received the Notice of Appearance for Mr. Rosfjord on behalf of *all* Respondents; including Mr. Raitses.[9] On June 8, 2011, the Division received an Application for Administrative Hearing from Mr. Raitses.[10] On page 2 of the Application, Mr. Raitses stated his title as "Marketing" and provided as his address the corporate address for ELM where he was originally served. On June 10, 2011, the Division received an Amended Notice of Intent to Withdraw from Mr. Rosfjord (the original had been filed on May 16, 2011, but was objected to by the Division and was never put into effect).[11] The Certificate of Service attached to the Amended Notice of Intent to Withdraw certifies that it was sent by U.S. mail to Mr. Raitses at the corporate address he provided on his Application for Administrative Hearing, and was emailed to "roieraitses@gmail.com." To reiterate, this was the same email address from which Mr. Raitses sent his Reconsideration Memorandum to the Director.

True, it appears that in February 2011 the Division erroneously served Mr. Raitses with SC No. 2, which stated that the hearing dates would remain in effect. From this, it was not unreasonable for Mr. Raitses to believe he was still involved in the case. Mr. Raitses has

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[7] RCW 34.05.440(1) (failure of a party to file an application for an adjudicative proceeding within the time limit or limits established by statute or agency rule); WAC 208-08-020(1). Indeed, Raitses' failure to appear at the October 5, 2011, hearing was sufficient for the Director to find him in default. RCW 34.05.440(2).

[8] *See* Exhibit 6, DRPR.

[9] *See* Exhibit 7, DRPR.

[10] *See* Exhibit 8, DRPR.

[11] *See* Exhibit 9, DRPR.

indicated his belief that he was an active Respondent in the case at least through the time he was represented by Mr. Rosfjord.

But all along, Mr. Raitses provided the Division, and thereby the Office of Administrative Hearings, with the *corporate address of ELM* as his service address. Mr. Raitses was notified of the withdrawal of Mr. Rosfjord.[12] Mr. Rosfjord provided OAH with the ELM corporate address as Mr. Raitses' last known address for service.[13] Finally, a Notice of Motions Hearing by Telephone was issued on October 5, 2011. The Certificate of Service for that Notice certifies that the Notice was mailed by First Class U.S. mail to Mr. Raitses on September 15, 2011, at the ELM corporate address which Mr. Raitses provided as his service address.[14] The Director concludes that this service was sufficient under the Washington Administrative Procedures Act, Chapter 34.05 RCW, and applicable Administrative Procedure Rules.

Mr. Raitses had notice of and failed to appear for the hearing on October 5, 2011, which is the same hearing at which the other Respondents defaulted.

2.4 Division's Proposed Relief. The Division proposes that Final Order No. 1 was improperly issued and should be vacated, and that Final Order No. 2 be amended to include Mr. Raitses. The Division proposes that thereafter, by separate order, Final Order No. 1 be vacated. The Director concurs.

2.5 Director's Findings and Conclusions. The Director elected to review this matter on Petition for Reconsideration even after the time for filing a petition for reconsideration had expired. The Director elected to do so because of a reluctance to issue default orders where there

[12] *See* Exhibit 9, DRPR.

[13] *See* Exhibit 9, DRPR.

[14] *See* Exhibit 10, DRPR.

is substantial, credible evidence that a respondent has not received proper service of process. At first blush it seemed, based upon Mr. Raitses assertions and prior to reply from the Division, that Mr. Raitses' plea may have been one of those rare instances where proper service of process had not taken place. This was supported by Mr. Raitses not-yet-refuted contention that he was not an officer or manager of ELM. However, the Division has by clear, cogent and convincing evidence refuted Mr. Raitses' claims. In the case of both SC No. 1 and SC No. 2, Mr. Raitses was properly served according to the Washington Administrative Procedures Act, Chapter 34.05 RCW, and the Washington Administrative Rules, Chapter 10-08 WAC.[15] Moreover, Division has demonstrated that that Mr. Raitses held himself out to be an officer and manager of ELM. In the end, Mr. Raitses Petition for Reconsideration is without merit.

3.0 Director's Order. Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

IT IS HEREBY ORDERED:

3.1 The Petition for Reconsideration of Respondent, ROIE J. RAITSES, is denied.

3.2 The Director will by separate order amend and correct Final Order No. 2 (to be numbered NO. C-10-392-12-FO04) to add Respondent, ROIE J. RAITSES.

3.3 Thereafter, the Director will issue an order vacating Final Order No. 1 (to be number NO. C-10-392-12-FO05).

4.0 No Further Petitions for Reconsideration. Pursuant to RCW 34.05.470, Respondents ELM and WEIDNER *had* the right to file a Petition for Reconsideration within ten (10) days of service of the Final Order dated December 22, 2011, which they did not do. This Final Order is not an amendment of the findings or relief granted in the Final Order dated December 22,

[15] RCW 34.056.437; WAC 10-08-110(2).

2011, with respect to Respondents ELM and WEIDNER. Therefore, Respondents ELM and WEIDNER have *no* right to file a Petition for Reconsideration of this Final Order. In addition, since this Final Order is in part and of itself an order denying Respondent ROIE J. RAITSES' Petition for Reconsideration, Respondent ROIE J. RAITSES has *no* right to file a Petition for Reconsideration of this Final Order.

5.0 No Stay of Order. The Director has determined not to consider a Petition to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

6.0 Judicial Review: Respondent Raitses Only. Pursuant to RCW 34.05.542(2), Respondents ELM and WEIDNER had thirty (30) days after service upon them of the Final Order dated December 22, 2011, to file a Petition for Judicial Review to the Superior Court for the State of Washington. Respondents ELM and WEIDNER did not file a Petition for Judicial Review. This Final Order does *not* materially affect, as to Respondents ELM and WEIDNER, the default Final Order entered against Respondents ELM and WEIDNER dated December 22, 2011. Therefore, Respondents ELM and WEIDNER have *no* right of judicial review from either this Final Order or the Final Order dated December 22, 2011, even though it will be hereafter amended and corrected to include Roie J. Raitses. **However, Respondent ROIE J. RAITSES has the right to petition the Superior Court of the State of Washington for judicial review of this agency action under the provisions of the Washington Administrative Procedures Act, chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.**

E. Service of This Final Order. For purposes of ROIE J. RAITSES filing a Petition for Judicial Review, service of this Final Order is effective upon deposit of it in the U.S. mail, declaration of service attached thereto.

DATED this 27th day of July, 2012.

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

[redacted]

SCOTT JARVIS
DIRECTOR

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-10-392-11-FO01
ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, and ROIE J. RAITSES, Vice President, Respondents.	FINAL ORDER ROIE J. RAITSES

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 (Director's designee), pursuant to RCW 34.05.440(1). On December 22, 2010, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) against ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (ELM), Barbara J. Weidner, and Roie J. Raitses (Respondents). 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 December 22, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for each Respondent (collectively, accompanying documents).

On December 22, 2010, the Department served Respondents with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery. On December 23, 2010, the documents sent via Federal Express overnight delivery were delivered. The

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documents sent via First-Class mail were not returned to the Department by the United States Postal Service as undeliverable.

On or about January 10, 2011, the Department received an email from Respondent Weidner on behalf of herself and Respondent ELM disputing the allegations in the Statement of Charges and requesting a hearing. Respondent Raitses, however, did not submit his request for an adjudicative hearing until June 8, 2011; more than 20 calendar days after the Department served the Notice of Opportunity to Defend and Opportunity for Hearing as provided for in WAC 208-08-050(2).

B. Record Presented. The record presented to the Director's designee for her review and for entry of a final decision included the following:

1. Statement of Charges, cover letter dated December 22, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Respondent Raitses, with documentation for service.

2. Signed Application for Adjudicative Hearing for Respondent Raitses filed June 8, 2011.

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

II. FINAL ORDER

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

A. IT IS HEREBY ORDERED, that:

1. Respondent Roie J. Raitses is prohibited from participation in the conduct of the affairs of any mortgage broker or consumer lender subject to licensure by the Director, in any manner, for a period of five years.

2. Respondent Roie J. Raitses pay a fine of $150,000. This fine shall be joint and several with any other Respondents determined to have violated the Act.

3. Respondent Roie J. Raitses pay restitution to the following consumers in the stated amount:

L.S. $2,095
F.M. $3,885
I.K. $3,885

This restitution shall be joint and several with any other Respondents determined to have violated the Act.

4. Respondent Roie J. Raitses pay an investigation fee of $912. This investigation fee shall be joint and several with any other Respondents determined to have violated the Act.

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

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

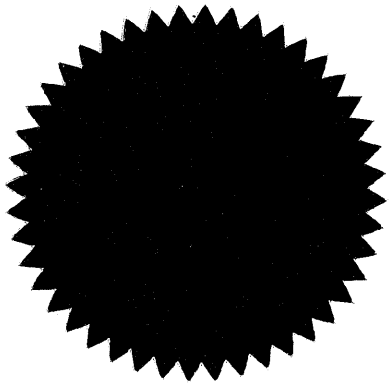
C. Stay of Order. The Director's designee has determined not to consider a Petition to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

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

E. Non-compliance with Order. If you do not comply with the terms of this order, the Department may seek its enforcement by the Office of the Attorney General to include the collection of the fine, fee, and restitution imposed herein. The Department also may assign the amounts owed to a collection agency for collection.

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

DATED this 6th day of September, 2011



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

[redacted]

DEBORAH BORTNER
Director
Division of Consumer Services

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: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, ROIE J. RAITSES, Vice President, Respondents.	NO. C-10-392-11-SC02 AMENDED STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO PROHIBIT FROM INDUSTRY, IMPOSE FINE, ORDER RESTITUTION, 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)[1]. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this Amended 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. ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (Respondent 1st Foreclosure) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker. Respondent 1st Foreclosure is known to do business from 67 Buck Road #B25, Huntingdon Valley, Pennsylvania.

[1] All referenced to the MBPA are to that version in effect at the time.

B. Barbara J. Weidner (Respondent Weidner) is known to be President of Respondent 1st Foreclosure. Respondent Weidner has never been licensed by the Department as a mortgage broker or loan originator.

C. Roie J. Raitses (Respondent Raitses) is known to be a Vice President and Manager for Respondent 1st Foreclosure. Respondent Raitses has never been licensed by the Department as a mortgage broker or loan originator.

1.2 Unlicensed Activity.

A. Complaint 31525. On or about July 20, 2009, the Department received information that Respondents were assisting or attempting to assist Washington borrowers with residential mortgage loan modifications. The Department notified Respondent 1st Foreclosure that it was required to be licensed in Washington as a mortgage broker before assisting Washington borrowers with residential mortgage loan modifications, and on or about October 16, 2009, Respondents submitted an Assurance of Compliance acknowledging the licensing requirement and assuring the Department that they would obtain a license before operating as a mortgage broker in Washington.

B. Complaint 34554. On or about March 1, 2009, Washington consumer L.S. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of at least $2,095 for this service.

C. Complaint 36479. On or about February 11, 2010, Washington consumer F.M. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of at least $3,885 for this service.

D. Complaint 36604. On or about February 10, 2010, Washington consumer I.K. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of at least $3,885 for this service.

E. Complaint 37171. On or about January 15, 2010, Washington consumer T.P. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of at least $2,500 for this service.

F. Complaint 37532. On or about February 26, 2009, Washington consumers A.G. and J.G. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of at least $3,000 for this service.

G. Complaint 37537. In or about March 2009, Washington consumer S.K. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of at least $1,895 for this service.

H. Complaint 37206. On or about April 15, 2009, Washington consumers R.W. and D.W. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents paid an advance fee of $3,090 for this service.

I. On or about December 15, 2010, the Department reviewed Respondents' web site, www.1stforeclosureprevention.com, and determined that Respondents were

advertising that they were able to assist Washington consumers through Respondents' loan modification services.

1.3 Prohibited Acts. As stated above, on or about October 16, 2009, Respondents submitted an Assurance of Compliance to the Department, signed under penalty of perjury, acknowledging that Respondents were required to obtain a license from the Department to assist Washington consumers with residential mortgage loan modifications and assuring the Department that they would obtain a license before doing so. On at least three separate occasions in January and February 2010, however, Respondents violated this agreement and acted contrary to their sworn-to representations by initiating and assisting at least three Washington consumers with residential mortgage loan modifications. Additionally, Respondents continued to assist at least three Washington consumers with loan modifications Respondent had initiated prior to submitting the Assurance of Compliance. It also appears that Respondents have continuously advertised on their web site that they were able to assist Washington consumers with residential mortgage loan modifications.

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 Definition of Mortgage Broker. Pursuant to RCW 19.146.010(12) and WAC 208-660-006, "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a person "'assists a person in 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…" which are necessary actions in a residential mortgage loan modification.

2.2 Definition of a Loan Originator. Pursuant to RCW 19.146.010(10) and WAC 208-660-006, "Loan Originator" includes a natural person who offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in expectation of direct or indirect compensation or gain. "Loan Originator" also includes a person who holds themselves out to the public as able to perform any of these activities.

2.3 Requirement to Obtain a Mortgage Broker License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200 and WAC 208-660-155(3) for engaging in the business of a mortgage broker and loan originator for Washington residents or property without first obtaining a license to do so.

2.4 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2), (3), and (7) for directly or indirectly employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation, and negligently making a false statement or knowingly and willfully making an omission of material fact in connection with an investigation conducted by the Department.

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Prohibit from the Industry. Pursuant to RCW 19.146.220(5)(a), the Director may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any person subject to licensing under the Act for any violation of RCW 19.146.200.

3.2 Authority to Impose Fine. Pursuant to RCW 19.146.220(2)(e), the Director may impose a fine for any violation of the Act.

3.3 Authority to Order Restitution. Pursuant to RCW 19.146.220(2)(e), the Director may order restitution for any violation of the Act.

3.4 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2) and WAC 208-660-550, the Department may collect the costs of investigation. The investigation charge will be calculated at the rate of $48 per hour that each examiner devoted to the investigation.

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 ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses be prohibited from participation in the conduct of the affairs of any mortgage broker or consumer lender subject to licensure by the Director, in any manner, for a period of five years;

4.2 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses jointly and severally pay a fine which as of the date of these charges totals $150,000;

4.3 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses jointly and severally pay restitution to at least the following consumers in the stated amount:

L.S.	$2,095	F.M.	$3,885
I.K.	$3,885	T.P.	$2,500
A.G.	$3,000	S.K.	$1,895
R.W.	$3,090		

4.4 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses jointly and severally pay an investigation fee which as of the date of

these charges totals $1,680, calculated at $48 per hour for the 35 examiner hours devoted to the investigation to date; and

4.5 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' mortgage broker business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

V. AUTHORITY AND PROCEDURE

This Amended Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Amended 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 Amended Statement of Charges.

Dated this 3rd day of February, 2011.

[redacted]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[redacted]

STEVEN C. SHERMAN
Financial Legal Examiner

Approved by:

[redacted]

JAMES R. BRUSSELBACK
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: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, ROIE J. RAITSES, Vice President, Respondents.	NO. C-10-392-10-SC01 STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO PROHIBIT FROM INDUSTRY, IMPOSE FINE, ORDER RESTITUTION, 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)[1]. 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. ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (Respondent 1st Foreclosure) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker. Respondent 1st Foreclosure is known to do business from 67 Buck Road #B25, Huntingdon Valley, Pennsylvania.

[1] All referenced to the MBPA are to that version in effect at the time.

B. Barbara J. Weidner (Respondent Weidner) is known to be President of Respondent 1st Foreclosure. Respondent Weidner has never been licensed by the Department as a mortgage broker or loan originator.

C. Roie J. Raitses (Respondent Raitses) is known to be a Vice President and Manager for Respondent 1st Foreclosure. Respondent Raitses has never been licensed by the Department as a mortgage broker or loan originator.

1.2 Unlicensed Activity.

A. Complaint 31525. On or about July 20, 2009, the Department received information that Respondents were assisting or attempting to assist Washington borrowers with residential mortgage loan modifications. The Department notified Respondent 1st Foreclosure that it was required to be licensed in Washington as a mortgage broker before assisting Washington borrowers with residential mortgage loan modifications, and on or about October 16, 2009, Respondents submitted an Assurance of Compliance acknowledging the licensing requirement and assuring the Department that they would obtain a license before operating as a mortgage broker in Washington.

B. Complaint 34554. On or about March 1, 2009, Washington consumer L.S. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of $2,095 for this service.

C. Complaint 36479. On or about February 11, 2010, Washington consumer F.M. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of $3,885 for this service.

D. Complaint 36604. On or about February 10, 2010, Washington consumer I.K. entered into an agreement with Respondents for assistance with applying for a residential loan modification. Respondents were paid an advance fee of $3,885 for this service.

E. On or about December 15, 2010, the Department reviewed Respondents' web site, www.1stforeclosureprevention.com, and determined that Respondents were advertising that they were able to assist Washington consumers through Respondents' loan modification services.

1.3 Prohibited Acts. As stated above, on or about October 16, 2009, Respondents submitted an Assurance of Compliance to the Department, signed under penalty of perjury, acknowledging that Respondents were required to obtain a license from the Department to assist Washington consumers with residential mortgage loan modifications and assuring the Department that they would obtain a license before doing so. On at least two separate occasions in February 2010, however, Respondents violated this agreement and acted contrary to their sworn-to representations by assisting at least two Washington consumers with residential mortgage loan modifications. Additionally, it appears that Respondents have continuously advertised on their web site that they were able to assist Washington consumers with residential mortgage loan modifications.

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 Definition of Mortgage Broker. Pursuant to RCW 19.146.010(12) and WAC 208-660-006, "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or

applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a person "'assists a person in 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…" which are necessary actions in a residential mortgage loan modification.

2.2 Definition of a Loan Originator. Pursuant to RCW 19.146.010(10) and WAC 208-660-006, "Loan Originator" includes a natural person who offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in expectation of direct or indirect compensation or gain. "Loan Originator" also includes a person who holds themselves out to the public as able to perform any of these activities.

2.3 Requirement to Obtain a Mortgage Broker License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200 and WAC 208-660-155(3) for engaging in the business of a mortgage broker and loan originator for Washington residents or property without first obtaining a license to do so.

2.4 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2), (3), and (7) for directly or indirectly employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation, and negligently making a false statement or knowingly and willfully making an omission of material fact in connection with an investigation conducted by the Department.

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Prohibit from the Industry. Pursuant to RCW 19.146.220(5)(a), the Director may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage

broker, or both, any officer, principal, employee, or loan originator of any person subject to licensing under the Act for any violation of RCW 19.146.200.

3.2 Authority to Impose Fine. Pursuant to RCW 19.146.220(2)(e), the Director may impose a fine for any violation of the Act.

3.3 Authority to Order Restitution. Pursuant to RCW 19.146.220(2)(e), the Director may order restitution for any violation of the Act.

3.4 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2) and WAC 208-660-550, the Department may collect the costs of investigation. The investigation charge will be calculated at the rate of $48 per hour that each examiner devoted to the investigation.

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 ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses be prohibited from participation in the conduct of the affairs of any mortgage broker or consumer lender subject to licensure by the Director, in any manner, for a period of five years;

4.2 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses jointly and severally pay a fine which as of the date of these charges totals $150,000;

4.3 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses jointly and severally pay restitution to at least the following consumers in the stated amount:

L.S.	$2,095
F.M.	$3,885
I.K.	$3,885

4.4 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses jointly and severally pay an investigation fee which as of the date of these charges totals $912, calculated at $48 per hour for the 19 examiner hours devoted to the investigation; and

4.5 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J. Weidner, and Roie J. Raitses maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' mortgage broker 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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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (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 22nd day of December, 2010.

[redacted]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[redacted]

STEVEN C. SHERMAN
Financial Legal Examiner

Approved by:

[redacted]

JAMES R. BRUSSELBACK
Enforcement Chief

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION

IN THE MATTER OF DETERMINING Whether there has been a violation of the Mortgage Broker Practices Act of Washington by: ELM NATIONWIDE ENTERPRISES, LLC, d/b/a 1ST FORECLOSURE PREVENTION, BARBARA J. WEIDNER, President, ROIE J. RAITSES, Vice President, Respondents.	C-10-392-10-TD01 TEMPORARY ORDER TO CEASE AND DESIST

THE STATE OF WASHINGTON TO: ELM NATIONWIDE ENTERPRISES, LLC,
d/b/a 1ST FORECLOSURE PREVENTION
BARBARA J. WEIDNER
ROIE J. RAITSES

COMES NOW the Director of the Washington State Department of Financial Institutions (Director), by and through his designee Deborah Bortner, Division Director, Division of Consumer Services (designee), and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, the Director, through his designee, enters this Temporary Order to Cease and Desist pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), based on the following findings:

I. FACTUAL FINDINGS

1.1 Respondents.

A. ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention (Respondent 1st Foreclosure) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker. Respondent 1st Foreclosure is incorporated in Pennsylvania and known to do business from 67 Buck Road #B25, Huntingdon Valley,

Pennsylvania. Respondent 1st Foreclosure advertises its corporate office location as 3422 Old Capitol Trail #1371, Wilmington, Delaware.

B. Barbara J. Weidner (Respondent Weidner) is known to be President of Respondent 1st Foreclosure. Respondent Weidner has never been licensed by the Department as a mortgage broker or loan originator.

C. Roie J. Raitses (Respondent Raitses) is known to be a Vice President and Manager for Respondent 1st Foreclosure. Respondent Raitses has never been licensed by the Department as a mortgage broker or loan originator.

1.2 Unlicensed Activity. On or about July 20, 2009, the Department received information that Respondent 1st Foreclosure may be assisting or attempting to assist Washington borrowers with residential mortgage loan modifications. The Department notified Respondent 1st Foreclosure that it was required to be licensed in Washington as a mortgage broker before assisting Washington borrowers with residential mortgage loan modifications, and on or about October 16, 2009, Respondent 1st Foreclosure submitted an Assurance of Compliance acknowledging the licensing requirement and assuring the Department that it would obtain a license before operating as a mortgage broker in Washington. In March 2010 and September 2010, the Department received consumer complaints that Respondent 1st Foreclosure had assisted two Washington borrowers with residential mortgage loan modifications beginning in February 2010. Respondents appear to have collected substantial up-front fees but did not perform the agreed services. On or about December 15, 2010, the Department reviewed Respondent's web site, www.1stforeclosureprevention.com, and determined that Respondent was advertising that it was able to assist Washington consumers with its loan modification services.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Definition of Mortgage Broker. Pursuant to RCW 19.146.010(12) and WAC 208-660-006, "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a person "'assists a person in 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…" which are necessary actions in a residential mortgage loan modification.

2.2 Definition of a Loan Originator. Pursuant to RCW 19.146.010(10) and WAC 208-660-006, "Loan Originator" includes a natural person who offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in expectation of direct or indirect compensation or gain. "Loan Originator" also includes a person who holds themselves out to the public as able to perform any of these activities.

2.3 Requirement to Obtain a Mortgage Broker License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200 and WAC 208-660-155(3) for engaging in the business of a mortgage broker and loan originator for Washington residents or property without first obtaining a license to do so.

III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST

3.1 Authority to Issue Temporary Order to Cease and Desist. Pursuant to RCW 19.146.227, the Director is authorized to issue a Temporary Order to Cease and Desist whenever the Director determines that the public is likely to be substantially injured by delay in issuing a cease and desist

determines that the public is likely to be substantially injured by delay in issuing a cease and desist order. Based on the Factual Findings and Grounds for Entry of Order set forth above, it appears that Respondents have not complied with their agreement to obtain the required licenses before conducting business as a mortgage broker and continue to advertise their residential mortgage loan modification services to Washington consumers. As a result, there is a substantial likelihood that Respondents will continue to obtain up-front fees from Washington consumers for services Respondents are not licensed to perform and a substantial likelihood that the consumers will not receive the contracted services or be protected by the bonding, disclosure, and other relevant legal requirements the Mortgage Broker Practices Act places upon licensees who assist with residential mortgage loan modifications.

IV. ORDER

Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue Temporary Order to Cease and Desist, and pursuant to RCW 19.146.227, the Director now determines that the public is likely to be substantially harmed by a delay in entering a cease and desist order. Therefore, the Director ORDERS that:

4.1 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J, Weidner, and Roie Raitses shall immediately cease and desist from operating as a mortgage broker or loan originator, in any manner, specifically including, but not limited to, assisting Washington consumers with loan modification services.

4.2 Respondents ELM Nationwide Enterprises, LLC, d/b/a 1st Foreclosure Prevention, Barbara J, Weidner, and Roie J. Raitses shall immediately cease and desist from advertising or otherwise holding themselves out as able to assist any Washington consumer applying for or obtaining any residential mortgage loan modification.

4.3 This order shall take effect immediately and shall remain in effect unless set aside, limited, or suspended in writing by an authorized court.

NOTICE

PURSUANT TO CHAPTER 19.146 RCW, YOU ARE ENTITLED TO A HEARING WITHIN 14 DAYS OF REQUEST TO DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A HEARING, THEN YOU MUST RETURN THE ATTACHED APPLICATION FOR ADJUDICATIVE HEARING INCORPORATED HEREIN BY THIS REFERENCE. FAILURE TO COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE HEARING FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN 20 DAYS OF THE DATE THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN ADDRESS. BE ADVISED THAT DEFAULT WILL RESULT IN THIS ORDER TO CEASE AND DESIST BECOMING PERMANENT ON THE 21ST DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

WITHIN 10 DAYS AFTER YOU HAVE been SERVED WITH THIS TEMPORARY ORDER TO CEASE AND DESIST, YOU MAY APPLY TO THE SUPERIOR COURT IN THURSTON COUNTY, WASHINGTON FOR AN INJUNCTION SETTING ASIDE, LIMITING, OR SUSPENDING THIS ORDER PENDING THE COMPLETION OF THE ADMINISTRATIVE PROCEEDINGS PURSUANT TO THIS NOTICE.

DATED this 22nd day of December, 2010.

[redacted]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions