

## ORDER SUMMARY – Case Number: C-11-0707

**Name(s):** USA Home Relief;  
Garcia, Gilbert

**Order Number:** C-11-0707-11-CO01

**Effective Date:** February 1, 2012

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**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  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

**License Effect:** \_\_\_\_\_

**Not Apply Until:** February 1, 2017

**Not Eligible Until:** February 1, 2017

**Prohibition/Ban Until:** February 1, 2017

<b>Investigation Costs</b>	\$384	Due 2/1/12	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 1/27/12
<b>Fine</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$1,750	Due 2/1/12	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 1/27/12
<b>Judgment</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

**Comments:** \_\_\_\_\_  
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ENFORCEMENT UNIT  
DIVISION OF CONSUMER SERVICES  
DEPT OF FINANCIAL INSTITUTIONS

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

NO. C-11-0707-11-CO01

USA HOME RELIEF AND  
GILBERT GARCIA, CEO,

CONSENT ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and USA Home Relief and Gilbert Garcia, CEO of USA Home Relief (collectively Respondents), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

**AGREEMENT AND ORDER**

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-11-0707-11-SC01 (Statement of Charges), entered July 20, 2011, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

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

CONSENT ORDER  
C-11-0707-11-CO01  
USA Home Relief and Gilbert Garcia

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

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

6           **C. Prohibition from Industry.** It is AGREED that Respondents are prohibited from participating in the  
7 conduct of the affairs of any mortgage broker licensed by the Department or any person subject to licensure or  
8 regulation by the Department or any mortgage broker exempt from Washington law under RCW 19.146.020 for  
9 five (5) years from the date of entry of this Consent Order in any capacity, including but not limited to: (1) any  
10 financial capacity whether active or passive or (2) as an officer, director, principal, designated broker, employee,  
11 or loan originator or (3) any management, control, oversight or maintenance of any trust account(s) in any way  
12 related to any residential mortgage transaction or (4) receiving, disbursing, managing or controlling in any way,  
13 consumer trust funds in any way related to any residential mortgage transaction. It is further AGREED that, after  
14 the expiration of the term of prohibition, should Respondents pursue licensure, Respondents must meet any and all  
15 application requirements in effect at that time.

16           **D. Restitution.** It is AGREED that Respondents have paid restitution in the amount of \$1,750 to the  
17 borrower identified in the Factual Allegations in Section I of the Statement of Charges C-11-0707-11-SC01.

18           **E. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee  
19 of \$384, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this  
20 Consent Order.

21           **F. Stipulation of Facts.** It is AGREED that Respondents stipulate to the facts as outlined in the Factual  
22 Allegations in Section I of the Statement of Charges C-11-0707-11-SC01, which are incorporated herein by  
23 reference.  
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1           **G. Agreement to Cease and Desist.** Respondents AFFIRM that it has not conducted any loan  
2 modification services for Washington properties or consumers since signing a Declaration and Agreement to  
3 Cease and Desist on September 30, 2010.

4           **H. Maintaining Records.** It is AGREED that Respondents shall maintain records in compliance with  
5 the Act and has provided the Department with the location of the books, records and other information relating to  
6 Respondent USA Home Relief's loan modification business, and the name, address and telephone number of the  
7 individual responsible for maintenance of such records in compliance with the Act.

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

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

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

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

19 **RESPONDENTS:**

20 **USA Home Relief and Gilbert Garcia**

21 By: 

22 Gilbert Garcia  
23 CEO

12-5-11  
Date

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[Redacted]

12-5-11

Gilbert Garcia  
Individually

Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 1<sup>st</sup> DAY OF February, 2011.

[Redacted]



DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

[Redacted]

DEBORAH TAELLIUS  
Financial Legal Examiner

Approved by:

[Redacted]

JAMES R. BRUSSELBACK  
Enforcement Chief

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**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:

USA HOME RELIEF AND  
GILBERT GARCIA, CEO,

Respondents.

No. C-11-0707-11-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO CEASE AND DESIST,  
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). 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. USA Home Relief (Respondent USA Home Relief) is believed to be located in Orange, California. Respondent USA Home Relief has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator in the state of Washington.
- b. Gilbert Garcia (Respondent Garcia) is CEO of Respondent USA Home Relief and has never been licensed by the Department to conduct business as a loan originator in the state of Washington.

1 **1.2 Unlicensed Activity.** Between at least May 2009 through March 2010, Respondents held out  
2 as able to assist at least one consumer in applying to obtain a loan modification on at least one  
3 property located in the state of Washington. The consumer involved paid Respondents at least  
4 \$2,500 in fees. To date Respondents have never been licensed by the Department to engage in the  
5 business of a mortgage broker or loan originator.

6 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the  
7 Act by Respondents continues to date.

## 8 II. GROUNDS FOR ENTRY OF ORDER

9 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-  
10 010(29), "Mortgage Broker" means any person who, for compensation or gain, or in the expectation  
11 of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or  
12 applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to  
13 make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential  
14 mortgage loan.

15 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10), "Loan Originator" means  
16 a natural person who for direct or indirect compensation or gain, or in the expectation of direct or  
17 indirect compensation or gain (i) takes a residential mortgage loan application for a mortgage broker,  
18 or (ii) offers or negotiates terms of a mortgage loan. "Loan originator" also includes a person who  
19 holds themselves out to the public as able to perform any of these activities. "Loan originator" does  
20 not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the  
21 purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and  
22 distribution of information common for the processing of a loan in the mortgage industry and  
23 communication with a borrower to obtain information necessary for the processing of a loan. A

1 person who holds himself or herself out to the public as able to obtain a loan is not performing  
2 administrative or clerical tasks.

3 **2.3 Requirement to Obtain and Maintain Mortgage Broker License.** Based on Factual  
4 Allegations set forth in Section I above, Respondent USA Home Relief is in apparent violation of  
5 RCW 19.146.200 for engaging in the business of a mortgage broker without first obtaining and  
6 maintaining a license under the Act.

7 **2.4 Requirement to Obtain and Maintain Loan Originator License.** Based on Factual  
8 Allegations set forth in Section I above, Respondent Garcia is in apparent violation of RCW  
9 19.146.200 for engaging in the business of a loan originator without first obtaining and maintaining a  
10 license under the Act.

11 **2.5 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents  
12 are in apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a  
13 scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an  
14 unfair or deceptive practice toward any person, or obtaining property by fraud or misrepresentation.

15 **2.6 Requirement to Maintain Books and Records.** Based on Factual Allegations set forth in  
16 Section I above, Respondents are in apparent violation of RCW 19.146.060 for failing to maintain all  
17 books and records in a location that is on file with and readily available to the Department until at  
18 least twenty-five months have elapsed following the effective period to which the books and records  
19 relate.

### 20 III. AUTHORITY TO IMPOSE SANCTIONS

21 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the  
22 Director may issue orders directing a licensee, its employee or loan originator, or other person subject  
23

1 to the Act to cease and desist from conducting business in a manner that is injurious to the public or  
2 violates any provision of the Act.

3 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may  
4 issue orders removing from office or prohibiting from participation in the conduct of the affairs of  
5 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed  
6 mortgage broker or any person subject to licensing under the Act for any violation of RCW  
7 19.146.020(1) through (9) or (12), RCW 19.146.200, or failure to comply with a directive or order  
8 of the Director.

9 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(d), (e), and (3)(a) and (b), the  
10 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person  
11 subject to the Act for any violations of RCW 19.146.020(1) through (9) or (12), RCW 19.146.200, or  
12 failure to comply with a directive or order of the Director.

13 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(d) and (e), the Director  
14 may issue orders directing a licensee, its employee or loan originator, or other person subject to the  
15 Act to pay restitution to an injured borrower.

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

#### 20 IV. NOTICE OF INTENTION TO ENTER ORDER

21 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC,  
22 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose  
23

1 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and  
2 RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

3 **4.1** Respondents USA Home Relief and Gilbert Garcia cease and desist engaging in the business  
4 of a mortgage broker or loan originator in regards to residents of the state of Washington or property  
located in the state of Washington;

5 **4.2** Respondents USA Home Relief and Gilbert Garcia be prohibited from participation in the  
6 conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for  
a period of five (5) years;

7 **4.3** Respondents USA Home Relief and Gilbert Garcia pay a fine, which as of the date of this  
8 Statement of Charges totals \$3,000;

9 **4.4** Respondents USA Home Relief and Gilbert Garcia pay restitution to at least the consumer  
10 identified in paragraph 1.2 above and restitution totaling the amount charged to every Washington  
client by Respondents for residential mortgage loan modification services;

11 **4.5** Respondents USA Home Relief and Gilbert Garcia pay an investigation fee, which as of the  
12 date of this Statement of Charges totals \$384 calculated at \$48 per hour for forty (8) staff hours  
devoted to the investigation; and

13 **4.6** Respondent USA Home Relief and Gilbert Garcia maintain records in compliance with the  
14 Act and provide the Department with the location of the books, records and other information relating  
to Respondents USA Home Relief and Gilbert Garcia mortgage broker business, and the name,  
15 address and telephone number of the individual responsible for maintenance of such records in  
compliance with the Act.

## 16 **V. AUTHORITY AND PROCEDURE**

17 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW  
18 221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW  
19 (The Administrative Procedure Act). Respondents may make a written request for a hearing as set  
20 forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING  
21 accompanying this Statement of Charges.

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Dated this 20<sup>th</sup> day of July, 2011

[Redacted Signature]

DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

[Redacted Signature]

DEBORAH TAEILLIOUS  
Financial Legal Examiner



Approved by:

[Redacted Signature]

JAMES R. BRUSSELBACK  
Enforcement Chief