

ORDER SUMMARY – Case Number: C-16-1878-17-FO01

Name(s): American Capital Revitalization Group

Order Number: C-16-1878-17-FO01

Effective Date: 3/3/17

License Number: N/A
Or NMLS Identifier [U/L]

License Effect:

Not Apply Until:

Not Eligible Until:

Prohibition/Ban Until: March 4, 2022

Investigation Costs	\$168	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$3,000	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$ 3,600	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments:

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

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

No.: C-16-1878-17-FO01

FINAL ORDER

AMERICAN CAPITAL REVITALIZATION
GROUP, LLC,

Respondent.

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Acting Director of the Department of Financial Institutions of the State of Washington (Director), through her designee, Consumer Services Division Director Charles E. Clark (Director's Designee), pursuant to RCW 34.05.440(1). On January 31, 2017, the Director, through the Director's Designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist Business, Prohibit from Industry, Order Restitution, Impose Fine, Collect Investigation Fee, and Recover Costs and Expenses (Statement of Charges) against American Capital Revitalization Group, LLC, (Respondent). 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 February 1, 2017, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent (collectively, accompanying documents).

On February 1, 2017, the Department served Respondent with the Statement of Charges and accompanying documents by First-Class mail and Federal Express overnight delivery. On February 2, 2017, the documents sent by Federal Express overnight delivery were delivered. The documents sent by First-Class mail were not returned to the Department by the United States Postal Service.

1 Respondent did not request an adjudicative hearing within twenty calendar days after the
2 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
3 in WAC 208-08-050(2).

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

- 6 1. Statement of Charges, cover letter dated February 1, 2017, Notice of Opportunity
7 to Defend and Opportunity for Hearing, and blank Application for Adjudicative
Hearing for Respondent, with documentation for service.

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

10 II. FINAL ORDER

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

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent American Capital Revitalization Group, LLC, cease and desist
engaging in the business of a mortgage broker.
- 15 2. Respondent American Capital Revitalization Group, LLC, is prohibited from
16 participation, in any manner, in the conduct of the affairs of any mortgage
broker subject to licensure by the Director for a period of five years.
- 17 3. Respondent American Capital Revitalization Group, LLC, pay restitution to
18 the consumer identified in Paragraph 1.2 of the Statement of Charges in the
amount of \$3,600 and pay restitution to each Washington consumer with
19 whom they entered into a contract for residential mortgage loan modification
services related to real property or consumers located in the state of
20 Washington equal to the amount collected from that Washington consumer for
those services in an amount to be determined at hearing.
- 21 4. Respondent American Capital Revitalization Group, LLC, pay a fine in the
22 amount of \$3,000.
- 23 5. Respondent American Capital Revitalization Group, LLC, pay an investigation
24 fee in the amount of \$168.

1 6. Respondent American Capital Revitalization Group, LLC, maintain records in
2 compliance with the Act and provide the Department with the location of the
3 books, records and other information relating to Respondent’s provision of
4 residential mortgage loan modification services in Washington, and the name,
5 address and telephone number of the individual responsible for maintenance of
6 such records in compliance with the Act.

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

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

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

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

23 E. Non-compliance with Order. If you do not comply with the terms of this order,
24 **including payment of any amounts owed within 30 days of receipt of this order**, the Department
may seek its enforcement by the Office of the Attorney General to include the collection of the fine

1 and investigation fee imposed herein. The Department also may assign the amounts owed to a
2 collection agency for collection.

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

6 DATED this 3rd day of March, 2017.

7 STATE OF WASHINGTON
8 DEPARTMENT OF FINANCIAL INSTITUTIONS

9 /s/ _____
10 CHARLES E. CLARK
11 Director
12 Division of Consumer Services
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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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

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AMERICAN CAPITAL REVITALIZATION
GROUP, LLC,

Respondent.

No. C-16-1878-16-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, PROHIBIT FROM
INDUSTRY, ORDER RESTITUTION,
IMPOSE FINE, COLLECT
INVESTIGATION FEE, and RECOVER
COSTS AND EXPENSES

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Acting Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the Acting Director, through her designee, Division of Consumer Services Director Charles E. Clark, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent American Capital Revitalization Group, LLC (Respondent) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker.

1.2 Unlicensed Activity. Between at least January 2015 and May 2015, Respondent was offering residential mortgage loan modification services to at least one Washington consumer on property located in Washington State. Respondent entered into a contractual relationship with at least one Washington consumer to provide those services and collected an advance fee for the provision of those services. The Department received at least one complaint from a Washington consumer

1 alleging Respondent provided or offered to provide residential mortgage loan modification services
2 while not licensed by the Department to provide those services. Consumer B.H. paid Respondent
3 \$3,600 for loan modification services.

4 **1.3 Misrepresentations and Omissions.** Respondent represented that it was licensed to provide
5 the residential mortgage loan modification services or omitted disclosing that it was not licensed to
6 provide those services.

7 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
8 Act by Respondent continues to date.

9 II. GROUNDS FOR ENTRY OF ORDER

10 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14), "Mortgage broker" means any
11 person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
12 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
13 loan or performs residential mortgage loan modification services or (b) holds himself or herself out as
14 being able to assist a person in obtaining or applying to obtain a residential mortgage loan or provide
15 residential mortgage loan modification services.

16 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is
17 in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
18 toward any person and obtaining property by fraud or misrepresentation.

19 **2.3 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
20 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.200(1) for
21 engaging in the business of a mortgage broker for Washington residents or property without first
22 obtaining a license to do so.

1 **2.4 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in
2 Section I above, Respondent is in apparent violation of RCW 19.146.0201(11) and 12 CFR 1015
3 (Regulation O) for taking advance fees for loan modification services.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(3), the
6 Director may issue orders directing any person subject to the Act to cease and desist from conducting
7 business.

8 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(4), the Director may
9 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
10 any person subject to licensing under the Act for any violation of the Act.

11 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
12 restitution against any person subject to the Act for any violation of the Act.

13 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
14 against any person subject to the Act for any violation of the Act.

15 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-
16 550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted to
17 an investigation of any person subject to the Act.

18 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director
19 may recover the state's costs and expenses for prosecuting violations of the Act.

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

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

1 Dated this 31st day of January, 2017.

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

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8 Presented by:

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_____/s/_____
DEBORAH TAELLIUS
Financial Legal Examiner Supervisor

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12 Approved by:

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_____/s/_____
STEVEN C. SHERMAN
Enforcement Chief

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