

ORDER SUMMARY – Case Number: C-07-382

Name(s): ACT Lending Corporation dba ACT Mortgage Capital
Nelson S. Haws

Order Number: C-07-382-10-CO01

Effective Date: February 24, 2012

License Number: DFI: 29206 -ACT Lending
Or NMLS Identifier [U/L] NMLS: 293163-Haws

(Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.

License Effect: Revoked

Not Apply Until: n/a

Not Eligible Until: _____

Prohibition/Ban Until: n/a

Investigation Costs	\$2,560.27	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$5,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input 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**

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

NO. C-07-382-10-CO01

ACT LENDING CORPORATION d/b/a ACT
MORTGAGE CAPITAL, and
NELSON S. HAWS, President, CEO and Owner,

CONSENT ORDER

Respondents.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and ACT Lending Corporation d/b/a ACT Mortgage Capital (Respondent ACT Lending Corporation), and Nelson S. Haws, President, CEO and Owner (Respondent Haws), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

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AGREEMENT AND ORDER

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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-07-382-09-SC01 (Statement of Charges), entered May 29, 2009, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan 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.

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Based upon the foregoing:

CONSENT ORDER
C-07-382-10-CO01
ACT Lending Corporation d/b/a ACT Mortgage
Capital and Nelson S. Haws

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

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

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

8 C. **License Revocation.** It is AGREED that Respondent Act Lending Corporation's license to conduct
9 the business of a consumer loan company is revoked.

10 D. **Findings of Fact and Conclusions of Law.**

- 11 1. The Department finds that Respondents ACT Lending Corporation and Nelson S. Haws
12 violated RCW 31.04.085, WAC 208-620-430(1) and WAC 208-620-440 by failing to pay
13 to the Director an annual assessment fee.
- 14 2. The Department finds that Respondents ACT Lending Corporation and Nelson S. Haws
15 violated RCW 31.04.045(3) and WAC 208-620-320 by failing to file and maintain a
16 surety bond or approved alternative.
- 17 3. The Department finds that Respondents ACT Lending Corporation and Nelson S. Haws
18 violated RCW 31.04.145 by failing to comply with a directive issued by the Department.
- 19 4. The Department finds that Respondents ACT Lending Corporation and Nelson S. Haws
20 violated WAC 208-620-490 by failing to notify the Department of significant
21 developments.
- 22 5. The Department finds that Respondents ACT Lending Corporation and Nelson S. Haws
23 violated RCW 31.04.155 and WAC 208-620-520 by failing to make accurate and current
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books and records readily available to the Department until at least twenty-five months after making the final entry on any loan.

E. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$5,000, in the form of a cashier’s check made payable to the “Washington State Treasurer,” upon entry of this Consent Order.

F. **Investigation Fee.** It is AGREED that an investigation fee of \$1,939.18 was paid to the Department on or about January 7, 2011.

G. **Additional Investigation Costs.** It is AGREED that Respondents shall pay to the Department an investigation fee of \$621.09, in the form of a cashier’s check made payable to the “Washington State Treasurer,” upon entry of this Consent Order.

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

I. **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.

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

K. **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.

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1 **RESPONDENTS:**

2 **ACT Lending Corporation d/b/a ACT Mortgage Capital**

3 Rv.

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5 Nelson S. Haws, its
President and CEO

02/06/2012
Date

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7 Nelson S. Haws/
Individually

02/06/2012
Date

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DO NOT WRITE BELOW THIS LINE

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THIS ORDER ENTERED THIS 24th DAY OF February, 2011. ^{2 DB}

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DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

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15 Presented by:

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ROBERT E. JONES
Financial Legal Examiner

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19 Approved by:

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JAMES R. BRUSSELBACK
Enforcement Chief

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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
Consumer Loan Act of Washington by:

NO. C-07-382-09-SC01

ACT LENDING CORPORATION d/b/a ACT
MORTGAGE CAPITAL, and
NELSON S. HAWS, President, CEO and Owner,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, PROHIBIT
FROM INDUSTRY, COLLECT ANNUAL
ASSESSMENTS, IMPOSE FINE, AND COLLECT
INVESTIGATION FEE

Respondents.

INTRODUCTION

Pursuant to RCW 31.04.093, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act)¹. After having conducted an investigation pursuant to RCW 31.04.145, 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. **ACT Lending Corporation d/b/a ACT Mortgage Capital (ACT Lending)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to engage in the business of making secured or unsecured loans of money, credit, or things in action at interest rates authorized by the Act on December 29, 2005, and continues to be licensed to date. Respondent ACT Lending is licensed to conduct the business of a Consumer Loan Company at one location: 481 Sawgrass Corporate Parkway, Sunrise, Florida, 33325.

B. **Nelson S. Haws** is President, CEO and Owner of Respondent ACT Lending.

¹ RCW 31.04 (2002)

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1.2 Failure to Pay Annual Assessments. An annual assessment fee for each license is due to the Department no later than the 1st day of March of the following year. To date, the Department has not received an annual assessment due from Respondents, totaling \$1,500. Payment of the annual assessment of \$1,500.00 for the year ended December 31, 2006 was due to the Department no later than March 1, 2007.

1.3 Failure to Maintain Bond. On April 23, 2007, the Department received notice from the Hartford Fire Insurance Company that Respondent ACT Lending's surety bond would be cancelled, effective June 13, 2007. To date, Respondents have failed to notify the Department of the cancellation of the surety bond and have failed to provide the required surety bond or an approved alternative.

1.4 Failure to Respond to Directive. On April 2, 2007, the Department served a directive on Respondents by certified mail. In addition, on June 19, 2007, the Department sent a directive to Respondent ACT Lending's last known address via First-Class mail. This directive was not returned. These directives variously required that Respondents provide the Department with their Annual Assessment worksheet, pay the Annual Assessment fee, and provide a valid surety bond or acceptable alternative. To date, the Department has not received a response to these directives.

1.5 Failure to Notify Department of Significant Developments.

A. As stated in paragraph 1.3, to date, Respondents have not notified the Department of the cancellation of Respondent ACT Lending's surety bond.

B. Mail from the Department addressed to Respondent ACT Lending's licensed location has been returned by the United States Postal Service marked "Return to sender. Not deliverable as addressed. Unable to forward." To date, Respondents have not notified the Department of a change in location of Respondent ACT Lending's principal place of business or mailing address.

C. Respondent ACT Lending's corporate license, maintained with the State of Washington Secretary of State, expired on September 30, 2007. To date, Respondents have not notified the Department of this change in standing with the State of Washington Secretary of State.

1 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
2 Respondents continues to date.

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

4 **2.1 Requirement to Pay Annual Assessment.** Based on the Factual Allegations set forth in Section I
5 above, Respondents are in apparent violation of RCW 31.04.085, WAC 208-620-430(1) and WAC 208-620-440
6 for failing to pay to the Director an annual assessment fee no later than March 1st of the following year.

7 **2.2 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I
8 above, Respondents are in apparent violation of RCW 31.04.045(3) and WAC 208-620-320 for failing to file
9 and maintain a surety bond or approved alternative with the Department.

10 **2.3 Requirement to Respond to Directive.** Based on the Factual Allegations set forth in Section I above,
11 Respondents are in apparent violation of RCW 31.04.145 for failure to comply with a directive issued by the
12 Department.

13 **2.4 Requirement to Notify Department of Significant Developments.** Based on the Factual Allegations
14 set forth in Section I above, Respondents are in apparent violation of WAC 208-620-490(1) for failure to notify
15 the director in writing ten days prior to a change of the licensee's principal place of business or any of its branch
16 offices, name or legal status, name and mailing address of the out-of-state licensee's registered agent, legal or
17 trade name, or change of ownership control of ten percent or more.

18 **2.5 Requirement to Notify Department of Significant Developments.** Based on the factual allegations
19 set forth in Section I above, Respondents are in apparent violation of WAC 208-620-490(2) for failure to notify
20 the director in writing within ten days after an occurrence of a change in mailing address, telephone number, fax
21 number, or e-mail address; cancellation or expiration of its Washington state master business license; change in
22 its standing with the state of Washington secretary of state, including the resignation or change of the registered
23 agent; failure to maintain the appropriate unimpaired capital under WAC 208-620-340 or receipt of notification
24 of cancellation of the licensee's surety bond.

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1 **2.6 Requirement to Maintain Accurate and Current Books and Records.** Based on the Factual
2 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.155 and WAC
3 208-620-520 for failing to make accurate and current books and records readily available to the Department
4 until at least twenty-five months after making the final entry on any loan.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3), the Director may revoke a license if a
7 licensee fails to pay any fee due the state of Washington, or fails to comply with any specific order or demand
8 of the Director lawfully made and directed to the licensee in accordance with the Act, or violates any provision
9 of the Act or any rule adopted under the Act either knowingly or without exercise of due care.

10 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6), the Director may issue
11 orders removing from office or prohibiting from participation in the conduct of the affairs of any licensee, or
12 both, any officer, principal, employee, or loan originator or any person subject to the Act for failure to comply
13 with any order or subpoena issued under this chapter.

14 **3.3 Authority to Collect Annual Assessments and Late Fees.** Pursuant to RCW 31.04.085 and WAC 208
15 620-220(1) each licensee must pay to the Director an annual assessment as determined in rule by the Director by
16 March 1st of the following year. Pursuant to WAC 208-620-220(2) a licensee that fails to submit the required
17 annual report by the March 1st due date is subject to a penalty of fifty dollars for each day of delay.

18 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
19 hundred dollars per day on a licensee, its employee or loan originator, or other person subject to the Act for any
20 violations of the Act, or failure to comply with any order or subpoena issued by the director under this chapter.

21 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590(1), upon
22 completion of any investigation of the books and records of a licensee or other person subject to the Act, the
23 Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the
24 investigation. The investigation charge will be calculated at the rate of sixty nine dollars and one cent (\$69.01) per
25 hour that each staff person devoted to the investigation.

1 **3.6 Authority to Issue Orders Directing Action:** Pursuant to RCW 31.04.093(5)(b), the Director may
2 issue an order directing a licensee to take such affirmative action as is necessary to comply with the Act.

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

4 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
5 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
6 for the entry of an Order under RCW 31.04.093. Therefore, it is the Director's intention to ORDER that:

7 **4.1** Respondent ACT Lending Corporation d/b/a ACT Mortgage Capital's license to conduct the business of a
8 consumer loan company be revoked;

9 **4.2** Respondent ACT Lending Corporation d/b/a ACT Mortgage Capital be prohibited from participation in the
10 conduct of the affairs of any consumer loan company subject to licensure by the Director, in any manner,
11 for a period of five (5) years;

12 **4.3** Respondent Nelson S. Haws be prohibited from participation in the conduct of the affairs of any consumer
13 loan company subject to licensure by the Director, in any manner, for a period of five (5) years;

14 **4.4** Respondents ACT Lending Corporation d/b/a ACT Mortgage Capital and Nelson S. Haws provide to
15 the Director a completed Consolidated Annual Report and Annual Assessment Report, including all
16 required supporting documentation, for the years ended December 31, 2006, and December 31, 2007;

17 **4.5** Respondents ACT Lending Corporation d/b/a ACT Mortgage Capital and Nelson S. Haws jointly and
18 severally pay the delinquent Annual Assessments due for the years ended December 31, 2006, and
19 December 31, 2007, as calculated in accordance with the instructions for the Annual Assessment
20 Worksheets for the same years, less any amounts previously paid by Respondent ACT Lending
21 Corporation d/b/a ACT Mortgage Capital's bonding company;

22 **4.6** Respondents ACT Lending Corporation d/b/a ACT Mortgage Capital and Nelson S. Haws jointly and
23 severally pay a fine which as of the date of this Statement of Charges is \$12,000;

24 **4.7** Respondents ACT Lending Corporation d/b/a ACT Mortgage Capital and Nelson S. Haws jointly and
25 severally pay an investigation fee which as of the date of this Statement of Charges is \$1,939.18 calculated
at \$69.01 per hour for the twenty eight and one tenth (28.1) staff hours devoted to the investigation; and

4.8 Respondents maintain records in compliance with the Act and provide the Department with the location of
the books, records and other information relating to Respondent ACT Lending Corporation d/b/a ACT
Mortgage Capital's Consumer Loan Company 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 Revoke License, Collect Annual Assessments, Impose Fine, Prohibit From Industry, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, 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 29th day of May, 2009.

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

ROBERT E. JONES
Financial Legal Examiner



Approved by:

JAMES R. BRUSSELBACK
Enforcement Chief