

ORDER SUMMARY – Case Number: C-07-484

Name(s): 1st Columbia Mortgage Corporation
Joseph William Searles
Michael William Gannon

Order Number: C-07-484-10-CO03

Effective Date: September 2, 2011

License Number: DFI: 18756 [NMLS: 3201] -1st Columbia

Or NMLS Identifier [U/L] DFI: 21304 [NMLS: 56143] -Searles

DFI: 37449 [NMLS: 121330] -Gannon

(Revoked, suspended, stayed, application denied or withdrawn)

If applicable, you must specifically note the ending dates of terms.

License Effect: Suspension -1st Columbia and Joseph Searles

3 yr suspension (stayed)- compliance exam to be done at 18 months so we can file to lift the stay before 24 months.

Not Apply Until: 5 yrs [1st Columbia & Joseph Searles]

Not Eligible Until: _____

Prohibition/Ban Until: 5 yrs [1st Columbia & Joseph Searles]

Investigation Costs	\$9,408	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$1,199.36	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$9,408	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input checked="" 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-07-484-10-CO03

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1ST COLUMBIA MORTGAGE CORPORATION,
JOSEPH WILLIAM SEARLES, President, Owner,
and Designated Broker, and MICHAEL WILLIAM
GANNON, Loan Originator, MICHAEL ALAN
HONOROF, Loan Originator, NORMAN
VINCENT KEELES, Loan Originator,
Respondents.

CONSENT ORDER

1ST COLUMBIA MORTGAGE CORPORATION,
JOSEPH WILLIAM SEARLES, AND MICHAEL
WILLIAM GANNON

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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 1st Columbia Mortgage Corporation (Respondent 1st Columbia), Joseph William Searles, President, Owner, and Designated Broker (Respondent Searles), and Michael William Gannon, Loan Originator (Respondent Gannon), collectively referred to herein as Respondents, by and through their attorney, James J. Jameson, and finding that the issues raised in the above-captioned matter may be economically and efficiently settled as related to Respondents, 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 as related to Respondents alleged in Statement of Charges No.C-07-484-09-SC02 (Statement of Charges), entered December 7, 2009, (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 as related to Respondents may be economically and efficiently

CONSENT ORDER
C-07-484-10-CO03
1ST COLUMBIA MORTGAGE CORPORATION,
JOSEPH WILLIAM SEARLES, and MICHAEL
WILLIAM GANNON

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

1 settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of
2 Charges.

3 Based upon the foregoing:

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

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

10 C. **License Suspensions (Imposed).** It is AGREED that: Respondent 1st Columbia's license to engage
11 in the business of a mortgage broker is suspended for five (5) years from the date of entry of this Consent Order.
12 It is also AGREED that Respondent Searles's license to engage in the business of a loan originator is suspended
13 for five (5) years from the date of the entry of this Consent Order.

14 D. **License Suspension (Stayed).** It is AGREED that Respondent Gannon's license to engage in the
15 business of a loan originator is suspended for three (3) years. However, it is FURTHER AGREED that subject
16 to paragraphs E, F, and G of this Consent Order, the suspension shall be stayed for a period of two (2) years
17 from the date of entry of this Consent Order.

18 E. **Compliance Examination.** It is AGREED that Respondent Gannon is subject to a compliance
19 examination during the stayed suspension time period to be conducted by the Department at Respondent
20 Gannon's expense. Respondent Gannon further AGREES to promptly respond and address any and all issues,
21 if any, identified in the compliance examination to the satisfaction of the Department.

22 F. **Lifting of Stay.** It is AGREED that:

- 23 1. If, during the stay, Respondent Gannon does not comply with the Real Estate Settlement
24 Procedures Act, 12 U.S.C. §2601 and Regulation X, 24 C.F.R. §3500, which prohibits
25 receipt of referral and unearned fees, or otherwise violates RCW 19.146.0201(1), (2), (6)
and (11) or RCW 19.146.030, or violates any of the terms and conditions of this Consent

1 Order, and the Department seeks to lift the stay, the Department will first notify
2 Respondent Gannon in writing. The notice will set forth a description of the alleged
3 violations; the stay the Department is seeking to lift; the opportunity to request an
4 expedited adjudicative hearing, including the time and manner in which Respondent
5 Gannon may request such a hearing; and a copy of this Consent Order.

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2. If Respondent Gannon does not request an expedited adjudicative hearing in the time and manner directed, the Department will immediately suspend Respondent Gannon's loan originator license.
 3. If requested, the expedited adjudicative hearing will commence within 15 business days (or as soon as the schedule of the Office of Administrative Hearings permits) from the receipt of Respondent Gannon's timely request for expedited adjudicative hearing. The parties will accommodate the prompt scheduling of the hearing, the scope of which will be limited to whether or not Respondent Gannon has violated the terms and conditions of this Consent Order.
 4. At the conclusion of the expedited adjudicative hearing, the Administrative Law Judge will issue an initial decision. Either party may timely file a petition for review with the Director of the Department.

12 **G. Expiration of Stay:** It is AGREED that if, no notification to lift the stay for alleged violations of this
13 Consent Order is issued to Respondent Gannon within 15 days following the expiration of the stay, the
14 Department will consider the conditions of the stay completed. In that event, in connection with this Consent
15 Order, the Department will not seek to suspend Respondent Gannon's loan originator license.

16 **H. Prohibition from Industry.** It is AGREED that Respondent 1st Columbia and Respondent Searles
17 are prohibited from participating in the conduct of the affairs of any mortgage broker or consumer lender licensed
18 by the Department or any person subject to licensure or regulation by the Department for five (5) years from the
19 date of entry of this Consent Order.

20 **I. Prohibition from Application for Licensure.** It is AGREED that Respondent 1ST Columbia and
21 Respondent Searles shall not apply to the Department for any license issued pursuant to chapter 19.146 RCW and
22 chapter 31.04 RCW, under any name, for a period of five (5) years from the date of entry of this Consent Order.
23 Should Respondent 1st Columbia or Respondent Searles apply to the Department for a mortgage broker or
24 mortgage loan originator license at any time later than five (5) years from the date of entry of this Consent Order,

1 Respondent 1st Columbia and Respondent Searles shall be required to meet any and all application requirements in
2 effect at that time.

3 **J. Restitution.** It is AGREED that Respondents provided restitution to the consumers listed in the
4 attached Restitution Schedule prior to entry of this Consent Order.

5 **K. Investigation Fee.** It is AGREED that Respondent 1st Columbia and Respondent Searles shall pay to
6 the Department an investigation fee of \$9,408, in the form of a Confession of Judgment.

7 **L. Declaration of Financial Condition and Confession of Judgment.** It is AGREED that
8 Respondents have provided the Department with a Declaration comprehensively describing their current financial
9 condition and representing their current inability to pay the investigation fee agreed to in Paragraph K of this
10 Consent Order. It is further AGREED that, based on this Declaration, the Department has accepted a Confession
11 of Judgment from Respondent 1st Columbia and Respondent Searles for the investigation fee obligations agreed to
12 in Paragraph K of this Consent Order. A copy of this Confession of Judgment is attached and incorporated into
13 this Consent Order by this reference. Consistent with Chapter 4.60 of the Revised Code of Washington, the
14 Department may immediately seek entry of the judgment. Respondents shall, upon the Department's request, fully
15 and promptly cooperate with the Department in its efforts to get the judgment entered by the superior court.

16 **M. Confession of Judgment for Investigation Fee.** It is AGREED that Respondent 1st Columbia and
17 Respondent Searles have entered into a Confession of Judgment for the investigation fee of \$9,408 (Paragraph K
18 above) to the Department.

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

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

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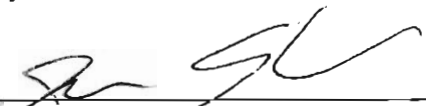
P. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

Q. **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.

RESPONDENTS:

1st COLUMBIA MORTGAGE CORPORATION

By:




JOSEPH WILLIAM SEARLES
Owner, President, and Designated Broker

8-15-11
Date




JOSEPH WILLIAM SEARLES
Individually

8-15-11
Date



MICHAEL WILLIAM GANNON
Individually

8/30/11
Date



JAMES J. JAMESON, WSBA No. 11490
Attorney at Law
Attorney for Respondents

8/30/11
Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 2nd DAY OF September, 2011 ^{DB}
2010.



Deborah Bortner
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Marnie Sheeran
MARNIE SHEERAN
Financial Legal Examiner

Approved by:

James R. Brunelback
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:

1st COLUMBIA MORTGAGE CORPORATION,
JOSEPH WILLIAM SEARLES, President,
Owner, and Designated Broker, MICHAEL
WILLIAM GANNON, Loan Originator,
MICHAEL ALAN HONOROF, Loan Originator,
and NORMAN VINCENT KEELE, Loan
Originator,

Respondents.

NO. C-07-484-09-SC02

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

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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 and Notice of Intention to Enter an Order to Revoke or Suspend License, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (hereinafter Statement of Charges), the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **1st Columbia Mortgage Corporation** (Respondent 1st Columbia) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on June 17, 1998, and continued to be licensed until its license expired on December 31, 2008.

¹ RCW 19.146 (2006)

1 Respondent was licensed to conduct the business of a mortgage broker at two locations:

2 1. **Main Office.** 16000 Bothell Everett Hwy, Suite 300, Mill Creek, Washington
3 98012.

4 2. **Branch Office.** 8617 Martin Way E, Suite 201, Lacey, Washington 98516.

5 B. **Joseph William Searles** (Respondent Searles) is President, Owner and Designated Broker of
6 Respondent 1st Columbia. Respondent Searles was named Designated Broker of Respondent 1st Columbia on
7 June 17, 1998, and continued as Designated Broker until Respondent 1st Columbia's license expired on December
8 31, 2008. Respondent Searles Designated Broker license also expired on December 31, 2008.

9 C. **Michael William Gannon** (Respondent Gannon) was licensed by the Department as a loan
10 originator on June 27, 2007, and continues to be licensed to date. During all times relevant to this Statement of
11 Charges Respondent Gannon was affiliated with Respondent 1st Columbia.

12 D. **Michael Alan Honorof** (Respondent Honorof) acted as a loan originator for Respondent 1st Columbia
13 between at least December 2007 and December 2008.

14 E. **Norman Vincent Keele** (Respondent Keele) acted as a loan originator for Respondent 1st Columbia in
15 at least September 2007.

16 **1.2 Examination.** In or around September 2008, the Department conducted an examination of the books
17 and records of Respondents for the period of August 31, 2006, through September 30, 2008. The Department
18 reviewed 36 loan files provided as part of its examination. The Department found violations of the Act as
19 outlined below.

20 **1.3 Unlicensed Activity.**

21 A Respondent Honorof conducted the business of a loan originator at Respondent 1st Columbia's main
22 office from at least December 2007 through December 2008. Respondent Honorof assisted at least one
23 borrower in December 2007 in applying to obtain or obtaining a residential mortgage loan on property located
24 in the state of Washington. Respondent Honorof did not apply for a loan originator's license until January 2,
25 2008, and the Department did not issue a loan originator's license to Respondent Honorof until February 1,

1 2008. Respondent Honorof continued to be licensed as a loan originator until his license expired on December
2 31, 2008.

3 **B** Respondent Keele conducted the business of a loan originator at Respondent 1st Columbia's main
4 office in at least September 2007. Respondent Keele assisted at least one borrower in September 2007 in
5 applying to obtain or in obtaining a residential mortgage loan on property located in Washington.

6 **C** Respondent Keele applied for a loan originator's license with the Department on or about January 2,
7 2007. Respondent Keele submitted his application for a loan originator license under a mortgage broker
8 licensed under the Act that was not Respondent 1st Columbia. At no time, did Respondent Keele or Respondent
9 1st Columbia notify the Department of an affiliation between Respondent Keele and Respondent 1st Columbia.
10 The Department rejected Respondent Keele's loan originator's application on August 23, 2007. To date, the
11 Department has not issued a license to Respondent Keele to conduct the business of a loan originator from any
12 location.

13 **1.4 Failure to Provide Accurate Lock-in Disclosures or Agreements.** In each of the 36 loan files
14 reviewed, Respondents² did not maintain evidence sufficient to establish that Respondents' rate-lock disclosures
15 or agreements contained a disclosure notifying the consumer that "if a lock-in agreement has not been entered
16 into, the disclosed interest rate and terms are subject to change", or Respondents did not complete the expiration
17 date or other terms of the lock-in agreement, or Respondents did not provide the disclosure to borrowers within
18 three business days of the borrower's loan application.

19 **1.5 Failure to Provide "If the Borrower is Unable to Obtain a Loan" Disclosure.** In each of the 36
20 loan files reviewed, Respondents did not maintain records sufficient to establish that "if a borrower is unable to
21 obtain a loan" disclosures were provided to borrowers within three business days of the borrowers' loan
22 application, or Respondents did not provide the disclosures to borrowers within three business days of the
23 borrowers' loan application.

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25 ² Unless specifically stated otherwise, Respondents refers to Respondents 1st Columbia, Joseph Searles, Michael Gannon,
Michael Honorof and Norman Vincent Keele.

1 **1.6 Use of Lis Pendens to Collect a Debt.** In each of the 36 loan files reviewed, Respondents provided
2 Loan Servicing Agreements to borrowers granting Respondents the right to file a Lis Pendens on any real
3 property interest owned by the borrower for collection of third-party fees or a processing fee owed to
4 Respondent 1st Columbia in the event the loan was cancelled and the borrower did not pay the third-party fees
5 or the processing fee owed to Respondent 1st Columbia.

6 **1.7 Failure to Correctly Disclose Yield Spread Premium.** In 27 of 36 loan files reviewed, Respondents³
7 did not maintain evidence sufficient to establish that the Yield Spread Premium (YSP) was correctly disclosed
8 on Good Faith Estimates (GFE) given to borrowers or Respondents did not correctly disclose the YSP to the
9 borrowers in that Respondents did not disclose the YSP on the GFE, or did not disclose the YSP in the 800
10 section of the GFE, or did not disclose the YSP as a dollar amount or dollar range, or did not use the words
11 “yield spread premium”, or did not provide a new GFE at least three days prior to closing when the YSP
12 increased from that previously disclosed.

13 **1.8 Failure to Correctly Disclose Fees in the GFE that Inure to Respondents’ Benefit.** In 23 of the 36
14 loan files reviewed, Respondents⁴ did not maintain evidence sufficient to establish that Respondents correctly
15 disclosed fees that inured to the mortgage broker’s benefit on the GFE in that Respondents did not specifically
16 identify in the GFE each fee that inured to Respondents’ benefit, or did not disclose all fees that inured to
17 Respondents’ benefit on the GFE or provide a new GFE at least three days prior to closing, or Respondents
18 used line 801 of the GFE to disclose mortgage broker fees.

19 **1.9 Failure to Deposit All Monies Received for Third Party Fees into Trust Account.** Respondents did
20 not provide evidence to the Department sufficient to establish that Respondents maintained a trust account for
21 third-party fees received by Respondent 1st Columbia’s from escrow. In the alternative, on 22 of the 36 loan
22 files reviewed, Respondents did not maintain evidence sufficient to establish that Respondents deposited escrow
23 checks that included the borrowers’ third-party credit report fees or appraisal fees into a trust account. Instead,
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25 ³ For purposes of paragraph 1.7, “Respondents” does not include Respondent Keele.

⁴ For purposes of paragraph 1.8, “Respondents” does not include Respondent Honorof.

1 it appears Respondents deposited these funds into a general account held by Respondent 1st Columbia, thereby
2 commingling trust funds with operating funds.

3 **1.10 Failure to Disclose Loan Originator License Number on Loan Applications.** In 6 of 36 loan files
4 reviewed, Respondents did not disclose the loan originator's license number on the borrowers' residential
5 mortgage loan applications.

6 **1.11 Unlawful Advertising and Fees.** Between at least May 1, 2008 and July 2, 2008, Respondent 1st
7 Columbia advertised to other mortgage brokers and loan originators a thing of value whereby mortgage brokers
8 or loan originators were to refer applications or mini applications to Respondent 1st Columbia, which would pay
9 fees to the referring mortgage broker or loan originator based on the value of the loan obtained by the
10 consumer.

11 **1.12 Complaint No. 24783.**

12 **A** On or about December 16, 2006, the borrower in complaint number 24783 (hereinafter
13 Borrower 24783) met Respondent 1st Columbia's representative and requested assistance in obtaining a loan.
14 On or about December 21, 2006, Respondents⁵ obtained a credit report related to Borrower 24783. However,
15 Respondents did not maintain records sufficient to establish that Respondents provided a GFE, Truth-In-
16 Lending (TIL), or Servicing disclosure to Borrower 24783 within three days of pulling the credit report, or
17 Respondents did not provide the GFE or TIL or Servicing disclosure within three days of pulling Borrower
18 24783's credit report.

19 **B** Respondents also committed the same acts, conduct, or omissions as described in paragraphs
20 1.4 though 1.6 and 1.8 above.

21 **C** On or about January 19, 2007, Respondents denied Borrower 24783's application and referred
22 Borrower 24783 to another company (Company A). Respondent Searles was President and Owner of Company
23 A, and Respondent Gannon was Vice President of Company A. After the referral, Respondent 1st Columbia
24 provided no additional services related to this borrower's transaction with Company A. However, Respondents

25 ⁵ For purposes the paragraphs related to Borrower 24783, Respondents does not include Respondent Keele or Respondent Honorof.

1 obtained a mortgage fee of \$7,000 related to the transaction with Company A. This fee is excessive for the
2 amount of services performed by Respondents. In the alternative, Respondents did not provide an Affiliated
3 Business Disclosure to the borrower.

4 **D** Respondent Searles provided Borrower 24783 with a Borrower's Certificate and Authorization
5 stating that Borrower 24783 applied for a loan with Company A. However, Respondent Searles knew that
6 Company A does not make or assist anyone in applying for a residential mortgage loan. Company A was in the
7 business of purchasing homes for investment purposes.

8 **1.13 Complaint No. 23470.**

9 **A** On or about December 18, 2006, Respondent Gannon, acting on behalf of Company A, referred,
10 received, or accepted a referral for Company A of the borrower in Complaint No. 23470 (hereinafter Borrower
11 23470). On or about December 17, 2006, Borrower 23470 contacted Maag Inc d/b/a Millcreek Mortgage
12 (Maag Inc), a company owned by Respondent Gannon's spouse, for a residential mortgage loan. On or about
13 December 18, 2006, Maag Inc issued a Denial of Credit and as noted above, the matter was referred to
14 Company A. Maag Inc provided no additional services related to this borrower's transaction with Company A.
15 However, Respondent Gannon provided a referral fee of \$15,000 in three separate checks of \$5,000 each from
16 Company A to Maag Inc. This fee is excessive for the amount of services performed by Maag Inc. In the
17 alternative, Respondent Gannon did not provide an Affiliated Business Disclosure to the borrower.

18 **B** Respondent Gannon provided Borrower 23470 with a Borrower's Certificate and Authorization
19 stating that Borrower 23470 applied for a loan with Company A. However, Respondent Gannon knew that
20 Company A does not make or assist anyone in applying for a residential mortgage loan. Company A was in the
21 business of purchasing homes for investment purposes.

22 **1.14 Failure to Timely or Completely Comply with a Directive.**

23 **A** On December 12, 2008, the Department served an entry letter and Designated Broker's
24 Questionnaire on Respondents 1st Columbia and Respondent 1st Columbia's legal representative by First-Class
25 mail and email. The entry letter required Respondent 1st Columbia and Respondent Searles to complete the

1 Designated Broker's Questionnaire and submit a list of all Washington loans originated, brokered, funded,
2 purchased, serviced, or sold between August 31, 2006, and September 30, 2008, by January 7, 2009. Neither
3 Respondent 1st Columbia nor Respondent Searles provided the materials as directed.

4 **B** On or about January 8, 2009, Respondent Searles was notified via a telephone conversation
5 with a Department representative that the list of loans and Designated Broker's Questionnaire needed to be
6 provided. Respondent Searles was directed to comply by January 12, 2009.

7 **C** On January 12, 2009, while at Respondent 1st Columbia's records location, a Department
8 representative notified Respondent 1st Columbia's legal representative that the loan list and questionnaire still
9 needed to be provided. Finally, via an email sent on January 20, 2009, at 9:06 a.m., a Department representative
10 notified Respondent 1st Columbia's legal representative that the list of loans and questionnaire had not been
11 received, and said information was required before 1:00 p.m. that day.

12 **D** On or about January 20, 2009, the Department received an incomplete response to the entry letter
13 and Designated Broker's Questionnaire, in that the response received did not contain a list of loans closed
14 during the exam period, an accurate accounting of the total Washington loans handled (question 9 of the
15 Designated Broker's Questionnaire), or any of the schedules or supporting documentation in the "additional
16 information" section beginning on page 10 of the Designated Broker's Questionnaire.

17 **1.15 Failure to Submit a Mortgage Broker Closure Form or Annual Report.** Respondent 1st Columbia
18 and Respondent Searles did not renew their license by December 31, 2008. On or about February 2009, the
19 Department received a Notice of Bond Cancellation from Respondent 1st Columbia's surety bond company.
20 Respondents 1st Columbia and Searles did not provide to the Department, within 20 days of ceasing operations
21 in Washington, a mortgage broker closure form or annual report.

22 **1.13 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
23 Respondents continues to date.

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

2 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29),
3 “Mortgage Broker” means any person who, for compensation or gain, or in the expectation of compensation or
4 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
5 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
6 person in obtaining or applying to obtain a residential mortgage loan.

7 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006, “Loan
8 Originator” means a natural person who (a) takes a residential mortgage loan application for a mortgage broker,
9 or (b) offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in
10 expectation of direct or indirect compensation or gain. “Loan Originator” also includes a person who holds
11 themselves out to the public as able to perform any of these activities.

12 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(2), a “Borrower” is defined as any person who
13 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information
14 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself
15 or herself, regardless of whether the person actually obtains such a loan.

16 **2.4 Requirement to Obtain or Maintain Loan Originator License.** Based on the Factual Allegations set
17 forth in Section I above, Respondents Honorof and Keele are in apparent violation of RCW 19.146.0201(2) and
18 (3), RCW 19.146.200(1), and WAC 208-660-350(3) for engaging in the business of a loan originator without
19 first obtaining and maintaining a license under the Act.

20 **2.5 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC 208-660-
21 155(3), a licensed mortgage broker is liable for any conduct violating the Act by the designated broker or loan
22 originator employed or engaged by the licensed mortgage broker. Pursuant to RCW 19.146.200(4)(a) and (b), a
23 designated broker or principal of a licensed mortgage broker is liable for an employee’s violations of the act if
24 the designated broker or principal directs or instructs the conduct or with knowledge of the specific conduct
25 approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry should have known

1 of the conduct at the time when its consequences can be avoided or mitigated and fails to take reasonable
2 remedial action.

3 **2.6 Disclosures Other than GFE and TIL.** Based on the Factual Allegations set forth in Section I above,
4 Respondents are in apparent violation of RCW 19.146.0201(6) and (11), RCW 19.146.030(1)(2)(c) and (d) and
5 (3), WAC 208-660-430(3)(c) and (e), and Regulation X, 24 C.F.R. Section 3500.21(b)(1) (1996), for failure to
6 provide rate-lock disclosures, or “if borrower is unable to obtain a loan for any reason” disclosure or loan
7 servicing disclosures.

8 **2.7 GFE and TIL Disclosures.** Based on the Factual Allegations set forth in Section I above, Respondents
9 are in apparent violation of RCW 19.146.0201(6) and (11), RCW 19.146.030(1)(2)(a)(b) and (4)⁶, Regulations
10 X, 24 C.F.R. Section 3500.21(b)(1) (1996), Regulation Z, 12 C.F.R Section 226.18(d)(1) (2001), and
11 Regulation Z, 12 C.F.R. Section 226.5(b) and 226.22(a) (2001) for failure to provide required GFE and TIL
12 disclosures within three business days of receiving a loan application or failure to specify on the GFE which
13 fees inure to the benefit of the mortgage broker or failure to provide a new GFE at least three days prior to
14 closing when fees that inure to the benefit of the mortgage broker increased from that previously disclosed.

15 **2.8 Trust Account Violations.** Based on the Factual Allegations set forth in Section I above, Respondents
16 are in apparent violation of RCW 19.146.050(1) and WAC 208-660-410(3), (6), (9), (16), (17), (29), (31), and
17 (32) for failing to deposit into a trust account, prior to the end of the third business day following receipt of such
18 funds, all monies received by a mortgage broker from a borrower or on behalf of a borrower for payment of
19 third-party provider services, and commingling operating funds with trust account funds.

20 **2.9 Loan Originator License Number Disclosure.** Based on the Factual Allegations set forth in Section I
21 above, Respondents are in apparent violation of WAC 208-660-350(27) and (28)⁷, for failure to disclose loan
22 originator’s license number on residential mortgage loan applications.

23 **2.10 Prohibited Advertising.** Based in the Factual Allegations set forth in Section I above, Respondents 1st
24 Columbia and Searles are in apparent violation of RCW 19.146.0201(2), (3), and (7) and WAC 208-660-440(1)

25 ⁶ And any applicable chapter 208-660 WAC.

⁷ Formerly WAC 208-660-350(26) and (27).

1 for unfair or misleading or deceptive advertising or for failure to ensure the accuracy and reliability of the
2 advertising material.

3 **2.11 Prohibited Fees and Affiliated Business Disclosure.** Based on the Factual Allegations set forth in
4 Section I above, Respondents are in apparent violation of RCW 19.146.0201(6) and (11) and Regulation X, 24
5 C.F.R. Section 3500.14 and Section 3500.15(1996)⁸ for receipt of unearned referral fees or providing an other
6 thing of value for a loan referral or failure to provide an Affiliated Business Disclosure.

7 **2.12 Requirement to Fully and Timely Comply with Directives.** Based on the Factual Allegations set
8 forth in Section I above, Respondent 1st Columbia and Respondent Searles are in apparent violation of RCW
9 19.146.235 for failure to timely or fully comply with a Department directive.

10 **2.13 Requirement to Submit a Mortgage Broker Closure Form or Annual Report.** Based on the
11 Factual Allegations set forth in Section I above, Respondent 1st Columbia and Respondent Searles are in
12 apparent violation of WAC 208-660-163(19) and WAC 208-660-400(14) for failure to submit a mortgage
13 broker closure report or annual report within 20 days of ceasing operations in Washington.

14 **2.14 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
15 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (8), (11), (13) and (15) for directly or indirectly
16 employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an
17 unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to
18 make disclosures to loan applicants and non-institutional investors as required by RCW 19.146.030 and any
19 other applicable state or federal law, making, in any manner, any false or deceptive statement or representation
20 with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan,
21 negligently making a false statement or knowingly and willfully making an omission of material fact in
22 connection with any reports filed by a mortgage broker or in connection with an investigation conducted by the
23 Department, failure to comply with any applicable federal statute or regulation, collecting, charging, attempting
24 to collect or charge or using or proposing any agreement purporting to collect or charge any fee prohibited by

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⁸ See also, RESPA, 12 U.S.C. 2607(a) and (b) (commonly referred to as Section 8).

1 RCW 19.146.030 or RCW 19.146.070, failure to comply with any provision of RCW 19.146.030 through
2 19.146.080 or any rule adopted under those sections.

3 **2.15 Requirement to Maintain Accurate and Current Books and Records.** Based on the Factual
4 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060 and WAC
5 208-660-140 for failing to make accurate and current books and records readily available to the Department
6 until at least twenty-five months have elapsed following the effective period to which the books and records
7 relate.

8 III. AUTHORITY TO IMPOSE SANCTIONS

9 **3.1 Authority to Revoke or Suspend License.** Pursuant to RCW 19.146.220(2)(c),(d), and (e), the
10 Director may revoke or suspend a license for failure to pay a fee required by the director, failure to comply with
11 any directive or order of the Director, or any violation of chapter 19.146 RCW.

12 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a)and (d), the Director
13 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
14 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
15 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
16 (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,
17 or failure to comply with a directive or order of the Director.

18 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(d) and (e) and RCW 19.146.220(3) (a) and
19 (b), the Director may impose fines on a licensee, employee or loan originator of the licensee, or other person
20 subject to the Act for any violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030 through
21 RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), RCW 19.146.265, failure to comply with a directive
22 or order of the Director or any violation of Chapter 19.146 RCW..

23 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(d) and (e), the Director may issue
24 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution.

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1 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(5),
2 upon completion of any investigation of the books and records of a licensee or other person subject to the Act,
3 the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the
4 investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per hour that
5 each staff person devoted to the investigation.

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

7 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
8 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
9 for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the
10 Director's intention to ORDER that:

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- 12 **4.1** Respondent 1st Columbia Mortgage Corporation's license to conduct the business of a mortgage broker
be revoked or suspended; and
- 13 **4.2** Respondent Joseph William Searles' license to conduct the business of a mortgage broker and loan
14 originator be revoked or suspended; and
- 15 **4.3** Respondent Michael William Gannon and Respondent Michael Alan Honorof's license to conduct the
business of a loan originator be revoked or suspended; and
- 16 **4.4** Respondents 1st Columbia Mortgage Corporation be prohibited from participation in the conduct of the
17 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)
years; and
- 18 **4.5** Respondents Joseph William Searles, Michael William Gannon, Michael Alan Honorof and Norman
19 Vincent Keele be prohibited from participation in the conduct of the affairs of any mortgage broker subject
to licensure by the Director, in any manner, for a period of five (5) years; and
- 20 **4.6** Respondents 1st Columbia Mortgage Corporation, Joseph William Searles, Michael William Gannon,
21 Michael Alan Honorof and Norman Vincent Keele jointly and severally pay a fine, which as of the date of
this Statement of Charges totals \$30,000;
- 22 **4.7** Respondents 1st Columbia Mortgage Corporation, Joseph William Searles, Michael William Gannon,
23 Michael Alan Honorof and Norman Vincent Keele jointly and severally refund all fees that inured to
Respondents' benefits on the HUD 1/1A settlement Statement or equivalent on all loans referred to in
24 paragraphs 1.3 through 1.5, 1.7 through 1.8 and 1.12 through 1.13 above; and
- 25 **4.8** Respondents 1st Columbia Mortgage Corporation, Joseph William Searles, Michael William Gannon,
Michael Alan Honorof and Norman Vincent Keele jointly and severally refund all third party fees received
from escrow on all loans referred to in paragraphs 1.9 above; and

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4.9 Respondents 1st Columbia Mortgage Corporation, Joseph William Searles, Michael William Gannon, Michael Alan Honorof, and Norman Vincent Keele jointly and severally pay an investigation fee which as of the date of this Statement of Charges totals \$9,408 calculated at \$48 per hour for the one hundred ninety-six (196) staff hours devoted to the investigation; and

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4.10 Respondents 1st Columbia Mortgage Corporation, Joseph William Searles, Michael William Gannon, Michael Alan Honorof, and Norman Vincent Keele maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondent 1st Columbia Mortgage Corporations' 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 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 7th day of December, 2009.



Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Marnie Sheeran
MARNIE SHEERAN
Financial Legal Examiner

Approved by:

James R. Brusselback
JAMES R. BRUSSELBACK
Enforcement Chief