

Terms Completed

ORDER SUMMARY – Case Number: C-08-086

Name(s): Paul M Franklin

Order Number: C-08-086-12-CO02

Effective Date: April 18, 2012

License Number: [NMLS: 630024]

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)

License Effect: n/a
If applicable, you must specifically note the ending dates of terms.

Not Apply Until: n/a

Not Eligible Until: n/a

Prohibition/Ban Until: n/a

Investigation Costs	\$744	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 4.18.12
Fine	\$3,250	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 4.18.12
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: _____

RECEIVED

APR 17 2012

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-08-086-12-CO02

PACIFIC INTERNATIONAL MORTGAGE INC,
and NILS GERHOLD, Designated Broker, and
PAUL FRANKLIN, Loan Originator,

CONSENT ORDER
AND WITHDRAWAL OF FINAL ORDER
AS TO PAUL FRANKLIN

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Paul Franklin (Respondent), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order and to the withdrawal of Final Order C-08-086-09-FO01. 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 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-086-08-SC01 (Statement of Charges), entered January 26, 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, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees 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.

CONSENT ORDER
C-08-086-12-CO02
PAUL FRANKLIN

1

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Based upon the foregoing:

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

B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing before an administrative law judge, and that he hereby waives his right to a hearing and any and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

C. **Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$3,250, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

D. **Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee of \$744, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order. Payment of the \$3,250 fine and \$744 investigation fee may be combined into one cashier's check.

E. **Withdrawal of Final Order.** Respondent represents that he was never served with Final Order C-08-086-09-FO01. By her signature below, the Director's designee hereby withdraws Final Order C-08-086-09-FO01.

F. **Non-Compliance with Order.** It is AGREED that Respondent understands 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, Respondent may be responsible to reimburse the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

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

H. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent Order in its entirety and fully understand and agree to all of the same.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RESPONDENT:

PAUL FRANKLIN

4/14/2012
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 18th DAY OF April, 2012.



[Redacted Signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Approved by:

[Redacted Signature]

CHARLES E. CLARK
Enforcement Chief

1
2
3
4
5
6
7
8
9

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

NO. C-08-086-09-FO01

PACIFIC INTERNATIONAL MORTGAGE INC,
and NILS GERHOLD, Designated Broker, and
PAUL FRANKLIN, Loan Originator,

FINAL ORDER
PAUL FRANKLIN

Respondents.

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of
Financial Institutions of the State of Washington (Director), through his designee, Consumer Services
Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On January 26, 2009, the
Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of
Charges and Notice of Intention to Enter an Order to Suspend Mortgage Broker License and Loan
Originator License, Prohibit from Industry, Impose Fine, Order Restitution and Collect Investigation
Fee (Statement of Charges). 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 January
27, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for
Adjudicative Hearing for each Respondent. The Department served the Statement of Charges, cover
letter, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for
Adjudicative Hearing (Statement of Charges Packet) on Respondents Pacific International Mortgage
Inc. and Nils Gerhold on January 28, 2009 by First Class mail and by Federal Express overnight
delivery.

1 On January 27, 2009, the Department sent the Statement of Charges Packet to Respondent Paul
2 Franklin via First Class mail and Federal Express overnight delivery. On January 30, 2009, the
3 documents sent via First Class mail to Respondent Paul Franklin's address of record were returned by
4 the United States Post Office as undeliverable. The Department obtained a new address for
5 Respondent Paul Franklin, and on February 2, 2009, the Department sent the Statement of Charges
6 Packet via first class mail to Respondent Paul Franklin at the new address.

7
8 On February 12, 2009, the documents sent on January 28, 2009 to Respondent Paul Franklin's
9 address of record via Federal Express overnight delivery were returned to the Department as
10 undeliverable. On February 18, 2009, the Department resent the Statement of Charges Packet to the
11 new address the Department obtained for Respondent Paul Franklin via Federal Express overnight
12 delivery. On February 27, 2009, the Statement of Charges packet sent to Respondent Paul Franklin via
13 Federal Express overnight delivery was returned by Federal Express as undelivered. The Statement of
14 Charges Packet sent via First Class mail on February 2, 2009 was not returned to the Department by
15 the United States Post Office.

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

19
20 B. Record Presented. The record presented to the Director's designee for her review and
21 for entry of a final decision included the Statement of Charges, cover letter dated January 27, 2009,
22 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative
23 Hearing for Respondent Paul Franklin, with documentation of service.

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

3
4 II. FINAL ORDER

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

7 A. IT IS HEREBY ORDERED, That:

- 8 1. Respondent Paul Franklin is banned from participation in the conduct of the affairs of
9 any mortgage broker subject to licensure by the Director, in any manner, for a period
10 of five (5) years; and
11 2. Respondent Paul Franklin shall pay a fine of \$3,250.
12 3. Respondent Paul Franklin shall pay investigation costs of \$744.

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

E. Non-compliance with Order. If you do not comply with the terms of this order, the Department may seek its enforcement by the Office of Attorney General to include the collection of the fines, fees and restitution imposed herein.

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

DATED this 25th day of March, 2009.

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS



DEBORAH BORTNER
DIRECTOR
DIVISION OF CONSUMER SERVICES



1
2
3
4
5
6
7
8
9
10

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

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

NO. C-08-086-08-SC01

PACIFIC INTERNATIONAL MORTGAGE
INC, and NILS GERHOLD, Designated Broker,
and PAUL FRANKLIN, Loan Originator,

Respondents.

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO SUSPEND MORTGAGE BROKER
LICENSE and LOAN ORIGINATOR LICENSE,
PROHIBIT FROM INDUSTRY, IMPOSE FINE,
ORDER RESTITUTION, AND COLLECT
INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to RCW 19.146.210 and 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. Pacific International Mortgage (Respondent Pacific) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on December 29, 2003, and continues to be licensed to date. Respondent Pacific is licensed to conduct the business of a mortgage broker at 5808 Lake Washington Blvd, Suite 101, Kirkland, Washington. Respondent Pacific closed its branch office at 4700 42nd SW, Seattle, Washington on or about June 26, 2007.

¹ RCW 19.146 (2007)

1 B. Nils Gerhold (Respondent Gerhold) became the Designated Broker of Respondent Pacific on or
2 about September 24, 2007 and continues as the Designated Broker to date.

3 C. Paul Franklin (Respondent Franklin) acted as a loan originator for Respondent Pacific between at
4 least January 2007 and December 2007.

5 **1.2 Unlicensed Activity.** Respondent Franklin conducted the business of a loan originator at Respondent
6 Pacific's office located in Kirkland, Washington, from at least January 2007 through December 2007. To date,
7 the Department has not issued a license to Respondent Franklin to conduct the business of a loan originator
8 from any location.

9 **1.3** Between January 2007 and December 2007, Respondent Franklin assisted at least three (3) borrowers in
10 applying to obtain or obtaining residential mortgage loans on property located in the State of Washington from
11 Respondent Pacific's office.

12 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
13 Respondents continues to date.

14 II. GROUNDS FOR ENTRY OF ORDER

15 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
16 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
17 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
18 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
19 person in obtaining or applying to obtain a residential mortgage loan.

20 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006, "Loan
21 Originator" means a natural person who (a) takes a residential mortgage loan application for a mortgage broker,
22 or (b) offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in
23 expectation of direct or indirect compensation or gain. "Loan Originator" also includes a person who holds
24 themselves out to the public as able to perform any of these activities.

25

1 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(2), a “Borrower” is defined as any person who
2 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information
3 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself
4 or herself, regardless of whether the person actually obtains such a loan.

5 **2.4 Requirement to Obtain or Maintain Loan Originator License.** Based on the Factual Allegations set
6 forth in Section I above, Respondent Franklin is in apparent violation of RCW 19.146.0201(2) and (3), RCW
7 19.146.200(1), and WAC 208-660-350(3) for engaging in the business of a loan originator without first
8 obtaining and maintaining a license under the Act.

9 **2.5 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC 208-660-
10 155(3), a licensed mortgage broker is liable for any conduct violating the Act by the designated broker or loan
11 originator employed or engaged by the licensed mortgage broker. Pursuant to RCW 19.146.200(4)(a) and (b), a
12 designated broker or principal of a licensed mortgage broker is liable for an employee’s violations of the act if
13 the designated broker or principal directs or instructs the conduct or with knowledge of the specific conduct
14 approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry should have known
15 of the conduct at the time when its consequences can be avoided or mitigated and fails to take reasonable
16 remedial action.

17 **2.6 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
18 apparent violation of RCW 19.146.0201(1) and (2) for directly or indirectly employing a scheme, device or
19 artifice to defraud or mislead borrowers or lenders or any person or engaging in an unfair or deceptive practice
20 toward any person.

21 **III. AUTHORITY TO IMPOSE SANCTIONS**

22 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2)(b),(d), and (e), the Director may
23 suspend a license for any violation of chapter 19.146 RCW.

24 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a),(b) and (d), the Director
25 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a

1 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
2 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
3 (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,
4 false statements or omission of material information on the application that, if known, would have allowed the
5 Director to deny the application for the original license, or failure to comply with a directive or order of the
6 Director.

7 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(b),(d) and (e) and RCW 19.146.220(3) (a)
8 and (b), the Director may impose fines on a licensee, employee or loan originator of the licensee, or other
9 person subject to the Act for any violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030
10 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), RCW 19.146.265, failure to comply with a
11 directive or order of the Director or any violation of Chapter 19.146 RCW..

12 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(b),(d) and (e), the Director may issue
13 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution.

14 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(5),
15 upon completion of any investigation of the books and records of a licensee or other person subject to the Act,
16 the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the
17 investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per hour that
18 each staff person devoted to the investigation.

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

20 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
21 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
22 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223.

23 Therefore, it is the Director's intention to ORDER that:

24 **4.1 Respondent Pacific International Mortgage's license to conduct the business of a mortgage broker be**
25 **suspended; and**

- 1 **4.2** Respondent Nils Gerhold's license to conduct the business of a loan originator and designated broker be
2 suspended; and
- 3 **4.3** Respondent Paul Franklin be prohibited from participation in the conduct of the affairs of any mortgage
4 broker subject to licensure by the Director, in any manner, for a period of (5) years; and
- 5 **4.4** Respondent Pacific International Mortgage, Respondent Nils Gerhold, Respondent Paul Franklin jointly
6 and severally pay a fine, which as of the date of these charges totals \$11,250; and
- 7 **4.5** Respondent Pacific International Mortgage, Respondent Nils Gerhold, Respondent Paul Franklin jointly
8 and severally refund all fees that inured to Respondents' benefit to the borrowers referenced in paragraphs
9 1.2 through 1.3; and
- 10 **4.6** Respondent Pacific International Mortgage, Respondent Nils Gerhold, Respondent Paul Franklin jointly
11 and severally pay an investigation fee in the amount of \$1,008 calculated at \$48 per hour for the twenty-
12 one (21) staff hours, as of the date of this Statement of Charges, devoted to the investigation; and
- 13 **4.7** Respondents maintain records in compliance with the Act and provide the Department with the location of
14 the books, records and other information relating to Respondent Pacific's mortgage broker business, and
15 the name, address and telephone number of the individual responsible for maintenance of such records in
16 compliance with the Act.
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

V. AUTHORITY AND PROCEDURE

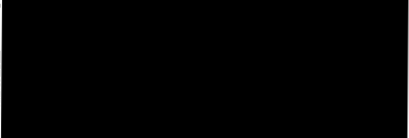
This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 21st day of January, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



MARNIE SHIFFRAN
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief