

Terms Completed

CONSENT ORDER SUMMARY – Case Number: C-09-210

Name(s): Robert K. Winston

Order Number: C-09-210-11-CO03

Effective Date: December 7, 2011

License Number: NMLS 72150
(Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect: None

Not Apply Until: December 7, 2012, for license as MB or CLA.

Prohibition/Ban Until: None

Investigation Costs	\$ 20,000	Due 12/7/11	Paid - Yes	Date 11/29/11
Fine	\$ 30,000	Due 12/7/11	Paid - Yes	Date 11/29/11
Assessment(s)	\$ 0	Due	Paid	Date
Restitution	\$ 0	Due	Paid	Date
	No. of Victims:	N/A		

Other: Respondent admitted to not acting on suspicions, and agreed to neither admit nor deny the factual allegations in the SOC. He further agreed not to take any action or make any public statement creating the impression the CO was without factual basis.

Special Instructions: Respondent agreed to comply with the CLA and MBPA, and to an examination of his consumer loan branch will be subject to an examination at the Department's discretion and at Respondents cost, not to exceed \$10,000, covering the period from 1/1/10 through 12/31/11.

In light of the above, please send a copy of this CO Summary, along with the CO, to Rick St. Onge in the Examinations Unit. See below.

Distribution: Original to Enforcement File
Copy to Examinations Supervisor with copy of Consent Order
Copy to Licensing Supervisor with Licensing File and copy of Consent Order
Information to Database(s) – Branch, Individual, Contact Person

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **DIVISION OF CONSUMER SERVICES**

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

5 TAMMY M. FOUTS, COREY D. GILE, and
6 ROBERT K. WINSTON,

7 Respondents.

No. C-09-210-11-CO03

8 **CONSENT ORDER AS TO**
9 **RESPONDENT ROBERT K. WINSTON**

10 COMES NOW the Director of the Department of Financial Institutions (Director), by and
11 through his designee Deborah Bortner, Division Director, Division of Consumer Services, and
12 Robert K. Winston (Respondent), by and through his attorney, Thomas D. Bigsby, and finding that
13 the issues raised in the above-captioned matter may be economically and efficiently settled, agree to
14 the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of the
15 Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act,
16 based on the following:

17 **AGREEMENT AND ORDER**

18 The Department of Financial Institutions, Division of Consumer Services (Department) and
19 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges
20 No. C-09-210-10-SC01 (Statement of Charges), entered September 8, 2010, incorporated herein by
21 reference and attached hereto. Pursuant to RCW 31.04, the Consumer Loan Act (the Act), and
22 RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's
23 entry of this Consent Order as related to Respondent. The parties intend this Consent Order to fully
24 resolve the Statement of Charges as to Respondent.

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1 Based upon the foregoing:

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

4 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
5 hearing before an administrative law judge, and hereby waives his right to a hearing and any and all
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached
7 herein. Accordingly, by his signature and the signature of his representative below, Respondent
8 withdraws his appeal to the Office of Administrative Hearings.

9 **C. Admissions.** Respondent admits that he did not act on his suspicions that unlicensed
10 activity as alleged in the Statement of Charges was occurring. With that exception Respondent
11 neither admits nor denies the Factual Allegations of the Statement of Charges. Respondent further
12 AGREES not to take any action or to make or permit to be made any public statement creating the
13 impression that this Consent Order is without factual basis. Nothing in this paragraph affects
14 Respondent's (a) testimonial obligations; (b) right to take legal or factual positions in defense of
15 litigation; or (c) right to make public statements that are factual.

16 **D. Compliance with the Law.** It is AGREED that Respondent shall comply with the
17 provisions of the Act, RCW 31.04, and the Mortgage Broker Practices Act, RCW 19.146.

18 **E. Compliance Examination.** It is AGREED that in 2012, Respondent's licensed consumer
19 loan branch, doing business as Absolute Mortgage and located at 203 130th Street SE in Everett,
20 Washington, shall be subject to an examination of its operations. The Department will conduct the
21 examination at the Department's discretion and at Respondent's expense, not to exceed \$10,000. It
22 is further AGREED that the examination will consist of both a for-cause examination related to
23 licensing issues and a full compliance examination to determine Respondent's compliance with the
24 Act from January 1, 2010, to December 31, 2011.

1 **F. Authority of the Department.** It is AGREED that nothing in this Consent Order shall be
2 construed as preventing the Department from fully exercising its authority to regulate and enforce
3 any provision of the Act and rules.

4 **G. Future Applications.** It is AGREED that subject to compliance with this Consent Order,
5 the conduct giving rise to the Statement of Charges will not be considered by the Department in the
6 assessment of any future mortgage loan originator applications or renewal requests by Respondent.
7 It is further AGREED that Respondent shall be required to meet any and all loan originator license
8 application requirements in effect at the time of application or renewal.

9 **H. Agreement Not to Apply.** It is AGREED that Respondent will not apply to the
10 Department to conduct business as a consumer loan company or mortgage broker under any name or
11 on behalf of any person or entity for a period of one year from the date of entry of this Consent
12 Order. This provision will not preclude Respondent from applying for or renewing his mortgage
13 loan originator license. It is further AGREED that should Respondent apply to the Department to
14 conduct business as a consumer loan company or mortgage broker under any name after one year
15 from the date of entry of this Consent Order, Respondent shall be required to meet any and all
16 application requirements in effect at the time of application.

17 **I. Fine.** It is AGREED that upon entry of this Consent Order Respondent shall pay to the
18 Department a fine in the amount of \$30,000, in the form of a cashier's check made payable to the
19 "Washington State Treasurer."

20 **J. Investigation Fee.** It is AGREED that upon entry of this Consent Order Respondent shall
21 pay to the Department an investigation fee in the amount of \$20,000, in the form of a cashier's check
22 made payable to the "Washington State Treasurer." The Fine and Investigation Fee may be paid
23 together in one \$50,000 cashier's check made payable to the "Washington State Treasurer."

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1 **K. Non-Compliance with Order.** It is AGREED that Respondent understands that failure
2 to abide by the terms and conditions of this Consent Order may result in further legal action by the
3 Director. In the event of such legal action, Respondent may be responsible to reimburse the Director
4 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

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

7 **M. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read
8 this Consent Order in its entirety and fully understands and agrees to all of the same.

9
10 **Robert K. Winston**

11 _____
12 /s/ Robert K. Winston

_____ 11-30-11
Date

13
14 APPROVED AS TO FORM
15 Thomas D. Bigsby, PLLC

16 _____
17 /s/ Thomas D. Bigsby, WSBA No. 378
Attorneys for Respondent

_____ 11-30-11
Date

18 **DO NOT WRITE BELOW THIS LINE**

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1 THIS ORDER ENTERED THIS 7th DAY OF December, 2011.

2
3 /s/ _____
4 DEBORAH BORTNER
5 Director, Division of Consumer Services
6 Department of Financial Institutions

7 Presented by:

8 /s/ _____
9 ANTHONY W. CARTER
10 Senior Enforcement Attorney

11 Approved by:

12 /s/ _____
13 JAMES R. BRUSSELBACK
14 Enforcement Chief

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

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

TAMMY M. FOUTS, COREY D. GILE, and
ROBERT K. WINSTON,
Respondents.

NO. C-09-210-10-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENT TO ENTER AN ORDER TO
REVOKE LICENSES, PROHIBIT FROM
INDUSTRY, IMPOSE FINES, AND COLLECT
INVESTIGATION FEES

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, 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). 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Tammy Marie Fouts (Fouts) was licensed by the Department of Financial Institutions (Department) as a loan originator working for Loan Network, LLC (Loan Network), a Department-licensed consumer loan company based in Renton, Washington, from about January 2, 2007, through December 31, 2008. On or about December 2, 2008, the Department licensed a new branch of Loan Network located in Kent, with Respondent Fouts as the branch manager. The branch was closed on or about February 9, 2009. From around February 2009 to around April 16, 2009, Respondent Fouts worked as an independent contractor originating residential mortgage loans for Primary Residential Mortgage, Inc. (PRMI), a Department-licensed consumer loan company based in Utah. Respondent Fouts resides in Renton, Washington, with her husband Corey D. Gile and is not presently licensed with the Department.

B. Corey Duane Gile (Gile) was licensed by the Department as a loan originator working for Loan Network from about January 3, 2007, through December 31, 2008. From around December 2008 through

1 around February 2009 Respondent Gile worked as the sales manager for the new branch of Loan Network
2 where Respondent Fouts was the branch manager. From around February 2009 to around April 21, 2009,
3 Respondent Gile worked as an independent contractor originating residential mortgage loans for PRMI.
4 Respondent Gile is not presently licensed with the Department.

5 **C. Robert Keith Winston (Winston)** was licensed by the Department as the designated broker of BJK
6 Winston Enterprises, Inc., d/b/a Financial Advantage Home Loan Center (Financial Advantage), a Department-
7 licensed mortgage broker, from about September 28, 2004, through October 8, 2009. Financial Advantage was
8 located at 203 130th Street SE in Everett, Washington. From about December 9, 2008, through June 2, 2009,
9 Respondent Winston managed a licensed branch of PRMI at the same location. Respondent Winston is
10 presently licensed by the Department as a mortgage loan originator for Pinnacle Capital Mortgage Corporation,
11 a Department-licensed consumer loan company based in California. Respondent Winston is presently
12 managing an Everett branch at the same location under the trade name Absolute Mortgage.

13 **1.2 Background.** Shortly after opening the new branch of Loan Network, Respondents Fouts and Gile
14 decided to leave Loan Network and find a different consumer loan company with whom they could associate.
15 They were eventually referred by a PRMI recruiter to Respondent Winston.

16 **1.3** After meeting, Respondents Fouts, Gile, and Winston decided they would open a satellite branch of
17 Respondent Winston's existing PRMI branch. A satellite branch relies on the sponsoring branch's loan
18 production and finances to qualify for association with PRMI. Respondents Fouts and Gile hoped that they
19 could quickly and easily open a satellite branch by relying on Respondent Winston's loan production, finances,
20 and recent experience getting licensed through PRMI.

21 **1.4** On or about January 28, 2009, Respondent Fouts applied to PRMI to become the branch manager of the
22 new satellite branch. Around the same date, Respondent Fouts informed Loan Network that effective February
23 28, 2009, she and Respondent Gile would be transferring with their staff to another consumer loan company.

24 **1.5** On or about February 1, 2009, Respondent Gile applied to become a loan originator for PRMI. On or
25 about February 5, 2009, PRMI notified Respondent Winston that Respondent Fouts had not been approved as a

1 satellite branch manager. On or about February 11, 2009, Respondent Winston requested that PRMI consider
2 Respondent Gile as the satellite branch manager. On or about February 19 and 26, 2009, respectively,
3 Respondents Fouts and Gile were hired as loan originators for PRMI, assigned to Respondent Winston's
4 licensed Everett branch location.

5 **1.6** Sometime in March 2007, and again on April 14, 2007, PRMI notified Respondent Winston that due to
6 his financial condition, PRMI would not consider opening a satellite branch of Respondent Winston's licensed
7 Everett branch. Respondent Fouts, Gile, and Winston were never approved by PRMI to open a satellite branch
8 of PRMI. Neither Respondent Fouts nor Respondent Gile, nor any of the PRMI-approved or non-approved loan
9 originators they hired were ever approved by PRMI to originate loans from any location other than Respondent
10 Winston's licensed Everett branch.

11 **1.7 Unlicensed Locations.** Respondents Fouts, Gile, and Winston operated an unlicensed satellite branch of
12 Respondent Winston's licensed Everett branch from two locations:

- 13 **A.** In Kent, Washington, at 18000 72nd Avenue South, Suite 102, the South Branch was in
14 operation from on or about February 16, 2009, to on or about April 1, 2009; and
15 **B.** In Renton, Washington, at 19400 108th Avenue Southeast, Suite 100, the South Branch
16 was in operation from on or about April 1, 2009, to on or about April 16, 2009.

17 **1.8 Unlicensed Activity.** From about January 2009 through April 2009, including while operating from the
18 unlicensed locations specified in paragraph 1.7, Respondents Fouts, Gile, and Winston:

- 19 **A.** Originated or assisted in the origination of at least 60 residential mortgage loans on real
20 property located in Washington;
21 **B.** Hired at least eight PRMI-approved and at least nine non-approved employees and loan
22 originators;
23 **C.** Printed business cards using the Kent address and PRMI logo for some of their PRMI-
24 approved and non-approved employees and loan originators;
25 **D.** Arranged for the leasing of office space and equipment at the Renton location;
26 **E.** Conducted a Sales Meeting at the Renton location where Respondents Fouts and Gile:
27 i. Identified the Renton address, phone, and facsimile numbers;
28 ii. Identified Respondents Fouts, Gile, and Winston as owners of the branch; and
29 iii. Requested that questions or concerns be addressed to the Renton management team.

- 1 **F.** Prepared and distributed a phone list for the Renton location that:
- 2 i. Identified the unlicensed Renton location as the “South Branch,” and Respondent
- 3 ii. Instructed employees to use Respondent Winston’s address at his licensed Everett
- 4 iii. Identified Respondent Fouts as the “Branch/Operations Mgr” and Respondent Gile
- 5 iv. Identified at least 17 employees as loan originators.

6 **1.9 Unlicensed Activity: Kent Location.** On or about February 16 and 17, 2009, Respondent Winston

7 originated at least seven residential mortgage loans on behalf of Respondents Fouts, Gile, or their staff. When

8 approved as PRMI loan originators, those loans were subsequently assigned to, and re-originated by

9 Respondents Fouts, Gile, or one of their PRMI-approved loan originators. Between about February 25, 2009,

10 and April 1, 2009, Respondents Fouts, Gile, and Winston originated, or assisted in the origination of, at least 25

11 additional residential mortgage loans on Washington property from the unlicensed Kent location.

12 **1.10 Unlicensed Activity: Renton Location.** Between about April 1, 2009, and April 16, 2009, Respondents

13 Fouts, Gile, and Winston originated, or assisted in the origination of, at least 20 additional residential mortgage

14 loans on Washington property from the unlicensed Renton location.

15 **1.11 Unlicensed Renton Location Closure.** On or about April 16, 2009, Leo McIsaac, PRMI’s Vice

16 President of Human Resources, met with Respondents Fouts and Gile at the unlicensed Renton location. Mr.

17 McIsaac took photographs of the location, interviewed employees, and collected business cards and loan files.

18 Mr. McIsaac advised Respondents Fouts, Gile, and Winston that PRMI was immediately shutting down the

19 unlicensed branch location. Respondent Fouts objected to the action, claiming that the location belonged to

20 Respondent Gile and not to PRMI. Respondents Fouts and Gile secreted business cards, phone lists, and loan

21 files, and refused to provide Mr. McIsaac with some of the PRMI loan files. Respondent Gile claimed that the

22 location did not need to be licensed, asserting that loan officers can originate loans from any location.

23 **1.12** On or about April 16, 2009, Respondent Fouts resigned from PRMI. On or about April 17, 2009,

24 Respondent Winston instructed one of his employees to create a new phone list, remove all references to the

25 unlicensed Renton location, and distribute the new list to all employees with instructions to shred the South

1 Branch phone list. Respondent Winston further instructed an employee with a copy of the South Branch phone
2 list to "make sure this disappears."

3 **1.13** On or about April 21, 2009, Mr. McIsaac informed Respondent Winston that PRMI was terminating him
4 for cause. Respondent Winston subsequently advised a client that he had been dropped by PRMI because he
5 had operated an unlicensed branch in Renton. Respondent Gile resigned from PRMI on or about the same date.
6

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

8 **2.1 Unlicensed Activity.** Based on the Factual Allegations set forth in Section II above, Respondents Fouts,
9 Gile, and Winston are in apparent violation of RCW 31.04.027(2), RCW 31.04.035, RCW 31.04.075, and
10 WAC 208-620-300 for conducting business as a consumer loan company from unlicensed locations.

11 **2.2 Requirement to Conduct Business in a Manner that is not Injurious or Illegal.** Based on the Factual
12 Allegations set forth in Section II above, Respondent Winston is in apparent violation of RCW 31.04.165 by
13 conducting business in an injurious manner that violated the Act or that created the reasonable likelihood of a
14 violation of any provision of the Act.
15

16 **III. AUTHORITY TO IMPOSE SANCTION**

17 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3)(b), the Director may revoke a license if a
18 licensee violates any provision of the Act or any rule adopted under the Act.

19 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), the Director may issue an
20 order prohibiting from participation in the affairs of any licensee any person subject to the Act for a violation of
21 RCW 31.04.027.

22 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
23 hundred dollars per day upon any person subject to the Act for any violation of the Act.

24 **3.4 Authority to Charge Investigation Fees.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590, every
25 licensee investigated by the Department shall pay for the cost of the investigation.

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IV. NOTICE OF INTENT TO ENTER ORDER

Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intent to ORDER that:

- 4.1 Respondent Tammy Marie Fouts be prohibited from participation in the conduct of the affairs of any licensed consumer loan company, in any manner, for a period of five years;
- 4.2 Respondent Corey Duane Gile be prohibited from participation in the conduct of the affairs of any licensed consumer loan company, in any manner, for a period of five years;
- 4.3 Respondent Robert Keith Winston's license to conduct business as a branch loan originator for Pinnacle Capital Mortgage Corporation be revoked;
- 4.4 Respondent Robert Keith Winston be prohibited from participation in the conduct of the affairs of any licensed consumer loan company, in any manner, for a period of five years;
- 4.5 Respondents Tammy Marie Fouts, Corey Duane Gile, and Robert Keith Winston, jointly and severally pay a fine, which as of the date of these charges totals \$50,000 for the violations set forth above; and
- 4.6 Respondents Tammy Marie Fouts, Corey Duane Gile, and Robert Keith Winston, jointly and severally pay an investigation fee, which as of the date of these charges totals \$5,865.85, calculated at \$69.01 per hour for 85 staff hours devoted to the investigation.

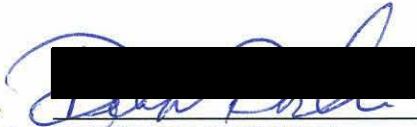
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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intent to Enter an Order to Revoke Licenses, Prohibit from Industry, Impose Fine, and Collect Investigation Fees is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW. 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.

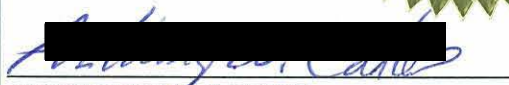
Dated this 7th day of September, 2010.





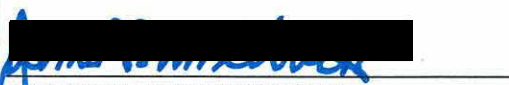
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



ANTHONY W. CARTER
Enforcement Attorney

Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief