



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

MITIGATION ONLINE CONSULTANTS, and
ROBERT D. LONARDO, JR., CEO and Owner,

Respondents.

NO. C-09-220-11-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. On February 12, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to 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 February 17, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Mitigation Online Consultants and Robert D. Lonardo, Jr. The Department served the Statement of Charges, cover letter dated February 17, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Mitigation

1 Online Consultants and Robert D. Lonardo, Jr. on Respondents on February 17, 2010, by First-Class
2 mail.

3 On March 12, 2010, Respondents each filed an Application for Adjudicative Hearing. On July
4 21, 2010, the Department made a request to the Office of Administrative Hearings (OAH) to assign an
5 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On
6 July 28, 2010, ALJ Craig Davenport (ALJ Davenport) issued a Notice of Prehearing Telephone
7 Conference scheduling a prehearing conference on Thursday, September 2, 2010, at 3:30 p.m. The
8 Notice of Prehearing Telephone Conference contained the following warning: "Default: If you fail to
9 participate in the prehearing conference, hearing, or any other scheduled stage of these proceedings,
10 you may lose your right to a hearing as described in RCW 34.05.440 and RCW 18.27.270." A copy of
11 the Notice of Prehearing Telephone Conference was mailed to Respondents at their address of record.
12

13 On September 2, 2010, a representative for the Department attended the telephonic prehearing
14 conference but Respondents did not appear or otherwise attend or participate. On September 14, 2010,
15 ALJ Davenport issued an Order of Default. A copy of the Order of Default was mailed to Respondents
16 at their address of record.

17 On September 24, 2010, Respondents filed a request with ALJ Davenport to reconsider the
18 Order of Default and reschedule the Prehearing Telephone Conference based upon Respondent
19 Lonardo's claim that he had missed the September 2, 2010, hearing due to the death of his girlfriend.
20 On September 25, 2010, ALJ Davenport issued a Motion to Vacate Order of Default and Notice of
21 Motion Hearing scheduling a hearing for Wednesday, October 13, 2010, at 4:00 p.m. A copy of the
22 Motion to Vacate Order of Default and Notice of Motion Hearing was mailed to Respondents at their
23 address of record.
24
25

1 On October 13, 2010, a representative for the Department and Respondents attended the
2 motion hearing by telephone. The Department presented evidence that the person whose funeral
3 Respondent Lonardo claimed to have attended on September 2, 2010, did not die until September 13,
4 2010, and the parties agreed to continue the hearing to permit Respondents time to rebut the
5 Department's evidence. On October 14, 2010, ALJ Davenport issued an Order of Continuance
6 rescheduling the Motion to Vacate hearing to Thursday, October 21, 2010, at 4:00 p.m. A copy of the
7 Order of Continuance was mailed to Respondents' address of record.
8

9 On October 21, 2010, a representative for the Department and Respondents attended the
10 motion hearing by telephone. The Department presented a certified copy of a Death Certificate
11 showing that the person whose funeral Respondent Lonardo claimed to have attended on September 2,
12 2010, did not die until September 13, 2010. At that point Respondent Lonardo notified ALJ
13 Davenport that Respondents would no longer participate in the hearing and hung up the telephone. On
14 November 2, 2010, ALJ Davenport entered an Order of Denying Respondent's Motion to Set Aside
15 Default denying Respondents' motion and affirming the original Order of Default. A copy of the
16 Order of Denying Respondent's Motion to Set Aside Default was mailed to Respondents at their
17 address of record.
18

19 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had 20 days from the
20 date of service of the Order of Denying Respondent's Motion to Set Aside Default to file a Petition for
21 Review with the Director. Respondents did not file a Petition for Review during the statutory period.

22 B. Record Presented. The record presented to the Director for his review and for entry of
23 a final decision included the following:

- 24 1. Statement of Charges, cover letter dated February 17, 2010, and Notice of
25 Opportunity to Defend and Opportunity for Hearing, with documentation of service;

2. Applications for Adjudicative Hearing for Mitigation Online Consultants and Robert D. Lonardo, Jr.;
3. Request to OAH for Assignment of Administrative Law Judge;
4. Notice of Prehearing Telephone Conference dated July 8, 2010, with documentation of service;
5. Order of Default dated September 14, 2010, with documentation of service;
6. Motion to Vacate Order of Default and Notice of Motion Hearing dated September 25, 2010, with documentation of service;
7. Order of Continuance dated October 14, 2010, with documentation of service;
8. Order of Denying Respondent's Motion to Set Aside Default dated November 2, 2010, with documentation of service;

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director hereby adopts the Statement of Charges, which is attached hereto.

II. FINAL ORDER

Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

A. IT IS HEREBY ORDERED, that:

1. Respondent Mitigation Online Consultants 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 years;
2. Respondent Robert D. Lonardo, Jr., 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 years;
3. Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., jointly and severally pay a fine which as of the date of these charges totals \$10,000;
4. Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., jointly and severally pay restitution to borrower J.C. in the amount of \$1,500;

1 5. Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., jointly
2 and severally pay an investigation fee which as of the date of these charges totals \$960,
3 calculated at \$48 per hour for the 20 examiner hours devoted to the investigation; and

4 6. Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., maintain
5 records in compliance with the Act and provide the Department with the location of the
6 books, records, and other information relating to Respondents' mortgage broker business,
7 and the name, address and telephone number of the individual responsible for
8 maintenance of such records in compliance with the Act.

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

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

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

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

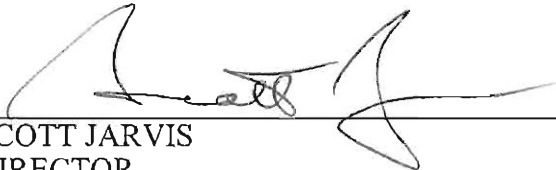
1 E. Non-compliance with Order. If you do not comply with the financial terms of this order,
2 the Department may seek its enforcement by the Office of Attorney General to include the collection of
3 the fines, fees, and restitution imposed herein.

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

7
8 DATED this 16th day of September, 2011.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS


SCOTT JARVIS
DIRECTOR

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

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

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

NO. C-09-220-10-SC01

MITIGATION ONLINE CONSULTANTS, and
ROBERT D. LONARDO, JR., CEO and Owner,

Respondents.

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO 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 19.146.235, 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. Mitigation Online Consultants (Respondent Mitigation Online) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker.

B. Robert D. Lonardo, Jr., (Respondent Lonardo) is known to be the CEO and Owner of Respondent Mitigation Online.

1.2 Unlicensed Activity. On or about January 22, 2009, Respondents contracted with a Washington home owner to provide loan modification services. Respondents were paid a fee of \$1,500 for the loan modification services.

¹ RCW 19.146 (2006-2009)

1 **1.3 Providing False Information to the Department.** On or about February 27, 2009, the Department
2 sent a Directive to Respondents asking Respondents to state under penalty of perjury whether Respondents were
3 currently or had ever assisted any person with modifying the terms of a residential mortgage loan. Respondents
4 responded that they were not and had not provided loan modification services in Washington. The Department
5 subsequently obtained a copy of a contract between Respondents and Washington resident R.S.-C₂ to provide
6 loan modification services for a residential mortgage loan on property in Washington.

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

9 II. GROUNDS FOR ENTRY OF ORDER

10 **2.1 Requirement to Obtain a Mortgage Broker License.** Based on the Factual Allegations set forth in
11 Section I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a
12 mortgage broker for Washington residents or property without first obtaining a license to do so.

13 **2.2 Negligent False Statement.** Based on the Factual Allegations set forth in Section I above,
14 Respondents are in apparent violation of RCW 19.146.0201(8) for negligently making a false statement in
15 connection with an investigation by the Department.

16 III. AUTHORITY TO IMPOSE SANCTIONS

17 **3.1 Definition of a Mortgage Broker.** Pursuant to RCW 19.146.010(14), "Mortgage broker" means any
18 person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in
19 obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to
20 assist a person in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006,
21 assisting a person in obtaining or applying to obtain a residential mortgage loan includes assisting a person with
22 a loan modification.

23 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
24 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed

1 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
2 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(8) or RCW 19.146.200.

3 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), the Director may impose a fine for any
4 violation of the Act.

5 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e), the Director may order restitution
6 for any violation of the Act.

7 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-550, the
8 Department may collect the costs of investigation. The investigation charge will be calculated at the rate of \$48 per
9 hour that each examiner devoted to the investigation.

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

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

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

15 **4.1** Respondent Mitigation Online Consultants be prohibited from participation in the conduct of the affairs of
16 any mortgage broker subject to licensure by the Director, in any manner, for a period of five years;

17 **4.2** Respondent Robert D. Lonardo, Jr., be prohibited from participation in the conduct of the affairs of any
18 mortgage broker subject to licensure by the Director, in any manner, for a period of five years;

19 **4.3** Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., jointly and severally pay a fine
20 which as of the date of these charges totals \$10,000;

21 **4.4** Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., jointly and severally pay
22 restitution to borrower J.C. in the amount of \$1,500;

23 **4.5** Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., jointly and severally pay an
24 investigation fee which as of the date of these charges totals \$960, calculated at \$48.00 per hour for the 20 examiner
25 hours devoted to the investigation; and

4.6 Respondents Mitigation Online Consultants and Robert D. Lonardo, Jr., maintain records in compliance
with the Act and provide the Department with the location of the books, records, and other information relating to
Respondents' mortgage broker business, and the name, address and telephone number of the individual responsible
for maintenance of such records in compliance with the Act.

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 and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (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 12th day of February, 2010.





DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


STEVEN C. SHERMAN
Financial Legal Examiner

Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief