

TERMS COMPLETED

CONSENT ORDER SUMMARY - Case Number: C-09-455

Name(s) Arase Law Firm
David Arase

Order Number C-09-455-10-CO01

Effective Date September 21, 2010

License Number U/L

License Effect N/A

Not Apply until September 21, 2015

Prohibition/Ban until September 21, 2015

Investigation Costs	\$384	Due	Paid Y	Date: 9/14/2010
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Restitution	\$5,495	Due	Paid Y	Date: 9/14/2010
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Monetary Penalty	\$ 4,500	Due	Paid <u>Y</u>	Date:9/21/2010
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Other

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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:

NO. C-09-455-10-CO01

ARASE LAW FIRM, PC and
DAVID ARASE, CEO,

CONSENT ORDER

Respondents.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Arase Law Firm, PC, (Respondent Arase Law Firm) and David Arase, CEO of Arase Law Firm (Respondent Arase), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

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AGREEMENT AND ORDER

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The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-09-455-10-SC01 (Statement of Charges), entered April 27, 2010, (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 may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

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Based upon the foregoing:

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

CONSENT ORDER
C-09-455-10-CO01
Arase Law Firm, PC, and David Arase

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

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

6 **C. Prohibition from Industry.** It is AGREED that Respondents are prohibited from participating in the
7 conduct of the affairs of any mortgage broker licensed by the Department or any person subject to licensure or
8 regulation by the Department or any mortgage broker exempt from Washington law under RCW 19.146.020 for
9 five (5) years from the date of entry of this Consent Order in any capacity, including but not limited to: (1) any
10 financial capacity whether active or passive or (2) as an officer, director, principal, designated broker, employee,
11 or loan originator or (3) any management, control, oversight or maintenance of any trust account(s) in any way
12 related to any residential mortgage transaction or (4) receiving, disbursing, managing or controlling in any way,
13 consumer trust funds in any way related to any residential mortgage transaction.

14 **D. Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$4,500, in the form of a
15 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

16 **E. Restitution.** It is AGREED that Respondents have paid restitution in the aggregate amount of \$5,495
17 to the borrowers and in the amounts more specifically set forth in the subjoined Restitution Schedule.

18 **F. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee
19 of \$384, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
20 Consent Order. Respondents may pay both the fine and investigation fee in the form of one cashier's check made
21 payable to the "Washington State Treasurer" upon entry of this Consent Order.

22 **G. Maintaining Records.** It is AGREED that Respondents shall maintain records in compliance with
23 the Act and provide the Department with the location of the books, records and other information relating to
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1 Respondent Arase Law Firm, PC's loan origination business, and the name, address and telephone number of the
2 individual responsible for maintenance of such records in compliance with the Act.

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

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


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

12 **K. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this
13 Consent Order in its entirety and fully understand and agree to all of the same.


14 **RESPONDENTS:**

15 **Arase Law Firm, PC**

16 By:

17 
18 David Arase
19 CEO

20 9/2/10
Date

21 
22 David Arase
23 Individually

24 9/2/10
Date

25 **DO NOT WRITE BELOW THIS LINE**

1 THIS ORDER ENTERED THIS 21st DAY OF September, 2010.



4 [Redacted signature]

5 DEBORAH BORTNER
6 Director
7 Division of Consumer Services
8 Department of Financial Institutions

9 Presented by:

10 [Redacted signature]

11 DEBORAH PINSONNEAULT
12 Financial Legal Examiner

13 Approved by:

14 [Redacted signature]

15 JAMES R. BRUSSELBACK
16 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:

ARASE LAW FIRM, PC and
DAVID ARASE, CEO,

Respondents.

NO. C-09-455-10-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST, 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). 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. **Arase Law Firm, PC (Arase Law Firm)** is a California corporation located at 270 S. Bristol St., Suite 101 – 303, Costa Mesa, California, 92626. Respondent Arase Law Firm has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions.

B. **David Arase (Arase)** is CEO of Respondent Arase Law Firm. Respondent Arase has never been licensed to conduct the business of a Mortgage Broker or Loan Originator by the Department of Financial Institutions.

1.2 Unlicensed Activity. Between at least January 2009 and the date of this Statement of Charges, Respondent Arase Law Firm and Respondent Arase held out as able to assist at least two consumers in applying

1 to obtain a loan modification on property located in the state of Washington. The consumers involved in these
2 loan modifications paid fees to Respondent Arase Law Firm totaling at least \$5,495.

3 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
4 Respondents continues to date.

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

6 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14), "Mortgage Broker" means any
7 person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in
8 obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to
9 assist a person in obtaining or applying to obtain a residential mortgage loan.

10 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11)(a), "Loan originator" means a
11 natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
12 compensation or gain (i) takes a residential mortgage loan application for a mortgage broker, or (ii) offers or
13 negotiates terms of a mortgage loan. "Loan originator" also includes a person who holds themselves out to the
14 public as able to perform any of these activities. "Loan originator" does not mean persons performing purely
15 administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or
16 clerical tasks" means the receipt, collection, and distribution of information common for the processing of a
17 loan in the mortgage industry and communication with a borrower to obtain information necessary for the
18 processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not
19 performing administrative or clerical tasks.

20 **2.3 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
21 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
22 broker without first obtaining and maintaining a license under the Act. Individuals negotiating residential
23 mortgage loan terms act as mortgage brokers or loan originators and must be licensed under the Act unless
24 specifically exempt from the Act.

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III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Issue an Order to Cease and Desist. Pursuant to RCW 19.146.220(4), the Director may issue orders directing a licensee, its employee or loan originator, independent contractor, agent, or other person subject to the Act to cease and desist from conducting business.

3.2 Authority to Prohibit from the Industry. Pursuant to RCW 19.146.220(5)(a) and (d), the Director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act for any violation of RCW 19.146.200 or failure to comply with a directive or order of the Director.

3.3 Authority to Impose Fine. Pursuant to RCW 19.146.220(2) and WAC 208-660-530, the Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any violations of RCW 19.146.200 or failure to comply with a directive or order of the Director.

3.4 Authority to Order Restitution. Pursuant to RCW 19.146.220(2), the Director may issue orders directing a licensee or other person subject to the Act to pay restitution.

3.5 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), WAC 208-660-550(4) and WAC 208-660-520(9), upon completion of any investigation of the books and records of a licensee or other person subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per hour that each staff person devoted to the investigation.

IV. NOTICE OF INTENTION TO ENTER ORDER

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

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- 4.1 Respondent Arase Law Firm, PC and Respondent David Arase cease and desist offering loan modification services or otherwise conducting the business of a mortgage broker or loan originator in the state of Washington;
- 4.2 Respondent Arase Law Firm, PC 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;
- 4.3 Respondent David Arase 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;
- 4.4 Respondent Arase Law Firm, PC and Respondent David Arase jointly and severally pay a fine which as of the date of these charges totals \$4,500;
- 4.5 Respondent Arase Law Firm, PC and Respondent David Arase jointly and severally pay restitution in at least the amount of \$5,495 to those consumers more specifically set forth in the attached Restitution Schedule, incorporated herein by reference;
- 4.6 Respondent Arase Law Firm, PC and Respondent David Arase jointly and severally pay an investigation fee which as of the date of these charges totals \$384 calculated at \$48.00 per hour for the eight (8) staff hours devoted to the investigation; and
- 4.7 Respondent Arase Law Firm, PC and Respondent David Arase maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondent Arase Law Firm, PC's loan origination business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act

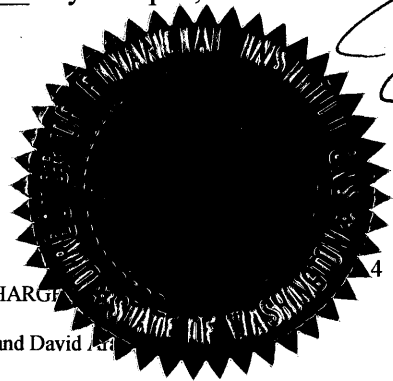
V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit From Industry, Impose Fine, Order Restitution, and Collect Investigation Fee 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 27th day of April, 2010.

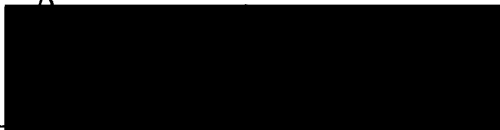


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions



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Presented by:



DEBORAH PINSONNEAULT
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

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RESTITUTION

Borrower	Amount
G.A	\$3,000
M.N.	\$2,495
TOTAL	\$5,495