ORDER SUMMARY – Case Number: C-09-488

Name(s): Financial Solutions Law Group f/k/a Echo Loans, Inc.
Kelly Christensen

Order Number: C-09-488-14-FO01

Effective Date: September 9, 2014

License Number: Unlicensed
Or **NMLS Identifier** [U/L]

License Effect: Cease & Desist

Not Apply Until: September 9, 2019

Not Eligible Until: September 9, 2019

Prohibition/Ban Until: September 9, 2019

Investigation Costs	$1,312.80	Due	Paid ☐ Y ☒ N	Date
Fine	$12,000	Due	Paid ☐ Y ☒ N	Date
Assessment(s)	$	Due	Paid ☐ Y ☐ N	Date
Restitution	$11,400	Due	Paid ☐ Y ☒ N	Date
Judgment	$	Due	Paid ☐ Y ☐ N	Date
Satisfaction of Judgment Filed?		☐ Y ☐ N		
No. of Victims:		4		

Comments:

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: FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN, Managing Partner, Respondent.	NO. C-09-488-14-FO01 OAH No. 2012-DFI-0005 FINAL DECISION & ORDER REVERSING INITIAL ORDER AND GRANTING SUMMARY JUDGMENT

THIS MATTER comes now before SCOTT JARVIS, Director ("Director") of the WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS ("Department"), pursuant to the Findings of Fact, Conclusions of Law,[1] and Initial Order ("Initial Order"), in relation to FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN (as applicable, "Financial Solutions," "Christensen," or "Respondents"), on the Petition for Review of Initial Order ("Petition for Review"), brought by the Division of Consumer Services ("Division") and its counsel of record, Mandy A. Weeks of the Washington Attorney General's Office ("Division's Counsel"), from the Initial Order by Administrative Law Judge Terry A. Schuh ("ALJ"), from which Respondents have lodged a Reply to the Petition for Review of Initial Order ("Reply to Petition"); and the Director having taken into consideration

[1] References to specific Conclusions of Law of the Initial Order are denoted "COL."

the entire record on review, including, without limitation, any pleadings, testimony, and recorded oral and written argument before the ALJ, the Initial Order, the Petition for Review, and the Reply to Petition (collectively, the "Record on Review");

NOW, THEREFORE, the Director issues the following Final Decision and Order:

1.0 RESTATEMENT OF THE FACTS[2]

Respondent Financial Solutions is believed to have been located at 6755 Mira Mesa Blvd., Suite 123-253, San Diego, California. Financial Solutions has never been licensed by the Division to conduct business as a mortgage broker or loan originator in the state of Washington. Respondent Christensen was the managing partner of Financial Solutions. Christensen has never been licensed by the Department to conduct business as a mortgage broker or loan originator in the state of Washington.

Between at least January 2009 and December 2009, Respondent Financial Solutions and Respondent Christensen (collectively, the Respondents) held out as able to assist at least four consumers in applying for and negotiating residential loan modifications on at least four residential properties located in the state of Washington. The Respondents stopped soliciting new clients after June 30, 2009.[3] The consumers involved paid the Respondents fees totaling at least $11,400. The Respondents asserted that, after December 2009, they were no longer doing business in the state of Washington, but they continued to service or attempt to service clients

[2] This is not a substitute for the Findings of Fact of the Initial Order, which are re-affirmed by the Director as they were originally written. However, this Restatement of the Facts is a narrative summarizing those Findings of Fact.

[3] *Declaration of Christensen*, p. 4.

until sometime in April 2010.[4] To date the Respondents have never been licensed by the Department to engage in the business of a mortgage broker or loan originator.

On April 10, 2009, the Department issued an Interpretive Statement asserting that the Mortgage Broker Practices Act codified at Chapter 19.146 RCW provided the Department at that time with the authority to regulate mortgage loan modification services ("2009 Interpretive Statement").[5] Then, effective July 1, 2010, the Washington State Legislature added several specific references regarding "mortgage loan modification services" to Chapter 19.146 RCW, including additions to the definitions of mortgage broker and loan originator to include in those designations persons who perform or offer to perform loan modification services ("2010 Legislation").[6]

On January 6, 2012, the Department issued to the Respondents a 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 ("Statement of Charges"), which sought an order that: (1) Respondents cease and desist from engaging in the business of a mortgage broker or loan originator in State of Washington; (2) Respondents be prohibited for a period of five years from the conduct of the affairs of any mortgage broker subject to license by the Director; (3) Respondents jointly and severally pay a fine in the amount of $12,000; (4) Respondents jointly and severally pay restitution totaling $11,400; and (5) Respondents jointly and severally pay an investigation fee, which now totals $1,312.80. It is clear from the Record on Review

---

[4] *Declaration of Christensen*, p. 5.

[5] *Interpretive Statement re: Mortgage Broker Practices Act (MBPA IS-2009-01) and Consumer Loan Act (CLA IS-2009-01).*

[6] House Bill 2608; Chapter 35, Laws of 2010, 61st Legislature, 2010 Regular Session, Residential Loan Modifications – Licensure.

(including the Statement of Charges) that Respondents were *not* charged with unlicensed conduct that occurred before the publication, on April 10, 2009, of the 2009 Interpretive Statement.

On January 13, 2012, the Respondents filed an Application for an Adjudicative Hearing. The Hearing was held on December 19, 2013. ALJ Schuh then issued the Initial Order on February 5, 2014, granting Respondents' Motion to Dismiss and denying Department's Motion for Summary Judgment.

2.0 ISSUES BEFORE THE DIRECTOR

It is undisputed that the Respondents offered to provide mortgage loan modification services in 2009 to at least four Washington residents and that they were not licensed by the Department either as mortgage brokers or as loan originators. Nor is it disputed that the Mortgage Broker Practices Act ("MBPA")[7] and MBPA Rules[8] comprise the relevant law in this matter. Further, the parties agree that the MBPA and MBPA Rules in effect in 2009 apply. However, the Respondents dispute whether the Department had the authority, *by way of* the 2009 Interpretive Statement and *prior to* the 2010 Legislation, to interpret the MBPA and MBPA Rules so as to regulate providers of mortgage loan modification services. Secondly, the Respondents dispute that they are both "mortgage brokers" and "loan originators" under the MBPA. And thirdly, Respondents contend that they are exempt from the MBPA because one is a law firm and the other an attorney and its managing partner, albeit, in a jurisdiction other than Washington State.

[7] Chapter 19.146 RCW.

[8] Chapter 208-660 WAC.

3.0 DIRECTOR'S CONSIDERATION & DETERMINATION

3.1 The "Plain Meaning Rule" and Ambiguity. The meaning of a statute is a question of law judicial appellate courts review de novo;[9] and in like fashion, the Director may review this question of law de novo and in the Director's capacity as the final arbiter of the interpretation of statutes administered by the Department. In interpreting a statute, a court's fundamental objective is to ascertain and carry out the legislature's intent;[10] and in like manner, this is also the proper objective of the Director. Statutory interpretation begins with a statute's plain meaning.[11] If the meaning of the statute "is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent."[12]

A court (and this Director) should "construe and apply words according to the meaning that they are ordinarily given, taking into account the statutory context, basic rules of grammar, and any special usages stated by the legislature on the face of the statute as part of the statute's context."[13] In this manner, the plain meaning is "derived from what the Legislature said in its enactments," but "discerned from all that the Legislature has said in the statute."[14] If after this inquiry, "the statute remains susceptible to more than one reasonable meaning, the statute is ambiguous and it is appropriate to resort to aids to construction, including legislative history."[15]

---

[9] *State v. Breazeale*, 144 Wn.2d 829, 837, 31 P.3d 1155 (2001).

[10] *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002).

[11] *Lake v. Woodcreek Homeowners Ass'n*, 169 Wn.2d 516, 526, 243 P.3d 1283 (2010).

[12] *Campbell & Gwinn*, 146 Wn.2d at p. 9; *State ex rel. Citizens Against Tolls (CAT) v. Murphy*, 151 Wash.2d 226, 242, 88 P.3d 375 (2004).

[13] *Campbell & Gwinn*, 146 Wn.2d at p. 11.

[14] *Id.*

[15] *Id.* at p.12.

3.2 Textual Canons of Statutory Construction. If a statute is ambiguous, it is permissible for the Director to resort to textual canons of construction to give proper meaning to the statutes enacted by the Legislature which the Director is charged with enforcing. In fact, the Director may assume (as may the courts) that the Legislature is aware of the court's rules of construction when enacting law.[16] In this regard, the statutory provisions at issue in this case – the definition of "loan originator" and, in particular, its use of the phrase "negotiates terms of a mortgage loan" – must be read by reference to the entire MBPA.[17] The Director must avoid interpreting the definition of "loan originator" in a way that would render other provisions of the MBPA superfluous or unnecessary.[18] The Director may apply (as may the courts) certain technical, linguistic canons of construction, but only if applicable.[19] The Director may apply (as may the courts) the "ordinary usage" rule that indicates that "an undefined term should be given its plain and ordinary meaning unless a contrary legislative intent is indicated."[20] In addition, if necessary, the Director may apply (as may the courts) the "dictionary definition" rule, which says that a

---

[16] *State v. Blilie*, 132 Wash.2d 484, 492, 939 P.2d 691, 694 (1997); citing *State ex rel. Gebhardt v. Superior Court*, 125 Wash.2d 673, 690, 131 P.2d 943, 951 (1942).

[17] *Washington State Republican Party v. Washington State Pub. Disclosure Comm'n*, 141 Wash. 2d 245, 280-281, 4 P. 3d 808, 827-828(2000); *Davis v. Dep't of Licensing*, 137 Wash.2d 957, 970-971, 977 P.2d 554, 559-560 (1999); *City of Seattle v. State*, 136 Wash.2d 693, 698, 965 P.2d 619, 621 (1998); *State v. Talley*, 122 Wash.2d 192 213, 858 P.2d 217, 228-229 (1993).

[18] *City of Bellevue v. East Bellevue Cmty. Council*, 138 Wash.2d 937, 946-947, 983 P.2d 602, 607 (1999); see also *Davis*, 137 Wash.2d at p. 969, 977 P.2d at p. 558-559; *City of Seattle v. Dep't of Labor & Indus.*, 136 Wash.2d 693, 701, 965 P.2d 619, 623 (1998).

[19] The doctrine of *espressio unius*, which says that the expression of one thing suggests the exclusion of others [*Washington State Republican Party*, 141 Wash. 2d at p. 280] ; the doctrine of *noscitur a sociis*, which says that the meaning of words may be indicated or controlled by those with which they are associated [*State v. Jackson*, 137 Wash. 2d 712, 729, 976 P.2d 1229, 1237 (1999) (citing *Ball v. Stokley Foods, Inc.*, 37 Wash. 2d 79, 87-88, 221 P.2d 832 (1950)); see also *City of Mercer Island v. Kaltenbach*, 60 Wash. 2d 105, 109, 371 P.2d 1009, 1012 (1962); *Ball v. Stokely Foods, Inc.*, 37 Wash. 2d at p. 87-88]; and the doctrine of *esjudem generis*, which provides that a specific statute will generally supersede a more general one or a general term must be interpreted to reflect the class of objects reflected in more specific terms accompanying it [*Simpson Inv. Co. v. State*, 141 Wash. 2d 139, 156-57, 3 P.3d 741, 750 (2000)]. However, the doctrine of *esjudem generis* is only supposed to be employed when the statute contains an enumeration by specific words that suggest a class is not exhausted by the enumeration. *City of Seattle v. State*, 136 Wash. 2d 693, 699, 965 P.2d 619, 622 (1998) [quoting Norman J. Singer Sutherland, *Statutory Construction* 47.18 (15th ed. 1992)]; *Dean v. McFarland*, 81 Wash. 2d 215, 221, 500 P.2d 1244, 1248 (1972).

[20] *Ravenscroft v. Washington Water Power Co.*, 136 Wash.2d 911, 920, 969 P.2d 75, 80 (1998); citing *Cowishe Canyon Conservancy v. Bosley*, 118 Wash.2d 801, 813, 828 P.2d 549, 556 (1992).

court should follow a recognized dictionary definition of a relevant term unless the Legislature has provided a specific definition.[21] This may apply to certain words used within the definition of "loan originator" prescribed by the Legislature, which are themselves undefined in the MBPA.

3.3 Extrinsic Source Canons of Statutory Construction. It is also permissible, if necessary, for the Director to apply extrinsic source canons of statutory construction when interpreting a statute to be enforced by the Department.

3.3.1 The "Agency Deference Doctrine". It is a commonly held principle that a court shall (and the Director may) give deference to the Department's interpretation of a statute where the Department's expertise is clearly in play.[22] Indeed, courts (including administrative law judges) should give considerable weight to an interpretation of the MBPA by the Department, which sponsored the legislation in the first place and is charged with the statute's enforcement.[23] The courts are required to uphold the Department's interpretation of the MBPA if such interpretation reflects a plausible construction of the statute's language, not contrary to legislative intent.[24] In this regard, the courts (and the Director) may rely upon administrative agency rulemaking pursuant to the Administrative Procedures Act[25] and even prior quasi-judicial

---

[21] *Western Telepage, Inc. v. City of Tacoma*, 140 Wash.2d 599, 609-610, 998 P.2d 884, 890 (2000); citing *C.J.C. v. Corp. of Catholic Bishops*, 138 Wash.2d 699, 709, 985 P.2d 262, 267 (1999).

[22] *PT Air Watchers v. State Dept. of Ecology*, 179 Wn.2d 919, 926, 319 P.3d 23, 26 (Feb. 27, 2014) [citing *Port of Seattle v. Pollution Control Hearings Board*, 151 Wn.2d 568, 587, 90 P.3d 659 (2004)]; see also *Kirby v. State Dept. of Employment Sec.*, 179 Wash.App. 834, 843, 320 P.3d 123, 127 (March 10, 2014).

[23] *Blueshield v. State Office of Ins. Com'r*, 131 Wn. App. 639, 646, 128 P.3d 640, 644 (2006).

[24] *Nationscapital Mortg. Corp. v. State Dept. of Financial Institutions*, 133 Wash.App. 723, 737, 137 P.3d 78, 86 (2006) [citing *Seatoma Convalescent Ctr. v. Dep't of Soc. & Health Servs.*, 82 Wash.App. 495, 518, 919 P.2d 602 (1996), *review denied*, 130 Wash.2d 1023, 930 P.2d 1230 (1997)].

[25] RCW 34.05.310 to 34.05.395.

administrative decisions[26] in order to interpret the definition of "loan originator" and the phrase "negotiates terms of a mortgage loan" under the MBPA.

3.3.2 The "Clarification" Rule. While it is generally presumed that when the Legislature acts, it intends to change existing law,[27] it is also understood that the Legislature's purpose may be simply to "clarify" (rather than change) an earlier enactment where an ambiguity arose about a statute.[28]

3.4 Legislative History as Source of Interpretation. If textual and extrinsic source canons of statutory construction are not entirely helpful to determine with certainty the meaning of an otherwise ambiguous statute, then a court (and this Director) may look to official legislative history leading up to the enactment of a statute in question. While not dispositive, this legislative history may include bill analyses and reports by the Legislature's staff, which may have formed the basis of the Legislature's consideration when voting on a bill.[29]

The MBPA in 2009 contained no specific use of the words "mortgage loan modification," or any similar words denoting the same. Neither did the MBPA Rules. However, the language of the MBPA from 2006 until 2009, is as follows:

3.4.1 2006 Legislature. The 2006 Legislature amended the definition of "loan originator," which had been in effect since 1997, as follows:

---

[26] RCW 34.05.410 to 34.05.494.

[27] *Spokane County Health Dist. v. Brockett*, 120 Wash. 2d 140, 154, 839 P.2d 324, 331 (1992). See also *Johnson v. Morris*, 87 Wash. 2d 922, 926, 557 P.2d 1299, 1303 (1976); *Fisher Flouring Mills Co. v. State*, 35 Wash. 2d 482, 490, 213 P.2d 938, 942 (1950).

[28] *State v. Riles, 135 Wash. 2d 326, 343, 957 P.2d 655, 663 (1998).*

[29] As discussed at length below, the key legislation for the Director's deliberation is House Bill 2340, Chapter 19, Laws of 2006, Section 2(10); amending RCW 19.146.010 and 1997 c 106 s 1. The relevant bill analyses and reports for HB 2340 are:

- 2006 House Bill Analysis (HB 2340) http://apps.leg.wa.gov/documents/billdocs/2005-06/Pdf/Bill%20Reports/House/2340.HBA.pdf
- 2006 House Bill Report ((HB 2340) http://apps.leg.wa.gov/documents/billdocs/2005-06/Pdf/Bill%20Reports/House/2340.HBR.pdf
- 2006 Senate Bill Report (HB 2340) http://apps.leg.wa.gov/documents/billdocs/2005-06/Pdf/Bill%20Reports/Senate/2340.SBR.pdf
- 2006 Final Bill Report (HB 2340) http://apps.leg.wa.gov/documents/billdocs/2005-06/Pdf/Bill%20Reports/House/2340.FBR.pdf

> "(10) ***'Loan originator' means a natural person*** ((~~employed, either directly or indirectly, or retained as an independent contractor by a person required to be licensed as a mortgage broker, or a natural person who represents a person required to be licensed as a mortgage broker, in the performance of any act specified in subsection (12) of this section~~)) ***who*** (a) takes a residential mortgage loan application for a mortgage broker, or (b) ***offers or negotiates terms of a mortgage loan***, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain."
>
> . . . .
>
> (12) "Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage loan.[30]

[Emphasis added.]

3.4.2 2008 Legislature. The Legislature's 2008 definition of "loan originator," in effect from during 2009 from January 1, 2009, until July 25, 2009, contained the following the following applicable definitional language:

> (10) ***'Loan originator' means a natural person who*** (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or ***negotiates terms of a mortgage loan, for direct or indirect compensation or gain,*** or in the expectation of direct or indirect compensation or gain. 'Loan originator' also includes a person who holds themselves out to the public as able to perform any of these activities." [31]

[Emphasis added.]

[30] House Bill 2340, Chapter 19, Laws of 2006, Section 2(10) and (12); amending RCW 19.146.010 and 1997 c 106 s 1.

[31] Senate Bill 6471, Chapter 78, Laws of 2008, Section 3(10), amending RCW 19.146.010 and 2006 c 19 s 2.

3.4.3 2009 Legislature. The Legislature's 2009 amendment of the MBPA, which was in effect as of July 26, 2009, contained the following applicable definitional language regarding "loan originator":

> "(11)(a) ***'Loan originator' means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain*** (i) takes a residential mortgage loan application for a mortgage broker, or (ii) ***offers or negotiates terms of a mortgage loan. 'Loan originator' also includes a person who holds themselves out to the public as able to perform any of these activities.***
> . . . .
> (15) 'Mortgage loan originator' has the same meaning as 'loan originator.'"[32]

[Emphasis added.]

3.4.4 Relevant Definition of "Mortgage Broker". The Legislature's definition of "mortgage broker," in effect all of 2009 – from January 1, 2009, through December 31, 2009 – contained the following applicable definitional language:

> "'Mortgage broker' means any person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan."[33]

The definition of "mortgage broker" applicable in all of 2009 is the same definitional language that existed in 1997[34] and also when the MBPA's general definitions of terms were amended prior to that in 1994.[35]

---

[32] Substitute House Bill 1749, Chapter 528, Laws of 2009, Sections 1(11)(a) & (15), amending RCW 19.146.010 and 2008 c 78 s 3.

[33] Senate Bill 6471, Chapter 78, Laws of 2008, Section 3(12), amending RCW 19.146.010 and 2006 c 19 s 2; Substitute House Bill 1749, Chapter 528, Laws of 2009, Sections 1(14), amending RCW 19.146.010 and 2008 c 78 s 3.

[34] House Bill 1678, Chapter 106, Laws of 1997, Section 1(12); amending RCW 19.146.010 and 1994 c 33 s 3.

3.5 Department Initiative Independent of Later Federal Enactment of S.A.F.E Act. The above-referenced legislative history, from 1997 until 2009, of the use of the terms "loan originator" and "mortgage broker," evidences a major evolution in the MBPA, which was partly in response to and by way of compliance with the S.A.F.E. Act[36] but which began prior to this federal enactment and based upon the Department's own initiative.

3.6 Restatement of the ALJ's Ruling. Without all of the foregoing authority in mind, the ALJ held that it is within the Department's expertise to determine whether and how mortgage loan modification services should be regulated; but whether the Legislature intended to do so is not a matter of Department expertise. Thus, the ALJ interpreted the necessary statutes, giving no special deference to the Department's interpretation.[37]

The ALJ ruled that "negotiate[ing] terms of a mortgage loan" involves "negotiating" the terms of a *new* mortgage loan only, arguing that such a process is different from negotiating a mortgage loan *modification* (which involves negotiating changes to an existing mortgage loan terms or conditions). The ALJ was not persuaded by the Department's argument that negotiating *changes* in terms or conditions of mortgage loan is the same as, or a subset of, negotiating terms of a mortgage loan. Rather, the ALJ concluded that the conduct occurs at a different time in the life of the loan and the person or entities involved are operating under different conditions and

---

[35] Substitute Senate Bill 6083, Chapter 33, Laws of 1994, Section 3(10); amending RCW 19.146.010 and 1993 c 468 s 2.

[36] The Secure and Fair Enforcement of Mortgage Licensing Act of 2008 (or "S.A.F.E. Act"), which was enacted as Title V of the Housing and Economy Recovery Act of 2008 (HERA), P.L. 110-289, mandates a nationwide licensing and registration system for mortgage loan originators. The S.A.F.E. Act requires all states to provide for a licensing and registration regime for mortgage loan originators who are not employed by banks, savings association, and credit unions by July 30, 2009. The Department had been one of the early innovators in licensing legislation, having had a version of the MBPA since 1987 (Chapter 391, Laws of 1987). However, it was not until 2006 that the Washington State Legislature imposed a licensing requirement upon individual "loan originators." Then, in both 2008 and 2009, the Washington State Legislature changed its definition of "loan originator" to conform to a new federal-preempted standard under the S.A.F.E. Act. This included, among other things, a mandatory testing requirement for all "loan originators," which had previously not been required.

[37] Initial Order, COL 5.16.

considerations depending upon what is at issue: a *new* mortgage loan or a modification of an *existing* mortgage loan.

The Director finds that the ALJ's Conclusions of Law, as stated above, make major assumptions not consistent with the applicable principles of statutory construction as set forth above, and, therefore, the Director finds, after much deliberation, that the ALJ committed major error in reaching those conclusions. What follows, then, constitutes the Director's determination on behalf of the Department of the proper interpretation of the definition of "loan originator" – including the phrase "offers or negotiates terms of a mortgage loan" – from April 10, 2009, through and including the end of Respondents' alleged conduct.

3.7 Statutory Interpretation of the Director. When examining the language of the 2006 amendment to the definition of "loan originator," it is not altogether clear on the face of it that the language, by itself, is susceptible of more than one meaning. Indeed, a persuasive case has been made by the Division of Consumer Services for applying the "plain meaning test" and dispensing with the application of any textual or extrinsic canons of statutory construction or resort to legislative history. Still, to the extent that one part of the definition was implicitly construed by the ALJ as a predicate for another part of the definition, the Director now takes this opportunity to interpret the statute based, alternatively, on the use of canons of statutory construction, *and* in terms of whether there is any helpful legislative history.

3.7.1 The "Plain Meaning Test" Applied. For the relevant period of all of 2009 through the effective date of the 2010 amendments to the MBPA, the definition of "loan originator" was a natural person who, for direct or indirect compensation or gain, took a residential mortgage loan application for a mortgage broker *or* offered or negotiated terms of a

mortgage loan. Notice that the relevant language[38] does *not* say "offers or negotiates terms of a *residential*[39] mortgage loan *application*." Rather, a strong argument can be made that the clause in question plainly refers only to the terms of a "mortgage loan" *without* reference to a point in time, either before or after the mortgage loan's consummation. Therefore, the separation and enumeration of two clauses (a) and (b), one which uses the term "application" and the latter which does not, is significant and cannot be ignored. If the meaning of (b) were to be dependent on (a), nowhere has the Legislature provided by language any such indication. Clause (a) is designed to inform the reader that a "loan originator" is any natural person who, for direct or indirect compensation or gain, takes a residential loan application for a mortgage broker. Clause (b), on the other hand, is meant to declare that a "loan originator" is any natural person who, for direct or indirect compensation or gain, offers or negotiates terms of a mortgage loan. Relying for guidance upon authority cited above,[40] the Director is of the view that the use of statutory construction principles is reserved for cases in which *existing* statutory language can be reasonably seen as susceptible of two or more possible meanings, not whether the absence of language produces any ambiguity. In other words, we must rely on the meaning of what relevant language is there before our eyes, not on words that do not appear before us. While Clause (a) was meant to preserve within the definition the mere act of taking an "application" (which of itself involves no "offer" or "negotiation" of mortgage loan terms), Clause (b) clearly appears to include within its broad language "offers" or "negotiations" of mortgage loan terms without reference to time or sequence of process. Therefore, applying a literalist approach to a reading of

[38] See *Subsection 3.4* above.

[39] The absence in clause (b) of "residential" as a modifier to the term "mortgage loan" is not dispositive of this case, because the entire MBPA is about *residential* mortgage lending.

[40] See *Subsection 3.4* above.

the definition of "loan originator" in effect during the relevant period of 2009 through 2010, one would have to say that, in the absence of any language distinguishing a period or periods of time, the phrase "offers or negotiates terms of a mortgage loan" may fairly be said to include the negotiation of terms of both a prospective *and* an existing mortgage loan (i.e., negotiation of mortgage loan modifications).

A. Erroneous Introduction of "New" to the Concept of "Mortgage Loan". The ALJ concluded that the MBPA applied only to the negotiation of a new mortgage loan and did not apply to Respondents because renegotiating an existing mortgage loan as a part of a loan modification was not covered by the MBPA. The ALJ concluded that the Division of Consumer Services did not have the authority to regulate mortgage brokers and loan originators who specialized in loan modifications prior to 2010 House Bill 2608. This conclusion is a clear error and violates the plain meaning of the MBPA. Furthermore, it ignores the Director having taken official notice a loan modification effectively results in a new, presumably more favorable, mortgage. It results in a new promissory note and new deed of trust. The pre-2010 law clearly covers this activity by regulating the negotiation of the terms of a mortgage.

The ALJ erred by inserting the term "new" as a modifier of mortgages in interpreting what was an unambiguous definition of "loan originator." Even though the ALJ did not actually rule that the statute was "ambiguous," the ALJ resorted to inappropriate statutory interpretation standards and theorized that it could determine the Legislature's intent in enacting the pre-2010 Legislation to limit the protections provided by the MBPA to only "new" mortgages due to "clarifications" made to the statute in 2010. This flawed reasoning is found in COL 5.23 where it states: "That distinction is confirmed by reviewing RCW. 19.146.010(20) and (21) in the

present form, and WAC 208-660-0006 in the present form, defining, and thereby distinguishing, 'residential mortgage loan' and 'residential mortgage loan modification.'"

A "loan originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain, takes a residential mortgage loan application for a mortgage broker, offers or negotiates terms of a mortgage loan, or holds themselves out to the public as able to perform any of these activities. "Loan originator" does not mean a person performing purely administrative or clerical tasks for a mortgage broker. A person who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

The plain language of the pre-2010 Legislation definition of "loan originator" covers any loan originator who offers or negotiates the terms of a mortgage loan. The statute does not state or require that the only type of loans covered be "new" loans. In fact, from the plain reading of the statute, the unambiguous intent is to cover any type of residential home loan negotiations without any qualifiers or distinction.

There is no basis for concluding that the plain meaning of the statute requires that the additional term "new" be placed before "mortgage." This is a requirement that was not intended by the Legislature and an impermissible interpretation in light of the plain meaning of the statute. If the Legislature had wished to limit the MBPA to only cover new mortgage loan negotiations, then the Legislature would have written "new" into the statute. A loan modification is a process whereby the terms of an existing mortgage are re-negotiated. However, "re-negotiating" is simply performing negotiations *again*. Re-negotiating a mortgage loan's terms is no different from negotiating the mortgage's terms. Respondents offered services and took money from

Washington residents to negotiate mortgage loans. Respondents were loan originators as the term is and was defined in the MBPA.

Making a distinction between negotiation of terms on the original loan versus on a subsequent modified loan ignores the fact that the modified loan is effectively a new mortgage, with different terms memorialized in a new promissory note and new deed of trust securing the loan. As a result, there is no basis to draw the distinction between negotiating the original loan and negotiation of a subsequent new loan with a change in terms, also known as loan modification.

B. Respondents Were Both "Mortgage Brokers" and "Loan Originators" under the MBPA. Respondents also were mortgage brokers as defined by the MBPA. Under the law applicable in 2009, a "mortgage broker" is defined as any person who for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make a residential loan or assist a person in obtaining or applying to obtain a residential mortgage loan.[41] Respondents offered services to assist a person in obtaining a residential mortgage loan modification.

Respondents were operating as both mortgage brokers and loan originators when offering services and taking money from Washington residents. Respondents never obtained a license from the Department to provide these services in the state of Washington. Between at least January 2009 and December 2009, Respondents assisted or held themselves out as able to assist at least four Washington consumers in applying for and negotiating residential loan

[41] RCW 19.146.010(12)(2009) and WAC 208-660-010.

modifications for real estate in Washington State.[42] These consumers paid Respondents at least $11,400, which Respondents do not dispute. "Mortgage brokers" and "loan originators" are required to be licensed to engage in business of a mortgage broker or loan originator in Washington State.[43] Respondents violated the MBPA by offering these services without a license, thereby nullifying the protections provided to Washington State consumers through the regulation of these services and providers.

There is no basis to draw the distinction between a mortgage broker offering services to obtain the original loan and offering services to obtain a subsequent new loan with a change in terms, a loan modification. Respondents were clearly operating as a mortgage broker under the statute.

It was further error to interpret the MBPA based upon changes made in 2010, thereby reflecting back to create deficiencies in the 2008 and 2009 statutes. The 2008 and 2009 statutes (in all relevant ways the same as the 2006 statute) govern actions in 2009, and it can only be read standing on its own. It would be error to apply laws retroactively to actions that occurred prior to the creation of that law. However, as the Director has determined above, it was clear from the 2010 Legislation's official title and the 2010 legislative history that the 2010 Legislation sought only to "clarify" that loan modifications were specifically intended to be covered by the MBPA. The Legislature did not indicate that the MBPA did not previously cover mortgage brokers and loan originators who specialized in residential loan modifications. The plain language of the 2008 and 2009 versions of MBPA controls. The plain meaning of the statute is and was to cover anyone who "negotiates terms of a mortgage loan." Therefore, Respondents were covered and

[42] See *Exhibit 1, Taellious Declaration.*

[43] RCW 19.146.200.

were required to be licensed under the plain meaning of the MBPA as mortgage brokers and loan originators when offering to negotiate mortgage loan terms.

While it is clear that anyone who "offers or negotiates terms of a mortgage loan" is required to obtain licenses from the Division of Consumer Services, many participants in the mortgage loan modification industry were not doing so. The Division of Consumer Services sought to increase compliance and therefore issued its 2009 Interpretive Statement. The Director of the Department of Financial Institutions is responsible for the enforcement, administration and interpretation of the MBPA.[44]

The purpose of the MBPA is as follows:

> [T]he brokering of residential real estate loans substantially affects the public interest. The practices of mortgage brokers and loan originators have had significant impact on the citizens of the state and the banking and real estate industries. It is the intent of the legislature to establish a state system of licensure in addition to rules of practice and conduct of mortgage brokers and loan originators to promote honesty and fair dealing with citizens and to preserve public confidence in the lending and real estate community.[45]

The MBPA is both remedial in purpose and intended to protect consumers. Therefore, if there is any ambiguity in a statute, it must be construed in light of its curative and consumer protection purpose.[46]

The Division of Consumer Services upheld the purpose of the MBPA and the duty to protect consumers when it issued the 2009 Interpretive Statement at a time when unlicensed persons holding themselves out as mortgage loan modification specialists were preying upon

---

[44] RCW 19.146.220 and 19.146.223.

[45] RCW 19.146.005.

[46] *Carlsen v. Global Client Solutions, LLC*, 171 Wn.2d 486, at 497-8, 256 P.3d 321 (2011) (a remedial statute enacted to stem unfair and deceptive practices should be construed liberally in favor of protecting consumers).

Washington residents during a mortgage crisis that left many of them in foreclosure or on the brink of foreclosure. These persons undermined the citizens' confidence in the mortgage industry and in honesty and fair dealing with mortgage loan brokers.

However, the 2009 Interpretive Statement still did not cause numerous industry participants to apply for licenses. Further, many dubious loan modification companies continued to prey on vulnerable Washington State residents. While the existing law already covered an individual or entity who was negotiating the terms of a mortgage loan (including a loan modification), the Legislature through the 2010 Legislation, sought to clarify that mortgage loan modifications were intended to be covered under the definition of "mortgage broker" and "loan originator." The official title of the 2010 Legislation made it clear it was intended to "clarify" rather than "change" existing law, and the 2010 legislative history so indicates. Respondents were acting as mortgage brokers under the MBPA even prior to any clarifications. "Mortgage broker" means any person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan.[47] Obtaining a mortgage loan clearly involves negotiating the terms of a mortgage including interest and terms.

Furthermore, the 2010 Legislation did not amend the definition of "loan originator," which provided and continues to define a loan originator as one who "offers or negotiates terms of a residential mortgage loan."

The process of obtaining a residential loan modification includes negotiating the terms of

[47] RCW 19.146.010(14).

a residential mortgage loan, and there is no dispute that Respondents were negotiating the terms of residential mortgage loans.[48] A person obtaining a residential mortgage loan modification obtains a loan that has been negotiated by the mortgage broker.

Even prior to the 2010 Legislation, Washington law required that "mortgage brokers" and "loan originators" be licensed to engage in the business of a mortgage broker or loan originator in Washington State.[49] Respondents were mortgage brokers and loan originators as defined by the MBPA and as such, Respondents were required to be licensed as both a loan originator and a mortgage broker. However, Respondents were not licensed as either a loan originator or a mortgage broker and provided residential mortgage services despite this.

C. Only Washington-Licensed Attorneys Are or Were Exempt from MBPA. Only Washington attorneys are exempt from the MBPA.[50] It is irrelevant for purposes of RCW 19.146.020(1)(c) whether Respondents were principally engaged in negotiating mortgage loans or whether the Respondents provided services in association with a Washington attorney. Christensen had to be an attorney licensed to practice law in Washington State for the exemption to apply. Respondents were not licensed to practice law in Washington State at the time of the actions in the Statement of Charges and as a result do not qualify for the exemption. Therefore, the plain meaning of the statute is unambiguous; the Respondents are not exempted from regulation and the Department has full authority to regulate the Respondents.

---

[48] See Exhibit 4, November 9, 2009, response from Christensen to a Directive from the Division of Consumer Services, attached and previously submitted with Department's Memo in Opposition to Motion to Dismiss. Renegotiating the terms of an existing mortgage is still "negotiating the terms of a residential mortgage loan."

[49] RCW 19.146.200.

[50] WAC 208-660-008(5)(a) states: "If you are an attorney licensed in Washington and if the mortgage broker activities are incidental to your professional duties as an attorney, you are exempt from the Mortgage Broker Practices Act under RCW 19.146.020(1)(c)."

For all of the reasons set forth in *Subsection 3.7.1* above, the Director is of the decided view that the plain meaning of the 2008 and 2009 statute supports the conclusion that the Respondents' Motion to Dismiss should have been denied and the Division's Motion for Summary Judgment should have been granted.

However, in abundance of caution and since even adherents to textual literalism often make room for applying the textual and extrinsic canons of construction,[51] the Director, in the interest of thorough deliberation, now turns attention to an application of these canons.

3.7.2 Looking to the Entire MBPA – Validity of Other Terms Intact. Applying the "Whole Act Rule,"[52] the Director finds no language in the 2009 and 2010 versions of the MBPA which would suggest an alternative interpretation of the definition of "loan originator" that excludes the offering or negotiating of terms of modification of an *existing* mortgage loan. Moreover, no other provisions of the version of the MBPA in effect in 2009 and prior to the effective date of the 2010 MBPA amendments would be rendered superfluous or unnecessary by the interpretation made by the Division in the 2009 Interpretive Statement.[53]

3.7.3 Technical Linguistic Canons of Construction. The Director has determined that in the context of this case, certain technical linguistic canons of construction[54] are inapplicable. There is nothing in the 2009-2010 definition of "loan originator" to imply an exemption for loan modifications in the use of the phrase "offers or negotiates terms of a

---

[51] In his dissenting opinion in *Chisom v. Roemer*, 501 U.S. 380, 404 (1991), Justice Antonin Scalia observed: "I thought we had adopted a regular method for interpreting the meaning of language in a statute: first, find the ordinary meaning of the language in its textual context; and second, using establishes canons of construction, ask whether there is any clear indication that some permissible meaning other than the ordinary one applies."

[52] See *Subsection 3.2* above.

[53] *Id.*

[54] See *Subsection 3.2* above (especially *Footnote 19*).

mortgage loan." As already indicated above, the Director is loathe to determine in the context of this case that the term "application," as used in Clause (a), necessarily colors the meaning of "mortgage loan" in Clause (b) of the 2009-2010 definition of "loan originator."[55] Thirdly, since there are no specific terms accompanying the term "mortgage loan" as stated in Clause (b) of the 2009-2010 definition of "loan originator," the Director need not assume that the term "mortgage loan" is being modified or limited on account of the lack of any enumeration of specific terms accompanying it.[56]

3.7.4 The "Dictionary Definition" and "Ordinary Usage" Rules. The Director finds it particularly questionable that the ALJ ascribed to the use of the term "mortgage loan" a supposed "ordinary usage" that is not borne out by common use of the term even implicit in the dictionary definition of "mortgage modification." As generally defined and understood in the financial services industry, "mortgage modification" is the —

> "process of adjusting of a mortgage loan's principal, interest, or other terms ***outside those originally negotiated at loan closing***, usually done to avoid loan default or foreclosure."[57]

[Emphasis added.]

This general definition of "mortgage modification" clearly implies that there is a common understanding in the financial services industry (and thus an "ordinary usage") that "negotiation" of "mortgage loan terms" may take place both at "loan closing" and incident to a "mortgage modification."

---

[55] While the Director acknowledges the doctrine of *noscitur a sociis* {Subsection 3.2 and Footnote 19 above], the Director has already declared as set forth in *Subsection 3.7.1* above that by separating and enumerating Clause (a) and Clause (b) of the definition of "loan originator," the Legislature intended two distinct meanings: (1) to address the act of taking a loan application; and (2) to indicate separately the act of offering or negotiating mortgage loan terms.

[56] The Director has further determined that the doctrine of *esjudem generis* is inapplicable in the context of affecting a limiting interpretation of the term "mortgage loan" in Clause (b) of the definition of "loan originator." See further, *Subsection 3.2* and *Footnote 19*.

[57] Thomas P. Fitch, *Barron's Dictionary of Banking Terms* (Sixth Edition), Copyright © 2012, 2006, p. 300.

Hence, as the Director has already indicated above,[58] it was error for the ALJ to conclude, in the absence of language in the 2009-2010 definition of "loan originator" specifying time or process, that the phrase "offers or negotiates terms of a mortgage loan" precludes the negotiation of terms of *both* a mortgage loan at time of loan closing and also one which is sought to be modified after origination.

3.7.5 Application of the "Agency Deference Doctrine". As indicated above, the "agency deference doctrine"[59] is entitled to considerable weight. As early as 2006, the Division of Consumer Services of the Department launched a more sophisticated approach to the regulation of the mortgage brokerage industry that preceded the federal government's enactment of the S.A.F.E. Act,[60] seeking (1) to require the licensing of individual loan originators instead of just mortgage brokerage companies and their designated brokers, and (2) to regulate all activities involving non-depositary residential mortgage lending, including negotiation of terms affecting consumers both at time of closing and in the case of modification. In the absence of legislative intent to the contrary, the ALJ should have relied on the Division of Consumer Services' good faith interpretation of its own statute, which was drafted and sponsored by the Division with the object of regulating all non-depositary residential mortgage loan activity at any point in the life-cycle of the loan. Since the Director's application of well-settled statutory construction principles has shown no reasonable, contrary legislative intent to that asserted by the Division of Consumer Services, the Director is obliged to give deference to the Division's interpretation of its own statute.

---

[58] See *Subsection 3.7.1* above.

[59] See *Subsection 3.3.1* above.

[60] See *Footnote 36* above.

3.7.6 Application of the "Clarification Rule". The Division of Consumer Services argued before the ALJ that its 2010 amendment to the MBPA was not a change in the law at all but rather a "clarification" of a statutory definition of "loan originator" that had essentially come into being in 2006.[61] According to the Division of Consumer Services, the purpose of the 2009 Interpretive Statement was to increase compliance of existing law because, "while the phrase 'offers or negotiates terms of a mortgage loan' is plainly set out in the MBPA and required those in the residential mortgage modification industry to obtain licenses from the Department, many industry participants were not doing so."[62]

The language of the 2010 Legislation's official title[63] read:

> "AN ACT Relating to licensing residential mortgage loan servicers through the national mortgage licensing service and ***clarifying the existing authority of the department of financial institutions to regulate residential mortgage loan modification services under the consumer loan act and mortgage broker practices act***; amending RCW 31.04.035, 31.04.045, 31.04.055, 31.04.085, 31.04.093, 31.04.165, 31.04.277, 19.144.080, 19.146.010, 19.146.210, and 19.146.310; reenacting and amending RCW 31.04.015; adding new sections to chapter 31.04 RCW; adding new sections to chapter 19.146 RCW; repealing RCW 31.04.2211; and providing an effective date."[64]

[Emphasis added.]

The 2010 Legislation's official title had a purpose other than boilerplate. As prescribed by the Washington State Constitution[65] and enunciated by the Washington Supreme Court, "the

---

[61] See *Subsection 3.4.1* above.

[62] Department Memorandum in Opposition to Respondents' Motion to Dismiss, p. 10.

[63] This is *not* referred to by the Legislature as a "preamble." See discussion of the "title rule" in Statute Law Committee, Office of the Code Reviser, *Bill Drafting Guide* (2013), pp. 8-11.

[64] 2010 House Bill 2608, 2010 c 35 Title.

[65] Washington State Constitution, Article II, Section 19: "No bill shall embrace more than one subject, and that shall be expressed in the title."

purposes of the constitutional [title requirement] are to (1) protect and enlighten members of the legislature, (2) apprise the people generally concerning the subjects of the legislation being considered, and (3) prevent hodge-podge or log-rolling legislation."[66] Therefore, as introduced and made known to both the House and Senate committees[67] and to the respective floors of the House and Senate, the 2010 Legislation's official title was written to "enlighten" and notify the Legislature and the people of this state that the Department sought a "clarification" of its statutes with respect to who and in what manner may natural persons engage in residential mortgage modification services in Washington State. Public testimony before the Senate Financial Institutions, Housing & Consumer Protection Committee, in favor of the 2010 Legislation, declared that "[t]his bill ***clarifies*** that those offering residential loan modifications and those who service loans are required to be licensed by [the Department]."[68] [Emphasis added.] Public testimony before the House Financial Institutions & Insurance Committee declared: "This bill brings ***clarity***. . . . The bill . . . ***clarifies*** the [Department's] jurisdiction over loan modifiers."[69] [Emphasis added.]

In argument before the ALJ, the Division of Consumer Services asserted that House Bill 2608's official title indicated that the bill was "clarifying the department's existing regulatory authority regarding residential loan modification services."[70] The Division further asserted that, as part of that "clarification," a number of new sections were added to the MBPA to attempt to

---

[66] Rourke v. Dept. of Labor & Ind., 41 Wash.2d 310, 312, 249 P.2d 236, 237 (1952).

[67] In 2010, these were the House Financial Institutions & Insurance Committee and the Senate Financial Institutions, Housing & Consumer Protection Committee, respectively.

[68] 2010 House Bill 2608, Senate Bill Report, Senate Financial Institutions, Housing & Consumer Protection Committee, p. 4.

[69] 2010 House Bill 2608, House Bill Report, House Financial Institutions & Insurance Committee, p. 4.

[70] *Department's Memorandum in Opposition to Respondents' Motion to Dismiss*, p. 12.

address any possible issue that "creative lawyers might dream up for these companies and individuals that were a scourge on some of the most vulnerable Washington residents."[71] The Division argued that the term "residential loan modification" and similar references were added to the MBPA to repeatedly indicate that residential loan modification services are subject to licensure as "loan originators," the same as the Division had intended when it changed the definition in 2006 to generally read "offers or negotiates terms of a mortgage loan."[72]

The Respondents argued before the ALJ that the amendments were not "clarifications" but rather legislative "changes" that were necessary, since the Division of Consumer Services did not in fact regulate residential mortgage loan modifications prior to the 2010 Legislation.[73] The Respondents contended that the 2010 Legislation added what had been totally absent from the MBPA, namely the phrase "residential loan modification services." The Respondents further argued that the language of the 2010 Legislation itself made plain that "residential loan modification services" was a phrase in addition to, not a subset of, or otherwise within the definition of "making, obtaining, applying to obtain," or originating a residential mortgage loan.[74]

The Director acknowledges that whether the 2010 Legislation is a "clarification" of statute or a substantive "change" in regard to the definition of "loan originator," is not, by itself, a determination for the Division of Consumer Services to make. Rather, it was the responsibility

---

[71] *Id.*

[72] *Id.*

[73] *Respondents' Motion to Dismiss*, p. 15.

[74] *Id.*

of the ALJ (and this Director) to look to the intent of the Legislature itself in making that determination.

However, in determining the intent of the Legislature, it was entirely appropriate for the ALJ to give deference to the Division's interpretation of the statutes arising out of Division-sponsored legislation which it administers if not contrary to the intent shown by the application of other statutory construction principles.[75] Accordingly, it was error for the ALJ to not apply the "agency deference doctrine," and it was also error for the ALJ to conclude that no deference can be given to the Division's interpretation of the statutes arising out of Division-sponsored legislation which it administers.[76] In addition, and more fundamentally, it was error for the ALJ to assume that every legislative amendment – including the 2010 Legislation – must be interpreted as a "change" in the law rather than a "clarification" of pre-existing statute that was arguably perceived by the Division (whether it was or not) to be somewhat ambiguous.[77] Finally, in evaluating the legislative history of the 2010 Legislation as set forth above, the Director finds that the Legislature was repeatedly presented with public testimony indicating that, in regard to the definition of "loan originator" and specification of "mortgage loan modification services," that this was a "clarification" of the phrase "negotiates terms of a mortgage loan" which was enacted in 2006 and not a change in pre-existing law affecting the agency.

It has been suggested that if the Division of Consumer Services did not bring action against unlicensed mortgage loan modification services until 2009, this is somehow an indication

---

[75] See *Subsection 3.7.5* above.

[76] Initial Order, COL 5.16.

[77] See *Subsection 3.3.2* above.

that the Division did not – until the 2010 Legislation – deem the phrase "negotiates terms of a mortgage loan" to include the negotiation of mortgage loan modification terms.

The Director rejects this suggestion.

First, the Director is of the view that this is not an appropriate inquiry to make. Rather, the appropriate inquiry is to determine, in the first instance, what the intent of the *Legislature* was in amending the definition of "loan originator" in 2006 by either fair application of "plain meaning" or, in absence thereof, treatment of such definition under all applicable statutory construction principles as have been previously discussed and as indicated below.

Second, one must not confuse the exercise of restraint (prosecutorial discretion) as any official indication of how the Division of Consumer Services may have, prior to the 2009 Interpretive Statement, construed the statutory phrase "negotiates the terms of a mortgage loan." Indeed, the Division of Consumer Services may have had many reasons for exercising restraint until April 2009, not least of which could have been the absence of independent mortgage loan modification services in the marketplace due to the latency in which Washington State was truly hit by the Mortgage Crisis relative to the rest of the United States. In other words, even though the Director could find nothing definitive in the Record on Review itself concerning the history of a market for mortgage loan modification services in Washington State, the Director can nonetheless take official notice of published statistics concerning the growth in such a market during the evolution of the Mortgage Crisis. Such published statistics make a plausible case for the proposition that the Division of Consumer Services did not perceive a need for enforcing its pre-existing interpretation of the phrase "negotiates the terms of a mortgage loan" until "seriously delinquent" residential mortgage loans began (for the first time) to rise dramatically in

Washington State, exactly the time of the 2009 Interpretive Statement.[78] However, one must not interpret the lack of enforcement activity by the Division of Consumer Services as an indication that the Division believed it lacked the authority under the statute to issue the 2009 Interpretive Statement and begin exercising enforcement of the MBPA against unlicensed mortgage loan modification services. Such speculation, in the context of this case, is not an appropriate inquiry for the determination of legislative intent.

3.7.7 Legislative History. Finally, in the absence of being able to determine legislative intent from either the "plain meaning rule" or principles of statutory construction, the courts (and this Director) may look to legislative history for a resolution. In this regard, the legislative history relevant here is not that of the 2010 Legislation (which is only helpful in the Director having determined that a statutory amendment may "clarify" rather than only "change"

---

[78] The Director takes official notice that the set of factors culminating in the Mortgage Loan Crisis did not truly begin to take shape until home prices fell dramatically after the implosion of the mortgage-backed securities markets with the collapse in July 2007 of two key hedge funds run by the former Bear Stearns. Moreover, there was some latency in this crisis coming to Washington State, resulting in no critical impact on Washington State homeowners until after the end of the 2009 Legislative Session. According to the National Bureau of Economic Research, the Mortgage Loan Crisis (often referred to as the Subprime Mortgage Crisis) was a national banking emergency that coincided with the U.S. recession of December 2007 to June 2009. (http://www.nber.org/cycles.html). According to the most accurate quarterly state-by-state default and foreclosure data – the *Mortgage Bankers Association National Delinquency Survey* – a comparison of Washington State and national statistics for "seriously delinquent" residential mortgage loans (i.e., over 90 days past due or in foreclosure – the prime type of candidate for being in need of a loan modification) is as follows:

	4th QTR 2007	4th QTR 2008	4th QTR 2009	4th QTR 2010
WA Rank Among States*	45th	46th	36th	25th
Number of Loans**	16,847	36,231	72,889	77,001
Washington in %	0.38%	3.01%	6.14%	6.55%
Total U.S. in %	0.88%	6.30%	9.67%	8.57%

**50 states plus District of Columbia*
***Estimated by Mortgage Bankers Association to represent (on a nationwide basis) 88% of all outstanding one-to-four family residential loans. NOTE: There is no way to determine whether this "national" percentage estimate is lower or higher than the percentage of "seriously delinquent" residential mortgage loans actually reported by loan servicers nationwide for mortgage loans in Washington State. The Mortgage Bankers Association National Delinquency Survey is the most accurate compilation of actual loan servicing data (not estimates) in the mortgage industry. These statistics have been compiled from proprietary Mortgage Bankers Association National Delinquency Survey data and have been previously published by the Washington Department of Financial Institutions and made contemporaneously available to the Washington State Legislature and its relevant staff.*

Of course, such statistics could also be cited for the proposition that the 2009 inflection point was the impetus for a *re*-interpretation of Division policy leading to a "change" in the statute in 2010.

substantive legislative policy).[79] Rather, it is the legislative history of the 2006 Legislature that is relevant. However, the legislative history for House Bill 2340 in 2006[80] contains nothing that would undermine the legislative intent that the Director has derived from either the plain meaning of the statute or, in the alternative, the Director's application of the textual canons and extrinsic source rules of statutory construction.[81]

3.7.8 Conclusion as to Legislative Intent. Based upon a thorough analysis above of all relevant, alternative principles for ascertaining legislative intent – the "plain meaning rule," the textual canons of construction, extrinsic source of construction, and legislative history – the Director has determined as a matter of law that the phrase in question, "offers or negotiates the terms of a mortgage loan," was intended upon its enactment in 2006 to be one of general application without regard to time or place in the life-cycle of a mortgage loan and that the phrase includes within it the negotiation of terms modifying a residential mortgage loan. In the view of the Director, the ALJ committed material error when he assumed, without either a proper application of statutory construction principles or extrinsic evidence of legislative history to the contrary, that the 2006 Legislature could have only meant negotiation of loan terms in reference to a loan application. Clause (b) – "offers or negotiates terms of a mortgage loan" – is independent and does not imply such a reading. To introduce into it such a meaning is to take a liberal constructionist approach which the ALJ did not intend. Indeed, in denying the Division's Motion for Summary Judgment and granting the Respondents' Motion to Dismiss, the ALJ appears, ironically, from the Initial Order to have actually thought he was being a strict

---

[79] See *Subsections 3.3.2 and 3.7.6* above.

[80] See *Subsection 3.4* and *Footnote 29*.

[81] See collectively, *Subsections 3.7.2, 3.7.3, 3.7.4, 3.7.5, and 3.7.6* above.

constructionist. However, the ALJ committed one of the oldest errors of liberal construction known to jurisprudence – the commandment that one shall not add nor detract from statute by reading what is not there.[82] By interjecting assumptions as to time in relation to the life-cycle of a mortgage loan, the ALJ was actually *re-writing* the statute; whereas, all the Division of Consumer Services did in issuing its 2009 Interpretive Statement was fairly interpret the phrase "negotiates terms of a mortgage loan" consistent with either (1) its plain meaning or (2) well-settled principles of statutory construction in the absence of legislative history to the contrary.

Accordingly, the Director finds that the Initial Order granting the Motion to Dismiss was fundamental error, and such order should be reversed.

3.8 Revisiting the Motion for Summary Judgment. Having reversed the order granting Respondents' Motion to Dismiss, the Director still must deliberate whether there were sufficient grounds to grant the Division of Consumer Services' Motion for Summary Judgment.

By the Respondents' own admission, they started operations as Financial Solutions Law Group at the start of January 2009. Respondents offered loan modification services on a flat fee basis.[83] The Respondents contend that they stopped soliciting new clients after June 30, 2009, in response to, *inter alia*, the beginning of passing legislation specifically targeting loan modification practices.[84] Nevertheless, the Respondents did not "shut down completely at that point."[85] By their own admission, Respondents did not have money necessary to refund fees to

---

[82] This rule is deeply rooted in Anglo-American law and may even be traced to the age-old Judeo-Christian principle that "[y]ou shall not add to the word which I command you, nor take from it, . . ." *Deuteronomy 4:2 NKJV*; cited in *In re Kolinsky, 100 B.R. 695, 704 (Bankr. S.D.N.Y. 1989).*

[83] *Declaration of Kelly Christensen*, p. 4.

[84] *Id.*, at p. 5.

[85] *Id.*

clients who still had matters pending; thus, "dropping them would have just confounded our difficulties and the clients still needed our help."[86] By April 2010 all operations ceased as the Respondents had either concluded the remaining cases or lost contact with clients.[87] Thus, for a period up to 12 months subsequent to the issuance of the 2009 Interpretive Statement, the Respondents, while no longer doing business in the state of Washington, continued to service or attempt to service Washington State clients.

Accordingly, by reason of Respondents' own admissions and in a light most favorable to them, there is no triable issue of fact and the Division of Consumer Services is entitled to a reversal of the Initial Order and a Final Order granting summary judgment as a matter of law.

3.9 Deliberation of the Divisions' Specific Assignments of Error. The Division of Consumer Services has assigned no error to the Findings of Fact of the Initial Order; and after review of the Findings of Fact and the considerations made above in *Subsection 3.8*, the Director accepts the ALJ's Findings of Fact.

However, the Division of Consumer Services has assigned error specifically to COL 5.23, 5.24, 5.25, 5.26, 5.27, 5.28 and 5.29, and has in addition proposed modifications to the Order Summary and the underlined summary conclusions (or headings) on pages 5 and 9 of the Initial Order.

4.0 FINDINGS OF FACT & CONCLUSIONS OF LAW

For all of the reasons set forth in *Section 3.0* above, the Director makes the following Findings of Fact and Conclusions of Law:

---

[86] *Id.*

[87] *Id.*

4.1 Findings of Fact. The Findings of Fact of the Initial Order are affirmed and incorporated herein by this reference.

4.2 Conclusions of Law. The Conclusions of Law of the Initial Order are affirmed and incorporated herein by this reference, with the exception of COL 5.16, 5.23, 5.24, 5.25, 5.26, 5.27, 5.28 and 5.29, which shall be replaced by the following specifically numbered Conclusions of Law, as follows:

> 5.16 To the extent of any ambiguity in RCW 19.146.010(11)(a)(ii)(2009), the Division of Consumer Services' interpretation of such provision should be upheld if such interpretation reflects a plausible construction of the statute's language not contrary to legislative intent. *Nationscapital Mortg. Corp. v. State Dept. of Financial Institutions*, 133 Wash.App. 723, 737, 137 P.3d 78, 86 (2006) [citing *Seatoma Convalescent Ctr. v. Dep't of Soc. & Health Servs.*, 82 Wash.App. 495, 518, 919 P.2d 602 (1996), *review denied*, 130 Wash.2d 1023, 930 P.2d 1230 (1997)]; see also *PT Air Watchers v. State Dept. of Ecology*, 179 Wn.2d 919, 926, 319 P.3d 23, 26 (Feb. 27, 2014) [citing *Port of Seattle v. Pollution Control Hearings Board*, 151 Wn.2d 568, 587, 90 P.3d 659 (2004)]; *Kirby v. State Dept. of Employment Sec.*, 179 Wash.App. 834, 843, 320 P.3d 123, 127 (March 10, 2014). The administrative law judge in this matter is not the judiciary exercising independent review of an executive branch agency; rather, an administrative law judge under the Administrative Procedures Act, chapter 34.05 RCW, is an agent of the Director of the Department. See *RCW 34.12.040*. The Director may substitute his own conclusions of law for those made by the administrative law judge who entered the Initial Order. *Northwest Steelhead and Salmon Council of Trout Unlimited v. Washington State Dept. of Fisheries*, 78 Wash.App. 778, 786, 896 P.2d 1292, 1297 (1995). It is within the Department's expertise to determine whether and how mortgage loan modification services should be regulated; and it is appropriate for the Director, as both agency head and the final arbiter of this administrative adjudicatory matter, to fairly interpret agency-sponsored legislation which it alone administers and to the extent not inconsistent with other principles for discerning legislative intent that have been discussed at length in *Section 3.0* of this Final Decision and Order.

5.23 The Department argued that pursuing a mortgage loan modification included negotiating the terms of a mortgage loan modification and so, given the definition in RCW 19.146.010(11)(a)(ii)(2009), mortgage loan modifications were subject to the Mortgage Broker Practices Act in 2009. Negotiating a mortgage loan is not limited to negotiating the terms of a new mortgage loan. Indeed, negotiating a mortgage loan modification also involves negotiating the terms of a mortgage. To conclude otherwise would ignore that the mortgage loan modification is memorialized through a new mortgage instrument with different contractual obligations.

5.24 Negotiating changes in terms or conditions of a mortgage loan may not only occur when the original or first loan is originated but may also occur in an attempt to obtain loan modification negotiation. The conduct is the same; it only occurs at a different time in the life of a loan.

5.25 The parties also argue that the language in the official title to the legislative action that produced the change in 2010 is relevant. The Respondents argued that the new law amended the old law. The Division of Consumer Services argued that the new law clarified the old law. The Division's argument is persuasive because the Division's arguments address the intent and understanding of the 2010 Legislature. The 2010 Legislature's choice of language tells us specifically that the law was "clarifying the department's existing regulatory authority regarding residential loan modification services."

5.26 The Legislature in Chapter 19.146 RCW (2009) did not specifically use the term "mortgage loan modification" services but frequently described the negotiation of loans.

5.27 The plain meaning of "negotiates terms of a mortgage loan" includes performing or offering to perform mortgage loan modification services. So, the Department had authority under the Mortgage Broker Practices Act, chapter 19.146 RCW (2009), to regulate activity regarding mortgage loan modifications. Here, the Department's allegations flowed strictly from the Respondents performing and offering to perform mortgage loan modifications. Thus, the Department had authority to regulate the Respondents in 2009. Accordingly, the Respondents' Motion to Dismiss should be denied and the Division's motion for summary judgment should be granted.

5.28 The Department has legal authority to regulate a non-Washington attorney because the plain meaning of the statute provides that the Department has such authority.

5.29 Because the Department had authority in 2009 to regulate mortgage loan modifications, and the Respondents operated as mortgage brokers or mortgage loan originators, the Respondents violated Chapter 19.146 RCW (2009) by offering residential loan services without being licensed to provide these services as a mortgage broker or loan originator. Respondents held themselves out as able to assist at least four consumers in applying for or obtaining loan modifications on at least four residential properties located in the state of Washington. These consumers paid a total of $11,400 in fees to the Respondents. The investigation costs and fines requested by the Department in light of the Respondents actions are appropriate. Thus, the sanctions sought by the Department in the Statement of Charges dated January 6, 2012 are correct. Accordingly, the Department's Motion for Summary Judgment should be granted and the sanctions affirmed.

5.0 FINAL DECISION & ORDER

The Director having made Findings of Fact and Conclusions of Law,

NOW, THEREFORE, IT IS HEREBY ORDERED:

5.1 The Respondents' Motion to Dismiss is DENIED.

5.3 The Department's Motion for Summary Judgment is GRANTED.

5.3 The 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, No. C-09-488-11-SC01, dated January 6, 2012, is GRANTED.

5.4 Respondents FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN are each ordered to cease and desist from engaging in the business of a mortgage broker or loan originator, including providing loan modification services

in Washington State, without first obtaining and maintaining a license, or qualifying for an exemption from licensure, under the Mortgage Broker Practices Act, chapter 19.146 RCW.

5.5 Respondents FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN are each by this order hereby 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.

5.6 Respondents FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN shall, jointly and severally, pay a fine to the WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS in the amount of TWELVE THOUSAND DOLLARS ($12,000.00).

5.7 Respondents FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN shall, jointly and severally, pay restitution totaling Eleven Thousand Four Hundred Dollars ($11,400.00) to the four (4) borrowers whose individual restitution amounts and identities are:

5.7.1 M.H., in the amount of TWO THOUSAND DOLLARS ($2,000.00);

5.7.2 C.H. and J.H., in the amount of TWO THOUSAND DOLLARS ($2,000.00);

5.7.3 P.K., in the amount of FIVE THOUSAND DOLLARS ($5,000.00); and

5.7.4 J.V. and A.V., in the amount of TWO THOUSAND FOUR HUNDRED DOLLARS ($2,400.00).

5.8 Respondents FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN shall, jointly and severally, pay to WASHINGTON STATE

DEPARTMENT OF FINANCIAL INSTITUTIONS an investigation fee of ONE THOUSAND THREE HUNDRED TWELVE DOLLARS AND EIGHTY CENTS ($1,312.80).

6.0 RECONSIDERATION

Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of this Final Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

7.0 STAY OF ORDER

The Director 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.

8.0 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.

9.0 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.

10.0 EFFECTIVENESS AND ENFORCEMENT OF FINAL ORDER

Pursuant to the Administrative Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective immediately upon deposit in the United States Mail.

Dated at Tumwater, Washington, on this 9th day of September, 2014.

WASHINGTON STATE DEPARTMENT
OF FINANCIAL INSTITUTIONS

By: [redacted]

Scott Jarvis, Director

NOTICE TO THE PARTIES

In accordance with RCW 34.05.470 and WAC 10-08-215, any Petition for Reconsideration of this FINAL DECISION & ORDER must be filed with the Director within ten (10) days of service of this FINAL DECISION & ORDER. It should be noted that Petitions for Reconsideration do not stay the effectiveness of said FINAL DECISION & ORDER. Judicial Review of this FINAL DECISION & ORDER is available to a party according to provisions set out in the Washington Administrative Procedure Act, RCW 34.05.570.

This is to certify that this FINAL DECISION & ORDER has been served upon the following parties on September 10, 2014, by depositing a copy of same in the United States mail, postage prepaid.

WASHINGTON STATE DEPARTMENT
OF FINANCIAL INSTITUTIONS

By: [redacted]
Susan Putzier
Executive Assistant to the Director

Mailed to the following:

KELLY CHRISTENSEN
FINANCIAL SOLUTIONS LAW GROUP
f/k/a ECHO LOANS, INC.
7757 Dancy Road
San Diego, CA 92126

MANDY A. WEEKS
Assistant Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF FINANCIAL SOLUTIONS

In the Matter of Determining: Whether there has been a violation of the Mortgage Broker Practices Act of Washington by: **FINANCIAL SOLUTIONS LAW GROUP fka ECHO LOANS, INC., and KELLY CHRISTENSEN, Managing Partner,** **Respondents.**	**OAH Docket No. 2012-DFI-0005** **DFI No. C-09-488-11-SC01** **INITIAL ORDER GRANTING RESPONDENTS' MOTION TO DISMISS AND DENYING DEPARTMENT'S MOTION FOR SUMMARY JUDGMENT**

I. ISSUES PRESENTED

1.1 Whether Chapter 19.146 RCW regulated loan modifications in 2009.

1.2 Whether the Department of Financial Institutions may regulate the practice of law.

1.3 Whether the Respondents are exempt from the provisions of Chapter 19.146 RCW under RCW 19.46.020(c) and WAC 208-660-008(5).

1.4 Whether the Respondents operated as mortgage brokers or mortgage loan originators and in violation of Chapter 19.146 RCW.

1.5 If the Respondents violated Chapter 19.146 RCW, whether the sanctions sought by the Department of Financial Institutions as expressed in the Statement of Charges dated January 6, 2012, are correct.

II. ORDER SUMMARY

2.1 Chapter 19.146 RCW did not regulate loan modifications in 2009. Accordingly, the Respondents' Motion to Dismiss is GRANTED.

2.2 Because the Respondents' Motion to Dismiss is granted on the grounds that Chapter 19.146 RCW did not regulate loan modifications in 2009, the tribunal need not address the issue of whether the Department of Financial Institutions may regulate the practice of law.

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

2.3 Because the Respondents' Motion to Dismiss is granted on the grounds that Chapter 19.146 RCW did not regulate loan modifications in 2009, the tribunal need not address the issue of whether Respondents are exempt from the provisions of Chapter 19.146 RCW under RCW 19.46.020(c) and WAC 208-660-008(5).

2.4 Because Chapter 19.146 RCW did not regulate loan modifications in 2009, the Respondents were not mortgage loan brokers or loan originators and did not violate Chapter 19.146 RCW.

2.5 Because the Respondents did not violate Chapter 19.146 RCW, the sanctions sought by the Department of Financial Institutions are not correct.

III. HEARING

3.1 **Hearing Date:** December 19, 2013

3.2 **Administrative Law Judge:** Terry A. Schuh

3.3 **Respondents:** Financial Solutions Law Group and Kelly Christensen

3.3.1 **Representative:** Kelly Christensen

3.4 **Agency:** Department of Financial Solutions

3.4.1 **Representative:** Jeffrey G. Rupert, Assistant Attorney General

3.5 **Record Relied Upon:** Respondents' Motion to Dismiss, with attachments; Department's Memorandum in Opposition to Respondents' Motion to Dismiss, with attachments; Respondents' Reply to Department's Memorandum in Opposition to Respondents' Motion to Dismiss, with attachment; Department's Motion for Summary Judgment, with attachments; Respondents' Response to Department's Motion for Summary Judgment; and The Department's Reply Brief on its Motion for Summary Judgment.

////

IV. FINDINGS AS A MATTER OF LAW

I find the following facts based on the uncontested pleadings and party admissions:

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

Jurisdiction

4.1 On January 6, 2012, the Department of Financial Institutions ("the Department") issued to the Respondents Financial Solutions Law Group and Kelly Christensen, (individually, "Financial Solutions" and "Mr. Christensen"; collectively, "the Respondents") a 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 ("Statement of Charges"). Statement of Charges.

4.2 On January 13, 2012, the Respondents filed an Application for Adjudicative Hearing.

Facts material to the regulatory reach of Chapter 19.146 in 2009

4.3 Neither Respondent has ever been licensed by the Department as a mortgage broker or as a loan originator. Declaration of Taellious, p. 2; Respondents' Answers to Department's Request for Admissions, p. 1.

4.4 The Department alleged that the Respondents participated in unlicensed activity, specifically offering loan modification services, between January 2009 and December 2009. Statement of Charges. Between January 2009 and December 2009, the Respondents assisted or offered to assist at least four Washington consumers with mortgage loan modifications. Declaration of Taellious, p. 2.

4.5 The Respondents began offering mortgage loan modification services in January 2009. Declaration of Christensen, p. 4.

4.6 The Respondents stopped soliciting new clients after June 30, 2009. Declaration of Christensen, p. 5.

4.7 The Respondents continued to service or attempt to service clients until sometime in April 2010. Declaration of Christensen, p. 5.

4.8 In April 2009, the Department issued an Interpretive Statement asserting that the Mortgage Broker Practices Act codified at Chapter 19.146 RCW provided the Department at that time with the authority to regulate mortgage loan modification services. Interpretive Statement.

4.9 Effective July 1, 2010, the Legislature added several references regarding mortgage loan modification services to Chapter 19.146 RCW, including additions to the definitions of mortgage broker and loan originator to include in those

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

designations persons who perform or offer to perform loan modification services. House Bill 2608, Chapter 35, Laws of 2010, 61st Legislature, 2010 Regular Session, Residential Loan Modifications – Licensure.

V. CONCLUSIONS OF LAW

Based upon the foregoing Findings as a Matter of Law, I make the following Conclusions of Law:

Jurisdiction

5.1 I have jurisdiction to hear and decide this matter under Chapter 19.146 RCW, Chapter 34.05 RCW, Chapter 34.12 RCW; Chapter 208-660 WAC, Chapter 208-08 WAC, and Chapter 10-08 WAC.

The Respondents' Motion to Dismiss is treated as a Motion for Summary Judgment

5.2 "If materials outside the pleadings are considered, the CR 12(b)(g) motion [to dismiss] is treated as a summary judgment motion under CR 56." *Berst v. Snohomish County*, 114 Wn.App. 245, 251, 57 P.3d 273 (2002), *review denied*, 150 Wn.2d 1015, 79 P.3d 445 (2003).

5.3 Here, the Respondents attached several documents to their Motion to Dismiss, including a declaration from Mr. Christensen, which documents I considered in reaching my decision. Accordingly, in view of the preceding authority, I will treat the Respondents' Motion to Dismiss as a motion for summary judgment.

Summary Judgment

5.4 "Summary judgment is appropriate 'if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.' CR 56(c)." *American Legion Post #149 v. Washington State Dept. of Health*, 164 Wn.2d 570, 584, 192 P.3d 306 (2008).

5.5 "The facts and reasonable inferences therefrom are construed most favorably to the nonmoving party." *Korslund v. Dycorp Tri-Cities Services, Inc.*, 156 Wn.2d 168, 177, 125 P.3d 119 (2005) (citations omitted).

5.6 "Summary judgment should be granted if reasonable persons could reach but one conclusion from the evidence presented." *Korslund,* 156 Wn.2d at 177.

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

5.7 "The burden is on the moving party to demonstrate there is no issue as to a material fact, and the moving party is held to a strict standard." *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 811, 828 P.2d 549 (1992) (citation omitted).

5.8 If the moving party meets this initial showing and does not have the burden of proof at the forthcoming evidentiary hearing on the merits, then the nonmoving party must set forth specific facts that remain at issue to establish that here is a genuine issue to be resolved at the forthcoming hearing. *Young v. Key Pharmaceuticals, Inc.*, 112 Wn.2d 216, 225-226, 770 P.2d 182 (1989) (citations omitted).

5.9 Here, it is undisputed that the Respondents offered to provide mortgage loan modification services in 2009 to at least four Washington residents and that they were not licensed by the Department either as mortgage brokers or loan originators. Other material facts are related above. None are in dispute. Nor is it disputed that Chapter 19.146 RCW and Chapter 208-660 WAC comprise the relevant law in this matter. Further, the parties agree that the law in effect in 2009 applies. What the parties dispute is whether that law provided the Department with the authority to regulate those who provided mortgage loan modification services. Therefore, this issue is ripe for summary judgment.

Chapter 19.46 RCW did not in 2009 provide for the regulation of loan modifications

5.10 All relevant Respondent conduct alleged in the Statement of Charges by the Department occurred in 2009. Accordingly, the law in effect in 2009[1] applies.

5.11 In essence, the Respondents argued that the "plain meaning" doctrine dictates that the law in 2009 did not regulate mortgage loan modification activities. Further, the Interpretative Statement promulgated by the Department in April 2009 does not and cannot repair the failure of law in 2009 to address mortgage loan modifications. Moreover, the Legislature's failure prior to 2010 to include any reference to mortgage loan modifications means that it had no intent prior to then to address mortgage loan modifications. On the other hand, the Legislature's precise treatment of mortgage loan modifications in its amendments in 2010 demonstrated an intent then to do so. Finally, the law in 2009 was not ambiguous in its silence as to mortgage loan modifications.

[1] Citations to statutes and regulations followed by the reference "(2009)" mean the statute or regulation in the form in effect in 2009. The absence of that reference in a citation to a statute or regulation means the statute or regulation in the form in effect now.

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

5.12 The Department argued the reference in the 2009 law to negotiation of loan terms included modifications because modifications by nature include the negotiation of terms. In addition, although the Interpretative Statement is not authoritative, it demonstrates a consistency to the Department's approach to and understanding of the law regarding this issue. Moreover, deference is owed to an agency's interpretation of the law it applies. Lastly, the amendments in 2010 were intended to clarify the law, not to change it.

5.13 A tribunal should ascertain and comply with the Legislature's intent "and if the statute's meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent. *Dept. of Ecology v. Campbell and Gwinn, LLC*, 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002) (citation omitted); *State ex rel. Citizens Against Tolls v. Murphy*, 151 Wn.2d 226, 242, 88 P.3d 375 (2004).

5.14 The tribunal should "construe and apply words according to the meaning that they are ordinarily given, taking into account the statutory context, basic rules of grammar, and any special usages stated by the legislature on the face of the statute as part of the statute's context." *Id.* at 11. In this manner, the plain meaning is "derived from what the Legislature said in its enactments" but "discerned from all that the Legislature has said in the statute". *Id.* "Of course, if, after this inquiry, the statute remains susceptible to more than one reasonable meaning, the statute is ambiguous and it is appropriate to resort to aids to construction, including legislative history." *Id.* at 12 (citations omitted).

5.15 If a word does not have a fixed meaning and is not defined by the statute, then the tribunal should rely upon "a careful examination of the subject matter, context, and purpose of [the] statute". *Retail Store Emps. Union, Local 1001 v. Wash. Surveying & Rating Bureau*, 87 Wn.2d 887, 896-898, 558 P.2d 215 (1976).

5.16 Finally, it is a commonly-held principle that a tribunal is to give deference to an agency's interpretation of a statute where the agency's expertise is clearly in play, *although final interpretation of said statute remains ultimately up to the tribunal. See, e.g., Port of Seattle v. Pollution Control Hearings Bd.*, 151 Wn.2d 568, 587, 90 P.3d 659 (2004) (stating that deference to an agency's interpretation is apt provided that interpretation is consistent with the statute, that the statute is ambiguous, and that the statute "falls within the agency's expertise"); *Id.* at 589 (holding that the "court should not 'undertake to exercise the discretion that the legislature has placed in the agency.' RCW 34.05.574(1)."); *Id.* at 593 (holding that "deference to an agency's interpretation of its own regulations is also appropriate"); *American Legion Post No. 32 v. City of Walla Walla*, 116 Wn.2d 1, 5, 802 P.2d 784 (1991) (observing that

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

"[i]nterpretation of a statute is solely a question of law and within the conventional competence of the court."); *Safeco Ins. Co. v. Meyering*, 102 Wn.2d 385, 391, 687 P.2d 195 (1984) (noting that an agency's expertise suggests its construction of a statute should be "accorded substantial weight" but also observing that the tribunal's interpretation is ultimate even in the face of agency expertise); *Franklin County Sheriff's Office v. Sellers*, 97 Wn.2d 317, 325, 646 P. 2d 113 (1982) (recognizing the "substantial weight" inherently attributed to an agency's view of the law but reserving the judiciary's "province and duty . . . to say what the law is."); *W. Ports Transp., Inc. v. Emp't Sec. Dep't*, 110 Wn.App. 440, 450, 41 P.3d 510 (2002) (recognizing the "heightened degree of deference" given to an agency's interpretation of a statute but reserving for the court the privilege "to determine the purpose and meaning of statues, even when the court's interpretation is contrary to that of the agency charged with carrying out the law."). With the foregoing authority in mind, I hold that it is within the Department's expertise to determine whether and how mortgage loan modification services should be regulated but whether the Legislature intended to do so is not a matter of Department expertise. Therefore, the Department's interpretation of the relevant statutes deserves no special deference and I will interpret the statutes.

5.17 Chapter 19.146 RCW (2009), the Mortgage Broker Practices Act, includes no reference to "mortgage loan modifications".

5.18 Chapter 208-660 WAC (2009) includes no reference to "mortgage loan modifications". To that effect, it is important to observe that the purpose of that WAC chapter "is to administer and interpret the Mortgage Broker Practices Act". WAC 208-660-005(2) (2009).

5.19 "'Loan originator' means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain (i) takes a residential mortgage loan application for a mortgage broker, or (ii) offers or negotiates terms of a mortgage loan." RCW 19.146.010(11)(a) (2009) (in pertinent part).

5.20 "'Mortgage broker' means any person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan." RCW 19.146.010(14) (2009).

5.21 "'Mortgage loan originator' has the same meaning as 'loan originator.'" RCW 19.146.010(15) (2009).

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

5.22 To be subject to the Mortgage Broker Practices Act and subject to the rules expressed in Chapter 208-660 WAC (2009) the person or entity conducting the business must be a mortgage broker or loan originator as defined in the Mortgage Broker Practices Act and the transaction must be that of "making or assisting in obtaining" a residential mortgage loan. WAC 208-660-005(3)-(5) (2009).

5.23 The Department argued that pursuing a mortgage loan modification included negotiating the terms of a mortgage loan and so, given the definition in RCW 19.146.010(11)(a)(ii) (2009), mortgage loan modifications were subject to the Mortgage Broker Practices Act in 2009. However, negotiating a mortgage loan involves negotiating the terms of a new mortgage loan, whereas negotiating a mortgage loan modification involves negotiating changes to an existing mortgage loan's terms or conditions. That distinction is confirmed by reviewing RCW 19.146.010(20) and (21) in the present form, and WAC 208-660-0006 in the present form, defining, and thereby distinguishing, "residential mortgage loan" and "residential mortgage loan modification".

5.24 I am not persuaded that negotiating changes in terms or conditions of mortgage loan is the same as, or a subset of, negotiating terms of a mortgage loan. The conduct occurs at a different time in the life of the loan and the person or entities involved are operating under different conditions and considerations depending upon whether a new mortgage loan is at issue or a modification of an existing mortgage loan is at issue.

5.25 The parties also argue that the language in the preamble to the legislative action that produced the change in 2010 is relevant. The Respondents argued that the new law *amended* the old law. The Department argued that the new law *clarified* the old law. Neither argument is persuasive because at most those arguments address the intent and understanding of the 2010 Legislature. The 2010 Legislature's choice of language tells us nothing about what the Legislature intended when it produced the law in effect in 2009.

5.26 I observe that the Legislature in Chapter 19.146 RCW (2009) said nothing about mortgage loan modification services and that the Department did not attempt to address that deficiency in Chapter 208-660 WAC (2009). Therefore, the context in which I interpret the statute is the context silent as to term "modifications".

5.27 I hold that the plain meaning of "negotiates terms of a mortgage loan" does not include performing or offering to perform mortgage loan modification services. So, the Department had no authority under Chapter 19.146 RCW (2009), the Mortgage Broker Practices Act, to regulate activity regarding

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

mortgage loan modifications. Here, the Department's allegations flowed strictly from the Respondents performing and offering to perform mortgage loan modifications. Thus, the Department had no authority to regulate the Respondents in 2009. Accordingly, the Respondents' Motion to Dismiss should be granted.

The other grounds for dismissal raised by the Respondents are moot

5.28 Because the Respondents' motion is granted as discussed above, the other grounds for dismissal raised by the Respondents are moot. Therefore, I will not address them.

The Respondents did not violate Chapter 19.146 RCW (2009)

5.29 Because the Department lacked authority in 2009 to regulate mortgage loan modifications, the Respondents did not in 2009 operate as mortgage brokers or mortgage loan originators and did not violate Chapter 19.146 RCW (2009). Thus, the sanctions sought by the Department in the Statement of Charges dated January 6, 2012, are not correct. Accordingly, the Department's Motion for Summary Judgment should be denied.

INITIAL ORDER

IT IS HEREBY ORDERED THAT:

The Respondents' Motion to Dismiss is **GRANTED**.

The Department's Motion for Summary Judgment is **DENIED**.

The Statement of Charge and Notice of Intention to Enter an Order to Cease and Desist, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee, No. C-09-488-11-SC01, dated January 6, 2012, is **SET ASIDE**.

Signed and Issued at Tacoma, Washington, on the date of mailing.

[redacted]

Terry A. Schuh
Lead Administrative Law Judge
Office of Administrative Hearings

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

APPEAL RIGHTS

Under RCW 34.05.464 and WAC 10-08-211, any party to an adjudicative proceeding may file a Petition for Review of this Initial Order. Such a Petition for Review shall be filed with the Director of the Department of Financial Institutions within twenty (20) days of the date of service of the Initial Order. The address for filing the Petition for Review is:

Director
Department of Financial Institutions
PO Box 41200
Olympia, WA 98504-1200.

Copies of the Petition for Review shall be served upon all other parties or their representatives at the time the Petition for Review is filed with the Director.

The Petition for Review shall specify the portions of the Initial Order to which exception is taken and shall refer to the evidence in the record which is relied upon to support the Petition for Review.

Any party may file a Reply to a Petition for Review. Replies shall be filed with the Director within ten (10) days of the date of service of the Petition for Review and copies of the Reply shall be served upon all other parties or their representatives at the time the Reply is filed with the Director.

After the time for filing a Petition for Review has elapsed, the Director of the Department of Financial Institutions will issue a Final Order subject to appeal rights that will be explained at that time.

CERTIFICATION OF MAILING IS ATTACHED

Office of Administrative Hearings
949 Market Street, Suite 500
Tacoma, WA 98402
Tel: (253) 476-6888 • Fax: (253) 593-2200

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 2012-DFI-0005

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

Kelly David Christensen Financial Solutions Law Group fka Echo Loans Inc 7757 Dandy Rd San Diego, CA 92129-3042 **E-mail**: kelly.david.christensen.esq@gmail.com ***Respondent***	☒ First Class US mail, postage prepaid ☐ Certified mail, return receipt ☐ Campus Mail ☐ Facsimile ☒ E-mail
Mandy A. Weeks Assistant Attorney General Office of the Attorney General 1125 Washington St SE PO Box 40100 Olympia, WA 98504-0100 **Fax:** (360) 664-0229 ***Agency Representative***	☒ First Class US mail, postage prepaid ☐ Certified mail, return receipt ☐ Campus Mail ☒ Facsimile ☒ E-mail
Charles E. Clark Enforcement Chief Department of Financial Institutions PO Box 41200 Olympia, WA 98504-1200 **Fax:** (360) 596-3868 ***Department Contact***	☒ First Class US mail, postage prepaid ☐ Certified mail, return receipt ☐ Campus Mail ☒ Facsimile ☒ E-mail

Date: Wednesday, February 05, 2014

OFFICE OF ADMINISTRATIVE HEARINGS

[redacted]

Audrey C. Chambers
Legal Secretary

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
949 Market Street, Suite 500 • Tacoma, Washington 98402
253-476-6888 • 253-593-2200 fax • www.oah.wa.gov

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: FINANCIAL SOLUTIONS LAW GROUP f/k/a ECHO LOANS, INC., and KELLY CHRISTENSEN, MANAGING PARTNER, Respondents.	No. C-09-488-11-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). 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. **Financial Solutions Law Group f/k/a Echo Loans, Inc.** (Respondent Financial Solutions) is believed to have been located at 6755 Mira Mesa Blvd., Suite 123-253, San Diego, California. Respondent Financial Solutions has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator in the state of Washington.

B. **Kelly Christensen** (Respondent Christensen) is the managing partner of Respondent Financial Solutions. Respondent Christensen has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator in the state of Washington.

1.2 Unlicensed Activity. Between at least January 2009 and December 2009, Respondents held out as able to assist at least four consumers in applying to obtain a loan modification on at least four residential properties located in the state of Washington. The consumers involved paid Respondents fees totaling at least $11,400. To date Respondents have never been licensed by the Department to engage in the business of a mortgage broker or loan originator.

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

II. GROUNDS FOR ENTRY OF ORDER

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

2.2 Definition of Loan Originator. Pursuant to RCW 19.146.010(10), "Loan Originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain (i) takes a residential mortgage loan application for a mortgage broker, or (ii) offers or negotiates terms of a mortgage loan. "Loan originator" also includes a person who holds themselves out to the public as able to perform any of these activities. "Loan originator" does

not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

2.3 Requirement to Obtain and Maintain Mortgage Broker License. Based on Factual Allegations set forth in Section I above, Respondent Financial Solutions Law Group is in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage broker without first obtaining and maintaining a license under the Act.

2.4 Requirement to Obtain and Maintain Loan Originator License. Based on the Factual Allegations set forth in Section I above, Respondent Kelly Christensen is in apparent violation of RCW 19.146.200 for engaging in the business of a loan originator without first obtaining and maintaining a loan originator license under the Act.

2.5 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or deceptive practice toward any person, or obtaining property by fraud or misrepresentation.

2.6 Requirement to Maintain Books and Records. Based on Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060 for failing to maintain all books and records in a location that is on file with and readily available to the Department until at least twenty-five months have elapsed following the effective period to which the books and records relate.

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 Industry. Pursuant to RCW 19.146.220(5), the Director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of 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 19.146.0201(1) through (9) or (12), 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)(d), (e), and (3)(a) and (b), 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 19.146.020(1) through (9) or (12), 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)(d) and (e), the Director may issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to an injured borrower.

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), the Department will charge forty-eight dollars per hour for an examiner's time devoted to an investigation of the books and records of a licensee or other person subject to the Act.

//

//

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:

4.1 Respondent Financial Solutions Law Group f/k/a Echo Loans, Inc., and Respondent Kelly Christensen cease and desist engaging in the business of a mortgage broker and loan originator in the state of Washington or property located in the state of Washington;

4.2 Respondent Financial Solutions Law Group f/k/a Echo Loans, Inc., and Respondent Kelly Christensen be prohibited from participation in the conduct of the affairs of any mortgage broker and loan originator subject to licensure by the Director, in any manner, for a period of five (5) years;

4.3 Respondent Financial Solutions Law Group f/k/a Echo Loans, Inc., and Respondent Kelly Christensen joint and severally pay a fine, which as of the date of this Statement of Charges totals $12,000;

4.4 Respondent Financial Solutions Law Group f/k/a Echo Loans, Inc., and Respondent Kelly Christensen joint and severally pay restitution to at least the consumers identified in paragraph 1.2 above;

4.5 Respondent Financial Solutions Law Group f/k/a Echo Loans, Inc., and Respondent Kelly Christensen joint and severally pay an investigation fee, which as of the date of this Statement of Charges totals $720 Calculated at $48 per hour for fifteen (15) staff hours devoted to the investigation; and

4.6 Respondent Financial Solutions Law Group f/k/a Echo Loans, Inc., and Respondent Kelly Christensen maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Financial Solutions Law Group f/k/a Echo Loans, Inc.'s loan modification 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 is entered pursuant to the provisions of RCW 19.146.220, RCW 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 6th day of January, 2012

[redacted]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[redacted]

DEBORAH TAELLIOUS
Financial Legal Examiner

Approved by:

[redacted]

JAMES R. BRUSSELBACK
Enforcement Chief