



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:

NO. C-10-171-11-FO01

FIRST OPTION, LLC and
ENRIQUE GONZALEZ,
President and Owner,

FINAL ORDER

Respondents.

I. DIRECTOR'S CONSIDERATION

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. On December 2, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated December 7, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for First Option, LLC and Enrique Gonzalez. The Department served the Statement of Charges, cover letter dated December 7, 2011, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for First Option, LLC and

1 Enrique Gonzalez on Respondents on December 7, 2010, by First-Class mail and Federal Express
2 overnight delivery.

3 On December 21, 2010, Respondents filed an Application for Adjudicative Hearing. On
4 March 15, 2011, the Department made a request to the Office of Administrative Hearings (OAH) to
5 assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of
6 Charges. On March 29, 2011, OAH issued a Notice of Prehearing Conference scheduling a prehearing
7 conference by telephone on April 21, 2011, at 1:00 p.m.

8 On April 21, 2011, all parties attended a telephonic prehearing conference. On the same date,
9 ALJ Steven C. Smith issued a Notice of Hearing and Order Following Prehearing Conference of April
10 21, 2011, scheduling a hearing in Tacoma, Washington, on September 12-13, 2011. On May 4, 2011,
11 ALJ Smith issued an Amended Notice of Hearing and Order Following Prehearing Conference of
12 April 21, 2011, re-scheduling the hearing in Olympia, Washington, on September 12-13, 2011. On
13 May 10, 2011, ALJ Smith issued a 2nd Amended and Superseding Notice of Hearing and Order
14 Following Prehearing Conference of April 21, 2011, re-scheduling the hearing for October 19-20,
15 2011.
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17 On September 16, 2011, the Department filed a Motion for Summary Judgment and requested
18 a hearing date of October 5, 2011. On September 23, 2011, ALJ Smith issued an Order and Notice of
19 Status Conference and Motion Hearing scheduling a telephonic hearing on the Department's Motion
20 for Summary Judgment on October 5, 2011, at 1:00 p.m.
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22 On October 5, 2011, all parties attended a telephonic hearing on the Department's Motion for
23 Summary Judgment. Respondents requested a continuance via telephone to obtain additional evidence
24 and ALJ Smith continued the hearing to October 19, 2011, at 10:00 a.m. On October 19, 2011, all
25 parties attended a telephonic hearing on the Department's Motion for Summary Judgment. On

1 November 9, 2011, ALJ Smith issued an Initial Order Granting Department's Motion for Summary
2 Judgment (Initial Order) and mailed the Initial to Respondents at the address Respondents provided on
3 the Applications for Adjudicative Hearing.

4 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had 20 days from the date of
5 service of the Initial Order to file a Petition for Review of the Initial Order. Respondents did not file a
6 Petition for Review during the statutory period.

7 B. Record Presented. The record presented to the Director for his review and for entry of
8 a final decision included the following:
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- 10 1. Statement of Charges, cover letter dated December 7, 2010, and Notice of
Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 11 2. Applications for Adjudicative Hearing for First Option, LLC and Enrique Gonzalez;
- 12 3. Request to OAH for Assignment of Administrative Law Judge;
- 13 4. Notice of Prehearing Conference, dated March 29, 2011, with documentation of
14 service;
- 15 5. Notice of Hearing and Order Following Prehearing Conference of April 21, 2011,
16 dated April 21, 2011, with documentation of service;
- 17 6. Amended Notice of Hearing and Order Following Prehearing Conference of April 21,
2011, dated May 4, 2011, with documentation of service;
- 18 7. 2nd Amended and Superseding Notice of Hearing and Order Following Prehearing
19 Conference of April 21, 2011, dated May 10, 2011, with documentation of service;
- 20 8. Department's Motion for Summary Judgment, with documentation of service;
- 21 9. Order and Notice of Status Conference and Motion Hearing, dated September 23,
22 2011, with documentation of service; and
- 23 10. Order Granting Department's Motion for Summary Judgment, dated November 9,
24 2011, with documentation of service.

1 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director
2 hereby adopts the Order Granting Department’s Motion for Summary Judgment, which is attached
3 hereto.

4 II. FINAL ORDER

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

7 A. IT IS HEREBY ORDERED, that:

- 8
- 9 1. Respondents FIRST OPTION, LLC and ENRIQUE GONZALEZ are prohibited from
10 participating in the conduct of the affairs of any mortgage broker subject to licensure
11 by the Director, in any manner, for a period of five (5) years from the date of this Final
12 Order;
 - 13 2. Respondents FIRST OPTION, LLC and ENRIQUE GONZALEZ jointly and
14 severally pay a fine to the WASHINGTON STATE DEPARTMENT OF
15 FINANCIAL INSTITUTIONS in the amount of Ten Thousand Dollars (\$10,000.00);
 - 16 3. Respondents FIRST OPTION, LLC and ENRIQUE GONZALEZ jointly and
17 severally pay an investigation fee to the WASHINGTON STATE DEPARTMENT
18 OF FINANCIAL INSTITUTIONS in the amount of Five Hundred Twenty Eight
19 Dollars (\$528.00); and
 - 20 4. Respondents FIRST OPTION, LLC and ENRIQUE GONZALEZ jointly and
21 severally pay restitution totaling Seven Thousand Eight Hundred Dollars (\$7,800.00)
22 to those borrowers more specifically identified in Appendix A of this Final Order.

23 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
24 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
25 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 days of service of the Final Order upon Respondents. 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.

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

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

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

10 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
11 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
12 attached thereto.
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18 DATED this 27th day of December, 2011.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS


SCOTT JARVIS
DIRECTOR

1 **RESTITUTION**

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Borrower	Amount
J.P.	\$ 300
J.G.	\$1,000
D.V.	\$ 500
G.C.	\$1,000
P.M.	\$ 500
H.S.	\$ 500
M.L.	\$ 500
N.S.	\$ 500
R.U.	\$2,500
R.M.	\$ 500

TOTAL \$7,800

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

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

NO. C-10-171-10-SC01

FIRST OPTION, LLC and
ENRIQUE GONZALEZ,
President and Owner,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO PROHIBIT FROM INDUSTRY,
IMPOSE FINE, ORDER RESTITUTION, AND
COLLECT INVESTIGATION FEE

Respondents.

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INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **First Option, LLC (Respondent First Option)** has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker. Respondent First Option is known to have conducted business as a mortgage broker from 5050 SW Griffith, Suite 100, Beaverton, Oregon.

¹ RCW 19.146 (2006)

1 B. **Enrique Gonzalez (Respondent Gonzalez)** is known to be President and Owner of
2 Respondent First Option. Respondent Gonzalez was previously licensed by the Department as Owner,
3 Designated Broker, and Loan Originator for BanCasa Mortgage Company, located at 5050 SW
4 Griffith, Suite 100, Beaverton, Oregon, from about January 21, 2005, to December 31, 2008. At all
5 times relevant to this Statement of Charges, however, Respondent Gonzalez was either inactive² or
6 unlicensed.

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8 **1.2 Unlicensed Activity.** Between at least November 19, 2008, and at least December 21, 2009,
9 Respondents assisted at least 13 borrowers in applying to modify residential mortgage loans on
10 property located in the State of Washington. The borrowers involved in these residential mortgage
11 loan modifications paid advance fees to Respondents totaling at least \$10,000.

12 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the
13 Act by Respondents continues to date.

14 II. GROUNDS FOR ENTRY OF ORDER

15 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
16 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
17 compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or
18 applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make
19 a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage
20 loan. Pursuant to WAC 208-660-006, a person "'assists a person in obtaining or applying to obtain a
21 residential mortgage loan' by, among other things, counseling on loan terms (rates, fees, other costs),
22 [and] preparing loan packages...."

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25 ² BanCasa Mortgage Company surrendered its mortgage broker license effective February 21, 2008. At that time,
Respondent Gonzalez' loan originator license was placed into "inactive" status.

1 **2.2 Requirement to Obtain a Mortgage Broker License.** Based on the Factual Allegations set
2 forth in Section I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in
3 the business of a mortgage broker for Washington residents or property without first obtaining a
4 license to do so.

5 **2.3 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,
6 Respondents are in apparent violation of RCW 19.146.0201(2) and (3) for engaging in any unfair or
7 deceptive practice toward any person and for obtaining property by fraud or misrepresentation.
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9 III. AUTHORITY TO IMPOSE SANCTIONS

10 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director
11 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of
12 a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any
13 licensed mortgage broker or any person subject to licensing under the Act for any violation of RCW
14 19.146.200.

15 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), the Director may impose a fine
16 for failing to comply with a directive or subpoena of the Director or for any other violation of the Act.

17 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(e), the Director may order
18 restitution for any violation of the Act.

19 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-
20 550, the Department may collect the costs of investigation. The investigation charge will be calculated at
21 the rate of \$48 per hour that each examiner devoted to the investigation.
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23 IV. NOTICE OF INTENTION TO ENTER ORDER

24 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
25 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose

1 Sanctions, constitute a basis for the entry of an Order RCW 19.146.220, RCW 19.146.221, and RCW
2 19.146.223. Therefore, it is the Director's intention to ORDER that:

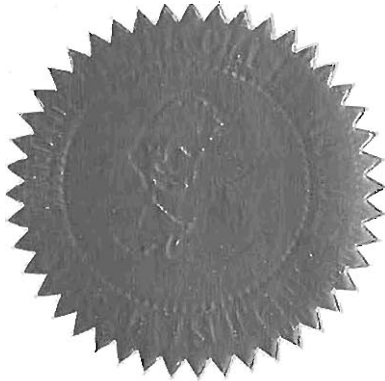
- 3 **4.1** Respondents First Option, LLC and Enrique Gonzalez be prohibited from participation in the
4 conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner,
5 for a period of five years;
- 6 **4.2** Respondents First Option, LLC and Enrique Gonzalez jointly and severally pay a fine which as of
7 the date of these charges totals \$10,000;
- 8 **4.3** Respondents First Option, LLC and Enrique Gonzalez jointly and severally pay restitution
9 totaling \$7,800 to the borrowers more specifically set forth in Appendix A:
- 10 **4.4** Respondents First Option, LLC and Enrique Gonzalez jointly and severally pay an investigation
11 fee which as of the date of these charges totals \$528, calculated at \$48 per hour for the 11
12 examiner hours devoted to the investigation to date; and
- 13 **4.5** Respondents First Option, LLC and Enrique Gonzalez maintain records in compliance with the
14 Act and provide the Department with the location of the books, records, and other information
15 relating to Respondents' mortgage broker business, and the name, address, and telephone number
16 of the individual responsible for maintenance of such records in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry,
3 Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) is entered
4 pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, and
5 RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative
6 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF
7 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
8 Statement of Charges.
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10 Dated this 2nd day of December, 2010.
11



12 *Deborah Bortner*

13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 *Steven C. Sherman*

19 STEVEN C. SHERMAN
20 Financial Legal Examiner

21 Approved by:

22 *James R. Brusselback*

23 JAMES R. BRUSSELBACK
24 Enforcement Chief

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RESTITUTION

Borrower	Amount
J.P.	\$ 300
J.G.	\$1,000
D.V.	\$ 500
G.C.	\$1,000
P.M.	\$ 500
H.S.	\$ 500
M.L.	\$ 500
N.S.	\$ 500
R.U.	\$2,500
R.M.	\$ 500

TOTAL \$7,800