

ORDER SUMMARY – Case Number: C-10-339Name: James W HoldernessOrder Number: C-10-339-12-CO02Effective Date: July 11, 2012License Number: DFI – U/L, NMLS – 285426Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)License Effect: n/a
If applicable, you must specifically note the ending dates of terms.Not Apply Until: July 11, 2022Not Eligible Until: July 11, 2022Prohibition/Ban Until: July 11, 2022

Investigation Costs	\$384	Due \$0	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date July 6, 2012
Fine	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input type="checkbox"/> N			
No. of Victims:				

Comments: Respondent Holderness did not have a license but was a principal of Respondent Residential Relief Foundation. Respondent Holderness fully paid the investigation fee, agreed to cease and desist, and is prohibited from applying or being licensed until July 11, 2022.

RECEIVED

JUL 06 2012

CONSUMER SERVICES DIVISION
DEPT OF FINANCIAL INSTITUTIONS
OLYMPIA, WASHINGTON

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:

RESIDENTIAL RELIEF FOUNDATION, LLC;
JAMES W. HOLDERNESS, Member and
Principal;
MICHAEL VALENTI, Member and Principal;
and
BRYAN MELANSON, Member and Principal;

Respondents.

No.: C-10-339-12-CO02

CONSENT ORDER AS TO RESPONDENT
JAMES W. HOLDERNESS

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and James W. Holderness (Respondent Holderness), Member and Principal of Residential Relief Foundation, LLC (Respondent RRF), and finding that the issues raised in the above-captioned matter, solely as they relate to Respondent Holderness, may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent Holderness have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-10-339-10-SC01 (Statement of Charges), entered January 3, 2011, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent Holderness hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-

1 captioned matter, solely as they relate to Respondent Holderness, may be economically and
2 efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully
3 resolve the Statement of Charges as to Respondent Holderness only.

4 Based upon the foregoing:

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

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

12 **C. Cease and Desist.** It is AGREED that Respondent Holderness shall cease and desist
13 conducting the business of a mortgage broker in the state of Washington.

14 **D. Prohibition from Industry.** It is AGREED that, for a period of 10 years from the date of
15 entry of this Consent Order, Respondent Holderness is prohibited from participating in the conduct of
16 the affairs of any mortgage broker licensed by the Department or subject to licensure or regulation by
17 the Department, in any capacity, including but not limited to: (1) any financial capacity whether
18 active or passive; or (2) as an officer, director, principal, partner, LLC member, designated broker,
19 employee, or loan originator; or (3) any management, control, oversight or maintenance of any trust
20 account(s) in any way related to any residential mortgage transaction; or (4) receiving, disbursing,
21 managing or controlling in any way, consumer trust funds in any way related to any residential
22 mortgage transaction.

1 **E. Application for License.** It is AGREED that, for a period of 10 years from the date of
2 entry of this Consent Order, Respondent Holderness shall not apply to the Department for any license
3 under any name. It is further AGREED that, should Respondent Holderness apply to the Department
4 for any license under any name at any time later than 10 years from the date of entry of this Consent
5 Order, Respondent Holderness shall be required to meet any and all application requirements in effect
6 at that time.

7 **F. Fine.** It is AGREED that Respondent Holderness has provided the Department with
8 evidence of his inability to pay a fine in the form of a financial declaration signed on or about June 1,
9 2012; and the Stipulated Final Order for Permanent Injunction and Settlement of Claims as to
10 Defendants Residential Relief Foundation, LLC, Silver Lining Services, LLC, James Holderness,
11 Bryan Melanson, Michael Valenti, and Jillian Melanson (Stipulated Final Order), Case No. 1:10-cv-
12 3214-JFM, entered September 29, 2011, in the United States District Court for the District of
13 Maryland, ordering all of Respondent RRF's assets transferred to Peter E. Keith, court-appointed
14 receiver (Receiver) for Respondent RRF, for the purpose of providing consumer redress.

15 **G. Restitution.** It is AGREED that Respondent Holderness has provided the Department
16 with evidence of his inability to pay restitution as described in Paragraph F. It is further AGREED
17 that Respondent has provided the Department with evidence that payment of restitution has been
18 ordered pursuant to the Order Approving Plaintiff's Redress Distribution Plan (Redress Plan), Case
19 No. 1:10-cv-3214-JFM, entered March 29, 2012, in the United States District Court for the District of
20 Maryland, ordering the Receiver to pay restitution.

21 **H. Investigation Fee.** It is AGREED that Respondent Holderness shall pay to the
22 Department an investigation fee of \$384, in the form of a cashier's check made payable to the
23 "Washington State Treasurer," upon entry of this Consent Order.

1 **I. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
2 consent of any person or entity not a party to this Consent Order to take any action concerning their
3 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
4 Order, this Consent Order does not limit or create any private rights or remedies against Respondent
5 Holderness, limit or create liability of Respondent Holderness, or limit or create defenses of
6 Respondent Holderness to any claims.

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

12 **K. Voluntarily Entered.** It is AGREED that the undersigned Respondent Holderness has
13 voluntarily entered into this Consent Order, which is effective when signed by the Director's
14 designee.

15 **L. Completely Read, Understood, and Agreed.** It is AGREED that Respondent
16 Holderness has read this Consent Order in its entirety and fully understands and agrees to all of the
17 same.

1 **RESPONDENT:**

2
3 JAMES W. HOLDERNESS
4 Member and Principal
Residential Relief Foundation, LLC

7/2/12
Date

5 DO NOT WRITE BELOW THIS LINE

6 THIS ORDER ENTERED THIS 11th DAY OF July, 2012



11
12
13
14
15
16

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

17 Presented by:

18
19
20
21
22
23

KENNETH J. SUGIMOTO
Financial Legal Examiner

24 Approved by:

CHARLES E. CLARK
Enforcement Chief

1
2
3
4
5
6
7
8
9

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

NO. C-10-339-10-SC01

RESIDENTIAL RELIEF FOUNDATION, LLC;
JAMES W. HOLDERNESS, Member and
Principal; MICHAEL VALENTI, Member and
Principal; BRYAN MELANSON, Member and
Principal,

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

Respondents.

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 19.146.210 and 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. Residential Relief Foundation, LLC (Respondent Residential Relief Foundation) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker. Respondent Residential Relief Foundation is alleged to have conducted business as a mortgage broker from 1502 Joh Avenue Ste. 160, Baltimore, Maryland 21227. On or around November 15, 2010, Respondent Residential Relief Foundation applied for a license with the Department to conduct business as a mortgage broker in the state of Washington.

¹ RCW 19.146 (2009)

1 **B. James W. Holderness (Respondent Holderness)** is known to be an owner and principal of
2 Respondent Residential Relief Foundation. Respondent Holderness's ownership share in Respondent
3 Residential Relief Foundation is known to be 40%. Respondent Holderness has never been licensed with the
4 Department to conduct business as a mortgage broker or as a mortgage loan originator.

5 **C. Michael Valenti (Respondent Valenti)** is known to be an owner and principal of Respondent
6 Residential Relief Foundation. Respondent Valenti's ownership share in Respondent Residential Relief
7 Foundation is known to be 30%. Respondent Valenti has never been licensed with the Department to conduct
8 business as a mortgage broker or as a mortgage loan originator.

9 **D. Bryan J. Melanson (Respondent Melanson)** is known to be an owner and principal of Respondent
10 Residential Relief Foundation. Respondent Melanson's ownership share in Respondent Residential Relief
11 Foundation is known to be 30%. Respondent Melanson has never been licensed with the Department to
12 conduct business as a mortgage broker or as a mortgage loan originator.

13 **1.2 Unlicensed Activity.** Between at least February 2010 and August 2010, Respondents assisted at least
14 four hundred and twelve (412) borrowers in applying to obtain loan modifications on property located in the
15 state of Washington. The borrowers involved in these loan modifications paid fees to Respondent Residential
16 Relief Foundation totaling at least \$284,132.17.

17 **1.3 Prohibited Acts.** On or around July 2, 2010, Respondents mailed a solicitation letter to at least one
18 Washington borrower. Among the violations in the solicitation letter are the following:

- 19 A. The solicitation contains a seal picturing the likeness of the Great Seal of the United States
20 surrounded by a circle with the words "Residential Relief Foundation."
21 B. The solicitation contains a heading that reads "FORECLOSURE STIMULUS UPDATE;" the
22 borrower's name and address underneath and to the left of the heading; and the words
23 "SECOND NOTICE;" an expiration date, a modification case number, and the phrase,
24 "(Y)our case has been assigned to the following processing center" followed by the words
25 "Residential Relief Foundation, LLC," and a PO box underneath and to the right of the
 heading.
 C. The solicitation represents by implication that Respondent Residential Relief Foundation is an
 agency of, affiliated with, or endorsed or sponsored by the United States government.
 Respondent Residential Relief Foundation is not an agency of, affiliated with, or endorsed by
 the United States government.

- 1 D. The solicitation contains no language qualifying the claims that Respondent Residential Relief
2 Foundation and its loan modification program are affiliated with the United States
3 government.
4 E. The solicitation creates the impression that Respondents will effectively modify consumers'
5 mortgages by emphasizing Respondents' expertise in obtaining loan modifications. For
6 example, the solicitation states that Respondent Residential Relief Foundation employs "a
7 staff, which includes the experience of real estate attorneys, forensic auditors, and lender
8 specific counselors who deal with the loss mitigation department of banks on a daily basis.
9 Based on this expertise, *Residential Relief Foundation, LLC* has obtained a very high success
10 rate for homeowners that meet our *Loan Rewrite Initiative Program* criteria." (Emphasis in
11 original).
12 F. The solicitation contains a closing paragraph that urges consumers that "time is of the
13 essence" and tells consumers to call Respondent Residential Relief Foundation's toll-free
14 number so that its "attorneys and modification counselors" can assist consumers in saving
15 their homes and "dramatically" reducing their mortgage payments.
16 G. The solicitation contains no language qualifying Respondents' success rate claims.
17 H. The solicitation contains no disclosure of the fees or total costs to purchase, receive, or use
18 Respondent Residential Relief Foundation's mortgage assistance relief services.

19 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
20 Respondents continues to date.

21 II. GROUNDS FOR ENTRY OF ORDER

22 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
23 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
24 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
25 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. Pursuant to RCW 19.146.010(15),
"Mortgage Broker" means the same as "Loan Originator."

2.2 Definition of Loan Originator. Pursuant to RCW 19.146.010(11)(a) and WAC 208-660-006, "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. Pursuant to RCW 19.146.010(11)(b) and
WAC 208-660-006, "Loan originator" also means a natural person who for direct or indirect compensation or
gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan

1 modification services or holds himself or herself out as being able to perform residential mortgage loan
2 modification services.

3 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(3), a “Borrower” is defined as any person who
4 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information
5 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself
6 or herself, regardless of whether the person actually obtains such a loan.

7 **2.4 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
8 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
9 broker without first obtaining and maintaining a license under the Act.

10 **2.5 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
11 apparent violation of RCW 19.146.0201(1) and (7) and WAC 208-660-440(2) and (9) for directly or indirectly
12 employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person; by making, in
13 any manner, any false or deceptive statement or representation with regard to the rates, points, or other
14 financing terms or conditions for a residential mortgage loan or engaging in bait and switch advertising; by
15 advertising using a solicitation which suggests or represents that Respondents are affiliated with a state or
16 federal agency or other entity which Respondents do not actually represent; and by advertising with envelopes
17 or stationery that contain an official-looking emblem designed to resemble a government mailing or that suggest
18 an affiliation that does not exist.

19 **2.6 Violation of the Federal Trade Commission Act.** Based on the Factual Allegations set forth in
20 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) for failing to comply with
21 Section 5(a) the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a), in any advertising of residential
22 mortgage loans or any other applicable mortgage broker or loan originator activities covered by the Act, by
23 engaging in unfair or deceptive acts or practices.

24 **2.7 Requirement to Demonstrate Financial Responsibility, Character and General Fitness.** Based on
25 the Factual Allegations set forth in Section I above, Respondents have failed to meet the requirements of RCW

1 19.146.210(1) and WAC 208-660-163(2), (3), and (4) for failing to demonstrate financial responsibility,
2 character, and general fitness such as to command the confidence of the community and to warrant a belief that
3 the business will be operated honestly, fairly, and efficiently within the purposes of the Act.

4 III. AUTHORITY TO IMPOSE SANCTIONS

5 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the Director may
6 issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to cease and
7 desist from conducting business in a manner that is injurious to the public or violates any provision of the Act.

8 **3.2 Authority to Deny Application for Mortgage Broker License.** Pursuant to RCW 19.146.220(2), the
9 Director may deny applications for Mortgage Broker licenses. Pursuant to RCW 19.146.210(1)(h), the director
10 must deny a Mortgage Broker license application if the applicant, any of its principals, or the designated broker
11 have provided unlicensed residential mortgage loan modification services in this state in the five years prior to the
12 filing of the present application. Pursuant to RCW 19.146.210(2), the Director shall not issue a Mortgage
13 Broker license to an applicant if the conditions of RCW 19.146.210(1) have not been met, shall notify the
14 applicant of the denial, and return to the applicant the bond or approved alternative and any remaining portion
15 of the license fee that exceeds the department's actual cost to investigate the license.

16 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
17 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
18 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
19 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or (13),
20 or RCW 19.146.200.

21 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a) and WAC 208-660-530(6), the Director
22 may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act
23 for any violations of RCW 19.146.0201(1) through (9) or (13) or RCW 19.146.200.

1 **3.5 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may issue orders directing
2 a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to a borrower for any
3 violation of the Act.

4 **3.6 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520(9) and
5 WAC 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person
6 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
7 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
8 hour that each staff person devoted to the investigation.

9 //

10 //

11 //

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 19.146.210, 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 Respondents Residential Relief Foundation, James W. Holderness, Michael Valenti, and Bryan J. Melanson cease and desist conducting the business of a mortgage broker in the state of Washington;
- 4.2 Respondent Residential Relief Foundation's application for a license to conduct the business of a mortgage broker be denied;
- 4.3 Respondent Residential Relief Foundation be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years;
- 4.4 Respondent James W. Holderness be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years;
- 4.5 Respondent Michael Valenti be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years;
- 4.6 Respondent Bryan J. Melanson be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years;
- 4.7 Respondents Residential Relief Foundation, James W. Holderness, Michael Valenti, and Bryan J. Melanson jointly and severally pay a fine which as of the date of these charges totals \$30,000;
- 4.8 Respondents Residential Relief Foundation, James W. Holderness, Michael Valenti, and Bryan J. Melanson jointly and severally pay an investigation fee which as of the date of these charges totals \$945.60 calculated at \$48 per hour for the 19.7 staff hours devoted to the investigation;
- 4.9 Respondents Residential Relief Foundation, James W. Holderness, Michael Valenti, and Bryan J. Melanson jointly and severally pay restitution of all fees to all borrowers referred to in 1.2 above for the practice of originating loan modification transactions without a license; and
- 4.10 Respondents Residential Relief Foundation, James W. Holderness, Michael Valenti, and Bryan J. Melanson maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' mortgage broker business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

//

//

1 **V. AUTHORITY AND PROCEDURE**

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

9 Dated this 3rd day of ~~December~~ ^{January 3, 2011}, 2010. *DB*



11
12 _____
13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 _____
19 MARISA E. BROGGEL
20 Financial Legal Examiner

21 Approved by:

22 _____
23 JAMES R. BRUSSELBACK
24 Enforcement Chief