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DEC 05 2011

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

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

No.: C-10-403-11-CO01

CONSENT ORDER

PREMIER LEGAL ADVOCATES and
BRIAN W. PASCAL, President and Owner,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Premier Legal Advocates and Brian W. Pascal, President and Owner (collectively, Respondents), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of 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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-10-403-10-SC01 (Statement of Charges), issued June 13, 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, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

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CONSENT ORDER
C-10-403-11-CO01
Premier Legal Advocates and Brian W. Pascal

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902.8703

1 Based upon the foregoing:

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

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

9 **C. Stipulation of Facts.** It is AGREED that Respondents stipulate to the facts as outlined in the
10 Factual Allegations in Section I of the Statement of Charges, which is incorporated herein by reference.

11 **D. Cease and Desist.** It is AGREED that, as of June 13, 2011, Respondents have ceased and
12 desisted offering loan modification services or otherwise conducting the business of a mortgage
13 broker or loan originator in the state of Washington, or involving property located in the state of
14 Washington.

15 **E. Prohibition from Industry.** It is AGREED that, for a period of fifteen (15) years from
16 the date of entry of this Consent Order, Respondents are prohibited from participating in the conduct
17 of the affairs of any mortgage broker or consumer loan company licensed by the Department or
18 subject to licensure or regulation by the Department under chapter 19.146 RCW and chapter 31.04
19 RCW, respectively, in any capacity, including but not limited to: (1) any financial capacity whether
20 active or passive; or (2) as an officer, director, principal, partner, LLC member, designated broker,
21 employee, or loan originator; or (3) any management, control, oversight or maintenance of any trust
22 account(s) in any way related to any residential mortgage transaction; or (4) receiving, disbursing,

1 managing or controlling in any way, consumer trust funds in any way related to any residential
2 mortgage transaction.

3 **F. Declaration of Financial Condition.** It is AGREED that Respondents have provided the
4 Department with a Declaration comprehensively describing their current financial condition and
5 representing their inability to pay the fine, restitution, and investigation fee as set forth in the
6 Statement of Charges.

7 **G. Records Retention.** It is AGREED that Respondents shall maintain records in
8 compliance with the Act and have provided the Director with the location of the books, records and
9 other information relating to Respondents' business, and the name, address and telephone number of
10 the individual responsible for maintenance of such records in compliance with the Act. It is further
11 AGREED that Respondents shall timely provide the Director with updated information as to the
12 location of the books, records and other information relating to Respondents' business, and the name,
13 address and telephone number of the individual responsible for maintenance of such records, should
14 any of this information change after entry of this Consent Order, in compliance with the Act.

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

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

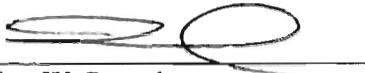
21 **J. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
22 this Consent Order in its entirety and fully understand and agree to all of the same.

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1 **RESPONDENTS:**

2 **Premier Legal Advocates**

By:

3 

4 Brian W. Pascal
President and Owner

11-23-11
Date

6 

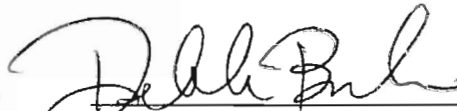
7 Brian W. Pascal
Individually

11-23-11
Date

10 DO NOT WRITE BELOW THIS LINE

11 THIS ORDER ENTERED THIS 8th DAY OF December, 2011



12 

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

17 Presented by:

18 

19 ~~MARISA E. BROGGEL~~
Financial Legal Examiner

KENNETH J. SUGIMOTO

20 Approved by:

21 

22 JAMES R. BRUSSELBACK
Enforcement Chief

1 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11)(a), "Loan originator"
2 means a natural person who for direct or indirect compensation or gain, or in the expectation of direct
3 or indirect compensation or gain (i) takes a residential mortgage loan application for a mortgage
4 broker, or (ii) offers or negotiates terms of a mortgage loan. "Loan originator" also includes a person
5 who holds themselves out to the public as able to perform any of these activities. "Loan originator"
6 does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For
7 the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and
8 distribution of information common for the processing of a loan in the mortgage industry and
9 communication with a borrower to obtain information necessary for the processing of a loan. A
10 person who holds himself or herself out to the public as able to obtain a loan is not performing
11 administrative or clerical tasks.

12 **2.3 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth
13 in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (3) and RCW
14 19.146.200 for engaging in the business of a mortgage broker or loan originator without first
15 obtaining and maintaining a license under the Act. Individuals or entities negotiating residential
16 mortgage loan terms act as mortgage brokers or loan originators and must be licensed under the Act
17 unless specifically exempt from the Act.

18 III. AUTHORITY TO IMPOSE SANCTIONS

19 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
20 Director may issue orders directing a licensee, its employee or loan originator, or other person subject
21 to the Act to cease and desist from conducting business in a manner that is injurious to the public or
22 violates any provision of the Act.

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1 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a) and (d), the
2 Director may issue orders removing from office or prohibiting from participation in the conduct of
3 the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator
4 of any licensed mortgage broker or any person subject to licensing under the Act for any violation of
5 RCW 19.146.0201(1) through (9), or RCW 19.146.200, or failure to comply with a directive or order
6 of the Director.

7 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2) and (3) and WAC 208-660-530,
8 the Director may impose fines on a licensee, employee or loan originator of the licensee, or other
9 person subject to the Act for any violations of the Act, or any violations of RCW 19.146.0201(1)
10 through (9), or RCW 19.146.200, or failure to comply with a directive or order of the Director.

11 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may issue
12 orders directing a licensee or other person subject to the Act to pay restitution.

13 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
14 550(4) and WAC 208-660-520(9), upon completion of any investigation of the books and records of a
15 licensee or other person subject to the Act, the Department will furnish to the licensee or other person
16 subject to the Act a billing to cover the cost of the investigation. The investigation charge will be
17 calculated at the rate of forty-eight dollars (\$48) per hour that each staff person devoted to the
18 investigation.

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

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

1 **4.1** Respondents Premier Legal Advocates and Brian W. Pascal cease and desist offering loan
2 modification services or otherwise conducting the business of a mortgage broker or loan originator in
the state of Washington;

3 **4.2** Respondents Premier Legal Advocates and Brian W. Pascal be prohibited from participation
4 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 **4.3** Respondents Premier Legal Advocates and Brian W. Pascal jointly and severally pay a fine
6 which as of the date of this Statement of Charges totals \$15,000;

7 **4.4** Respondents Premier Legal Advocates and Brian W. Pascal jointly and severally pay
8 restitution of all fees or monies collected from at least the consumers referenced in paragraph 1.2
above;

9 **4.5** Respondents Premier Legal Advocates and Brian W. Pascal jointly and severally pay an
10 investigation fee which as of the date of this Statement of Charges totals \$1,464, calculated at \$48 per
hour for the thirty and one-half (30.5) staff hours devoted to the investigation; and

11 **4.6** Respondents Premier Legal Advocates and Brian W. Pascal maintain records in compliance
12 with the Act and provide the Department with the location of the books, records and other
information relating to Respondent Premier Legal Advocates' business, and the name, address and
13 telephone number 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 Cease and Desist,
3 Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of
4 Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW
5 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The
6 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
7 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this Statement of Charges.

9
10 Dated this 13th day of June, 2011

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

17 Presented by:

18 
19 _____
20 MARISA E. BROGGEL
21 Financial Legal Examiner

22 Approved by:

23 
24 _____
25 JAMES R. BRUSSELBACK
26 Enforcement Chief

