

ORDER SUMMARY – Case Number: C-11-009

Name(s): Maxim Mortgage Solutions

Order Number: C-11-009-12-FO01

Effective Date: July 26, 2012

License Number: NMLS ID: 976059

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: July 26, 2017

Investigation Costs	\$1,804.80	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$65,300	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$72,942	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment	\$	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:	49			

Comments: records retention requirement

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

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

No.: C-11-009-12-FO01

MAXIM MORTGAGE SOLUTIONS,
DAVID W. CLARK, Owner, and
ROGER HULSEBUS, Owner,

FINAL ORDER
MAXIM MORTGAGE SOLUTIONS

Respondents.

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On June 7, 2012, the Director, through the Director's designee, issued an Amended Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit from Industry, Order Restitution, Impose Fine, and Collect Investigation Fee (Amended Statement of Charges) against Maxim Mortgage Solutions (Respondent Maxim Mortgage), David Clark (Respondent Clark), and Roger Hulsebus (Respondent Hulsebus). A copy of the Amended Statement of Charges is attached and incorporated into this order by this reference. The Amended Statement of Charges was accompanied by a cover letter dated June 13, 2012, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for each Respondent (collectively, accompanying documents).

On June 13, 2012, the Department served Respondents with the Statement of Charges and accompanying documents by First-Class mail and Federal Express overnight delivery. Respondents Clark and Hulsebus were served with accompanying documents as individuals and on behalf of

1 Respondent Maxim Mortgage. On June 14, 2012, the documents sent by Federal Express overnight
2 delivery to Respondents Maxim Mortgage and Hulsebus were delivered to Respondent Hulsebus.
3 The documents sent by Federal Express to Respondent Clark were returned to the Department as
4 undeliverable. The documents sent to Respondent Maxim Mortgage's last known address, 214 E.
5 Riverside Boulevard, Loves Park, Illinois, 61111, were returned as undeliverable by the United States
6 Postal Service. The documents sent to Respondent Clark and Hulsebus by First-Class mail were not
7 returned to the Department by the United States Postal Service as undeliverable.

8 Respondent Maxim Mortgage did not request an adjudicative hearing within twenty calendar
9 days after the Department served the Notice of Opportunity to Defend and Opportunity for Hearing,
10 as provided for in WAC 208-08-050(2). Respondents Hulsebus and Clark each filed Applications for
11 Adjudicative hearings on their own behalf, but neither filed an Application on behalf of Respondent
12 Maxim Mortgage.

13 B. Record Presented. The record presented to the Director's designee for her review and
14 for entry of a final decision included the following: Amended Statement of Charges, cover letter
15 dated June 13, 2012, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
16 Application for Adjudicative Hearing for Respondent Maxim Mortgage, with documentation for
17 service.

18 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
19 Director's designee hereby adopts the Statement of Charges, which is attached hereto.
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1 II. FINAL ORDER

2 Based upon the foregoing, and the Director's designee having considered the record and being
3 otherwise fully advised, NOW, THEREFORE:

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent Maxim Mortgage Solutions cease and desist providing or offering to
6 provide residential loan modification services.
- 7 2. Respondent Maxim Mortgage Solutions is prohibited from participation in the
8 conduct of the affairs of any mortgage broker subject to licensure by the Director,
9 in any manner, for a period of 5 years.
- 10 3. Respondent Maxim Mortgage Solutions pay a fine of \$65,300.
- 11 4. Respondent Maxim Mortgage pay \$72,942 in restitution to the 44 borrowers
12 identified in the attached Restitution Appendix.
- 13 5. Respondent Maxim Mortgage Solutions pay an investigation fee of \$1,804.80.
- 14 6. Respondent Maxim Mortgage Solutions, its officers, employees, and agents
15 maintain records in compliance with chapter 19.146 RCW, the Mortgage Broker
16 Practices Act (Act) and provide the Director with the location of the books,
17 records and other information relating to Respondent Maxim Mortgage Solutions'
18 mortgage broker business, and the name, address and telephone number of the
19 individual responsible for maintenance of such records in compliance with the Act.

20 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent Maxim Mortgage has the
21 right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested.
22 The Petition must be filed in the Office of the Director of the Department of Financial Institutions by
23 courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200,
24 Olympia, Washington 98504-1200, within ten (10) days of service of the Final Order upon
Respondent Maxim Mortgage. 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 twenty (20) days from the
2 date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
3 written notice specifying the date by which it will act on a petition.

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

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

10 E. Non-compliance with Order. If you do not comply with the terms of this order, the
11 Department may seek its enforcement by the Office of the Attorney General to include the collection
12 of the fines, fees, and restitution imposed herein. The Department also may assign the amounts owed
13 to a collection agency for collection.

14 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
15 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
16 attached hereto.

17 DATED this 26th day of July, 2012



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20 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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DEBORAH BORTNER
Director
Division of Consumer Services

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

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

5 MAXIM MORTGAGE SOLUTIONS,
6 DAVID W. CLARK, Owner, and
ROGER HULSEBUS, Owner,

7 Respondents.

No. C-11-009-12-SC02

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

8 INTRODUCTION

9 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of
10 Financial Institutions of the State of Washington (Director) is responsible for the administration of
11 chapter 19.146 RCW, the Mortgage Broker Practices (Act)¹.

12 After having conducted an investigation pursuant to RCW 19.146.235, and based upon the
13 facts available as of February 3, 2012, the Director, through his designee, Division of Consumer
14 Services Director Deborah Bortner (Division Director Bortner) issued Statement of Charges C-11-
15 009-12-SC01 (Statement of Charges SC01) on February 3, 2012. Respondent Maxim Mortgage
16 Solutions and Respondent David Clark were each served with Statement of Charges SC01.
17 Respondent Maxim Mortgage Solutions did not file an Application of Adjudicative Hearing with the
18 Department of Financial Institutions (Department). After the issuance of Statement of Charges SC01,
19 information came to the attention of the Department that requires the amendment of Statement of
20 Charges SC01. Based on facts available as of the date of this Amended Statement of Charges, the
21 Director, through Division Director Bortner, now proceeds to amend Statement of Charges SC01 by
22 issuing this Amended Statement of Charges SC02 (Amended Statement of Charges). This Amended

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24 ¹ RCW 19.146 (2008)

1 Statement of Charges includes the following modifications: addition of Respondent Roger Hulsebus,
2 correcting the citations in Sections 2.5 and 3.2 to reflect the proper subsections for the violations
3 listed, and updating the investigation costs as of the date of this Amended Statement of Charges.

4 I. FACTUAL ALLEGATIONS

5 1.1 Respondents.

6 A. **Maxim Mortgage Solutions (Respondent Maxim Mortgage)** has never been
7 licensed by the Department to conduct business as a mortgage broker. Respondent Maxim Mortgage
8 is known to do business from 214 E. Riverside Blvd., Loves Park, Illinois.

9 B. **David W. Clark (Respondent Clark)** is an owner of Respondent Maxim Mortgage.
10 Respondent Clark has never been licensed by the Department as a mortgage broker or loan originator.

11 C. **Roger Hulsebus (Respondent Hulsebus)** is an owner of Respondent Maxim
12 Mortgage. Respondent Hulsebus has never been licensed by the Department as a mortgage broker or
13 loan originator.

14 1.2 **Unlicensed Activity.** Between at least August 25, 2009, and February 5, 2010, Respondents
15 conducted loan modification services for at least 49 Washington consumers.

16 On or about October 27, 2009, Washington consumer R.B. entered into an agreement with
17 Respondents for assistance with applying for a residential loan modification. Respondents were paid
18 an advance fee of at least \$975 for this service. When R.B. grew dissatisfied, he requested that
19 Respondents refund his money. Respondents did not do so. R.B. subsequently contacted the
20 Department regarding Respondents. The Department contacted Respondents, requesting information.

21 On or about September 29, 2010, Respondent Clark returned a Claim of Non-Applicability to
22 the Department. Respondent Clark's response as to why Respondents were not subject to licensure
23 was as follows: "Never have done any business in State of WA and have no intentions to do so." The

1 document was signed "David W. Clark, Owner." Documents provided to the Department on or about
2 January 7, 2011, by a representative of Respondent Maxim Mortgage showed that at least 49
3 Washington consumers had paid advance fees totaling \$87,040 to Respondents for residential loan
4 modification services.

5 **1.3 Unfair and Deceptive Acts.** Respondent Roger Hulsebus operated a website,
6 maximmod.com, which advertised Respondent Maxim Mortgage's ability to provide loan
7 modification services. This advertisement constitutes "holding out" without benefit of licensure, and
8 as such is a deceptive act.

9 **1.4 Prohibited Acts.** As stated above, on or about September 29, 2010, Respondent Clark
10 submitted a Claim of Non-Applicability to the Department, signed under penalty of perjury, asserting
11 that Respondents had not done any business in the State of Washington. However, this statement is
12 contradicted by documents from Respondent Maxim Mortgage which show advance fees received
13 from 49 Washington consumers for loan modification services.

14 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the
15 Act by Respondents continues to date.

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

17 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
18 "Mortgage broker" means any person who, for compensation or gain, or in the expectation of
19 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
20 loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to
21 obtain a residential mortgage loan.

22 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11) and WAC 208-660-006,
23 "Loan originator" means a natural person who for direct or indirect compensation or gain, or in the

1 expectation of direct or indirect compensation or gain: takes a residential mortgage loan application
2 for a mortgage broker; offers or negotiates terms of a mortgage loan; performs residential mortgage
3 loan modification services; or holds themselves out to the public as able to perform any of these
4 activities.

5 **2.3 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
6 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
7 and WAC 208-660-155 for engaging in the business of a mortgage broker without first obtaining and
8 maintaining a license under the Act.

9 **2.4 Unfair and Deceptive Acts or Practices.** Based on the Factual Allegations set forth in
10 Section I above, Respondents are in apparent violation of RCW 19.146.0201(2), for advertising
11 Respondent Maxim Mortgage's loan modification services without benefit of licensure.

12 **2.5 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
13 Maxim Mortgage and David Clark are in apparent violation of RCW 19.146.0201(8), for negligently
14 making a false statement or knowingly and willfully making an omission of material fact in
15 connection with an investigation conducted by the Department.

16 III. AUTHORITY TO IMPOSE SANCTIONS

17 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
18 Director may issue orders directing a licensee, its employee, loan originator, independent contractor,
19 agent, or other person subject to the Act to cease and desist from conducting business.

20 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
21 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
22 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
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1 mortgage broker or any person subject to licensing under the Act for: any violation of RCW
2 19.146.0201(2) or (8), or RCW 19.146.200.

3 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
4 restitution against licensees or other persons subject to the Act for any violation of the Act.

5 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), the Director may impose
6 fines against a licensee or other persons subject to the Act for any violation of the Act.

7 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
8 520(9) & (11), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per hour
9 for an examiner's time devoted to an investigation of a licensee or other person subject to the Act.

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

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

15 **4.1** Respondents Maxim Mortgage Solutions, David W. Clark, and Roger Hulsebus cease
16 and desist providing or offering to provide residential loan modification services.

17 **4.2** Respondent Maxim Mortgage Solutions be prohibited from participation in the
18 conduct of the affairs of any mortgage broker subject to licensure by the Director, in
19 any manner, for a period of 5 years.

20 **4.3** Respondent David W. Clark be prohibited from participation in the conduct of the
21 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
22 a period of 5 years.

23 **4.4** Respondent Roger Hulsebus be prohibited from participation in the conduct of the
24 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
a period of 5 years.

4.5 Respondents Maxim Mortgage Solutions, David W. Clark, and Roger Hulsebus jointly
and severally pay a fine. As of the date of this Amended Statement of Charges, the
fine totals \$65,300.

1 **V. AUTHORITY AND PROCEDURE**

2 This Amended Statement of Charges is entered pursuant to the provisions of RCW
3 19.146.220, RCW 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the
4 provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a
5 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
6 OPPORTUNITY FOR HEARING accompanying this Amended Statement of Charges.

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8 Dated this 7th day of June, 2012.



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

15 Presented by:

16 _____
17 SHANA L. OLIVER
18 Financial Legal Examiner

19 Approved by:

20 _____
21 CHARLES E. CLARK
22 Enforcement Chief