

ORDER SUMMARY – Case Number: C-11-009

Name(s): Roger Hulsebus

Order Number: C-11-009-13-CO01

Effective Date: January 31, 2013

License Number: _____
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: _____

Not Apply Until: [Lifetime]

Not Eligible Until: _____

Prohibition/Ban Until: _____

Investigation Costs	\$902.40	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 1/25/13
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input 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:				

Comments: _____

RECEIVED

JAN 25 2013

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:

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

No.: C-11-009-13-CO01

CONSENT ORDER
ROGER HULSEBUS

Respondents.

COME NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Roger Hulsebus (Respondent Hulsebus), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, solely as they relate to Respondent Hulsebus, 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 Hulsebus have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-11-009-12-SC02 (Amended Statement of Charges), entered June 7, 2012 (copy attached hereto), solely as they relate to Respondent Hulsebus. Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent Hulsebus hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-captioned matter, solely as they relate to Respondent

1 Hulsebus, may be economically and efficiently settled by entry of this Consent Order. The parties
2 intend this Consent Order to fully resolve the Statement of Charges.

3 Based upon the foregoing:

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

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

11 C. **Ownership.** Respondent Hulsebus, in a sworn declaration to the Department, has
12 represented that he is not and has never been an owner of Respondent Maxim Mortgage.

13 D. **Application for License.** It is AGREED that Respondent Hulsebus shall not apply to the
14 Department for any license under any name.

15 E. **Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
16 consent of any person or entity not a party to this Consent Order to take any action concerning their
17 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
18 Order, this Consent Order does not limit or create any private rights or remedies against Respondent
19 Hulsebus, limit or create liability of Respondent Hulsebus, or limit or create defenses of Respondent
20 Hulsebus to any claims.

21 F. **Investigation Fee.** It is AGREED that Respondent Hulsebus shall pay to the Department
22 an investigation fee of \$902.40, in the form of a cashier's check made payable to the "Washington
23 State Treasurer," upon entry of this Consent Order.

1 G. **Non-Compliance with Order.** It is AGREED that Respondent Hulsebus understands
2 that failure to abide by the terms and conditions of this Consent Order may result in further legal
3 action by the Director. In the event of such legal action, Respondent Hulsebus may be responsible to
4 reimburse the Director for the cost incurred in pursuing such action, including but not limited to,
5 attorney fees.

6 H. **Voluntarily Entered.** It is AGREED that the undersigned Respondent Hulsebus has
7 voluntarily entered into this Consent Order, which is effective when signed by the Director's
8 designee.

9 I. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent Hulsebus
10 has read this Consent Order in its entirety and fully understands and agrees to all of the same.

11 **RESPONDENT:**

12 [Redacted]

13 Roger Hulsebus
14 Individually

15 *Approved as to form!*

16 [Redacted]

17 Christopher Osborn, WSBA #13608
18 Attorney at Law, Foster Pepper, PLLC
19 Attorney for Respondent Hulsebus

1/18/2013
Date

1/22/2013
Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 31st DAY OF January, 2013



[Redacted signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted name]

Shana L. Oliver
Financial Legal Examiner

Approved by:

[Redacted name]

Charles E. Clark
Enforcement Chief

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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:

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

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**

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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)¹.

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

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 [REDACTED] 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 [REDACTED] grew dissatisfied, he requested that
19 Respondents refund his money. Respondents did not do so. [REDACTED] 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
23

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 **4.6** Respondents Maxim Mortgage Solutions, David W. Clark, and Roger Hulsebus jointly
2 and severally pay restitution totaling at least \$72,942 to the 44 borrowers identified in
3 the Restitution Appendix attached to this Amended Statement of Charges.²

4 **4.7** Respondents Maxim Mortgage Solutions, David W. Clark, and Roger Hulsebus jointly
5 and severally pay an investigation fee. As of the date of this Amended Statement of
6 Charges, the investigation fee totals \$1,804.80, calculated at \$48 per hour for the 37.6
7 examiner hours devoted to the investigation to date.

8 **4.8** Respondents Maxim Mortgage Solutions, David W. Clark, and Roger Hulsebus
9 maintain records in compliance with the Act and provide the Department with the
10 location of the books, records, and other information relating to Respondents'
11 mortgage broker business, and the name, address, and telephone number of the
12 individual responsible for maintenance of such records in compliance with the Act.
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² Prior to this Amended Statement of Charges, Respondents made full refunds to 5 consumers and partial refunds to 5 consumers.

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.

7
8 Dated this 7th day of June, 2012.



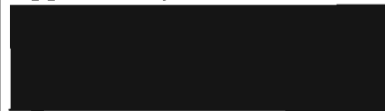
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DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



SHANA L. OLIVER
Financial Legal Examiner

Approved by:



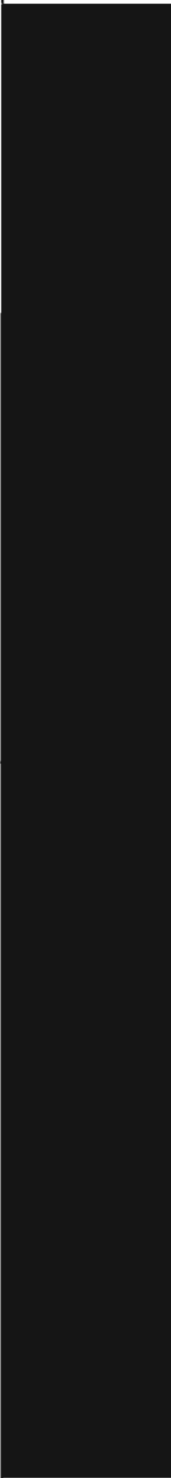
CHARLES E. CLARK
Enforcement Chief

RESTITUTION

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Consumer

Amount paid¹



\$900
\$215
\$1,650
\$150
\$1,950
\$1,650
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\$1,650
\$1,950
\$1,650
\$1,650
\$1,650
\$2,500
\$1,950
\$1,650
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\$1,650
\$650
\$1,650
\$962
\$1,950

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¹ As noted in the foregoing Amended Statement of Charges, 49 Washington consumers paid Respondents advance fees. Five consumers received full refunds, and five consumers received partial refunds. Those consumers who have been refunded the total fee are not listed here.

1		\$1,950
2		\$1,650
3		\$1,650
4		\$2,500
5		\$1,650
6		\$1,600
7		\$1,650
8		\$1,915
9		\$1,650
10		\$1,650
11		\$2,150
12		\$1,650
13		\$1,950
14		\$1,950
15		\$1,650
16		\$1,650
17		<u>\$1,950</u>
18	Total	\$72,942