

Terms Completed

ORDER SUMMARY – Case Number: C-11-0650

Name(s): National Modification Services
John J. Mabie

Order Number: C-11-0650-12-CO01

Effective Date: September 27, 2012

License Number: N/A
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: none

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$624	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 09/27/12
Fine	\$2,500	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 09/27/12
Assessment(s)	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$5,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 09/20/12
Judgment	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
No. of Victims:		2		

Comments:

RECEIVED

SEP 27 2012

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-11-0650-12-CO01

CONSENT ORDER

NATIONAL MODIFICATION SERVICES, LLC
and
JOHN J. MABIE, Sole Member,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and National Modification Services, LLC and John J. Mabie, Sole member (hereinafter 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-11-0650-12-SC01 (Statement of Charges), entered April 10, 2012, (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

1 Order to fully resolve the Statement of Charges. Respondents are agreeing not to contest the
2 Statement of Charges in consideration of the terms of this Consent Order.

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 Respondents have been informed of the right to a
7 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
8 administrative and judicial review of the issues raised in this matter, or of the resolution reached
9 herein. Accordingly, Respondents, by the signatures below, withdraw their appeal to the Office of
10 Administrative Hearings.

11 C. No Admission of Liability. The parties intend this Consent Order to fully resolve the
12 Statement of Charges and agree that Respondents do not admit to any wrongdoing by its entry.

13 D. License. It is AGREED that Respondents shall not conduct business as a mortgage broker
14 or loan originator for Washington consumers or properties without first obtaining and maintaining the
15 proper license(s).

16 E. Restitution. It is AGREED that Respondents have paid total restitution of \$5,000 to the
17 two borrowers more specifically described in the Statement of Charges.

18 F. Fine. It is AGREED that Respondents shall pay a fine to the Department in the amount of
19 \$2,500 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry
20 of this Consent Order.

21 G. Investigation Fee. It is AGREED that Respondent shall pay to the Department an
22 investigation fee of \$624 in the form of a cashier's check made payable to the "Washington State
23

1 Treasurer” upon entry of this Consent Order. The Fine and Investigation Fee may be paid together in
2 one \$3,124 cashier’s check made payable to the “Washington State Treasurer.”

3 H. Authority to Execute Order. It is AGREED that the undersigned have represented and
4 warranted that they have the full power and right to execute this Consent Order on behalf of the
5 parties represented.

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

10 J. Voluntarily Entered. It is AGREED that the undersigned Respondents have voluntarily
11 entered into this Consent Order, which is effective when signed by the Director’s designee.

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

14 RESPONDENTS:

15 National Modification Services, LLC

16 By [Redacted Signature]

17 John J. Mabie
18 Sole Member

19 [Redacted Signature]

20 John J. Mabie
21 Individually

9-24-12

Date

9-24-12

Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 27th DAY OF September, 2012



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



Steven C. Sherman
Financial Legal Examiner Supervisor

Approved by:



Charles E. Clark
Enforcement Chief

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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:

NATIONAL MODIFICATION SERVICES, LLC
and
JOHN J. MABIE, Sole Member,

Respondents.

No. C-11-0650-12-SC01

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

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 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. **National Modification Services, LLC (NMS)** has never been licensed by the
Department of Financial Institutions of the State of Washington (Department) to conduct any
business regulated by the Department.

B. **John J. Mabie (Mabie)** is known to have been the sole member of Respondent NMS
at all times relevant to this Statement of Charges. Respondent Mabie has never been licensed by the
Department for any purpose.

¹ All references to RCW 19.146 are to the version in effect at the time of the alleged violation.

1 **1.2 Unlicensed Activity.** In about May 2009, Respondents entered into an agreement with
2 borrower O.D. to assist the borrower with a modification of a Washington residential mortgage loan.
3 Respondents received an advance fee of \$2,500 from the borrower. In about September 2009,
4 Respondents received \$2,500 from borrower K.R for assistance with a modification of a Washington
5 residential mortgage loan. Upon being contacted by the Department, Respondents admitted to
6 assisting at least 10 Washington borrowers with the modification of residential mortgage loans.

7 **1.3 On-Going Investigation.** The Department’s investigation into the alleged violations of the
8 Act by Respondents continues to date.

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

10 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
11 “Mortgage broker” means any person who, for compensation or gain, or in the expectation of
12 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
13 loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to
14 obtain a residential mortgage loan. For purposes of this definition, a person "assists a person in
15 obtaining or applying to obtain a residential mortgage loan" by, among other things, counseling on
16 loan terms.

17 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11) and WAC 208-660-006,
18 “Loan originator” means a natural person who for direct or indirect compensation or gain, or in the
19 expectation of direct or indirect compensation or gain, performs residential mortgage loan
20 modification services or holds themselves out to the public as able to perform any of these activities.

21 **2.3 Definition of Residential Mortgage Loan Modification.** Pursuant to RCW 19.146.010(20)
22 and WAC 208-660-006, “Residential mortgage loan modification” means a change in one or more of
23 a residential mortgage loan’s terms or conditions. Changes to a residential mortgage loan’s terms or

1 conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan
2 terms, or loan types; capitalization of arrearages; or principal reductions.

3 **2.4 Definition of Residential Mortgage Loan Modification Services.** Pursuant to RCW
4 19.146.010(21) and WAC 208-660-006, “Residential mortgage loan modification services” includes
5 negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to
6 perform a residential mortgage loan modification. “Residential mortgage loan modification services”
7 also includes the collection of data for submission to any entity performing mortgage loan
8 modification services.

9 **2.5 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
10 Allegations set forth in Section I above, Respondent NMS is in apparent violation of RCW
11 19.146.0201(2) and (3) and RCW 19.146.200(1) for engaging in the business of a mortgage broker
12 without first obtaining and maintaining a license under the Act.

13 **2.6 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
14 Allegations set forth in Section I above, Respondent Mabie is in apparent violation of RCW
15 19.146.0201(2) and (3) and RCW 19.146.200(1) for engaging in the business of a loan originator
16 without first obtaining and maintaining a license under the Act.

17 **III. AUTHORITY TO IMPOSE SANCTIONS**

18 **3.1 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
19 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
20 licensed mortgage broker, or both, any person subject to licensing under the Act for any violation of
21 RCW 19.146.0201(1) through (9) or RCW 19.146.200.

22 **3.2 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
23 restitution against licensees or other persons subject to the Act for any violation of the Act.

1 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
2 against any persons subject to the Act for any violation of the Act. Pursuant to RCW 19.146.220(3),
3 the Director may impose fines on a loan originator for any violations of RCW 19.146.0201(1)
4 through (9) or RCW 19.146.200.

5 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
6 520(9) & (11), and WAC 208-660-550(4)(a), the Department may collect the costs of investigation.
7 The Department will charge \$48 per hour for an examiner's time devoted to an investigation of any
8 person subject to the Act.

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

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

- 14 **4.1** Respondents National Modification Services, LLC and John J. Mabie be prohibited
15 from participation in the conduct of the affairs of any mortgage broker subject to
16 licensure by the Director, in any manner, for a period of 5 years.
- 17 **4.2** Respondents National Modification Services, LLC and John J. Mabie jointly and
18 severally pay a fine which as of the date of this Statement of Charges totals \$20,000.
- 19 **4.3** Respondents National Modification Services, LLC and John J. Mabie jointly and
20 severally pay restitution totaling \$5,000 to the two borrowers identified in paragraph
21 1.2 of this Statement of Charges.
- 22 **4.4** Respondents National Modification Services, LLC and John J. Mabie jointly and
23 severally pay an investigation fee which as of the date of this Statement of Charges
24 totals \$624.

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1 **V. AUTHORITY AND PROCEDURE**

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

7
8 Dated this 10th day of April, 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 STEVEN C. SHERMAN
17 Financial Legal Examiner