

ORDER SUMMARY – Case Number: C-11-0708

Name(s): 2nd Chance Negotiations, Inc. a/k/a 2nd Chance Legal Services
Michael Garcia, Christopher Mesunas, C P L Ventures, Inc. d/b/a
Superior Properties, Phil Mesunas

Order Number: C-11-0708-11-FO01

Effective Date: February 7, 2013

License Number: N/A
N/A

License Effect:

Not Apply Until: _____

Prohibition/Ban Until: Five years from date of entry

Investigation Costs	\$1,723.20	Due	Paid Y N X	Date
Fine	\$5,250	Due	Paid Y N X	Date
Assessment(s)	\$	Due	Paid Y N	Date
Restitution	\$2,500	Due	Paid Y N X	Date
	No. of Victims:	1		

Other: Superior Properties to cease and desist engaging in the business of a
Mortgage broker

Special Instructions: _____

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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-11-0708-11-FO01

2ND CHANCE NEGOTIATIONS, INC., a/k/a 2ND
CHANCE LEGAL SERVICES,
MICHAEL GARCIA, President,
CHRISTOPHER MESUNAS, Officer,
C P L VENTURES, INC. d/b/a SUPERIOR
PROPERTIES, and
PHIL MESUNAS, President,

FINAL ORDER

Respondents.

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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 July 22, 2011, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit From Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) against 2nd Chance Negotiations, Inc., a/k/a 2nd Chance Legal Services, Michael Garcia, Christopher Mesunas, C P L Ventures, Inc. d/b/a Superior Properties, and Phil Mesunas (Respondents). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated July 22, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents (collectively, accompanying documents).

1 On July 21, 2011, the Department served Respondent Garcia with the Statement of Charges
2 and accompanying documents by First-Class mail and Federal Express overnight delivery. On July
3 25, 2011, the documents sent by Federal Express overnight delivery were delivered. The documents
4 sent by First-Class mail were not returned to the Department by the United States Postal Service.

5 On July 21, 2011, the Department served Respondent C P L Ventures, Inc. with the Statement
6 of Charges and accompanying documents by First-Class mail and Federal Express overnight delivery.
7 On July 25, 2011, the documents sent by Federal Express overnight delivery were delivered. On
8 August 4, 2011, the documents sent by First-Class mail were returned to the Department as
9 undeliverable.

10 On August 8, 2011, the Department served Respondent 2nd Chance Negotiations, Inc. with the
11 Statement of Charges and accompanying documents by First-Class mail and Federal Express
12 overnight delivery. On August 11, 2011, the documents sent by Federal Express overnight delivery
13 were delivered. The documents sent by First-Class mail were not returned to the Department by the
14 United States Postal Service.

15 On October 12, 2011, the Department served Respondent Christopher Mesunas with the
16 Statement of Charges and accompanying documents by First-Class mail and Federal Express
17 overnight delivery. On October 17, 2011, the documents sent by Federal Express overnight delivery
18 were delivered. The documents sent by First-Class mail were not returned to the Department by the
19 United States Postal Service.

20 On October 12, 2011, the Department served Respondent Phil Mesunas with the Statement of
21 Charges and accompanying documents by First-Class mail and Federal Express overnight delivery.
22 On October 17, 2011, the documents sent by Federal Express overnight delivery were delivered. The
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1 documents sent by First-Class mail were not returned to the Department by the United States Postal
2 Service.

3 Respondents did not request an adjudicative hearing within twenty calendar days after the
4 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
5 in WAC 208-08-050(2).

6 B. Record Presented. The record presented to the Director's designee for her review and
7 for entry of a final decision included the following: Statement of Charges, cover letter dated July 22,
8 2011, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for
9 Adjudicative Hearing for Respondents, with documentation for service.

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

12 II. FINAL ORDER

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

15 A. IT IS HEREBY ORDERED, That:

- 16 1. Respondents C P L Ventures, Inc. d/b/a Superior Properties and Phil Mesunas
17 cease and desist offering loan modification services or otherwise conducting the
business of a mortgage broker or loan originator in Washington.
- 18 2. Respondents 2nd Chance Negotiations, Inc. and C P L Ventures, Inc. d/b/a Superior
19 Properties are 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
20 of five years.
- 21 3. Respondents Michael Garcia, Christopher Mesunas, and Phil Mesunas are
22 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.
- 23 4. Respondents 2nd Chance Negotiations, Inc., Michael Garcia and Christopher
Mesunas jointly and severally pay a fine of \$5,250.

1 5. Respondents 2nd Chance Negotiations, Inc., Michael Garcia, and Christopher
2 Mesunas jointly and severally pay restitution totaling \$2,500 to the borrower
identified in paragraph 1.2 of the attached Statement of Charges.

3 6. Respondents 2nd Chance Negotiations, Inc., Michael Garcia, Christopher Mesunas,
4 C P L Ventures, Inc. d/b/a Superior Properties, and Phil Mesunas jointly and
severally pay an investigation fee of \$1,723.20.

5 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
6 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
7 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
8 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
9 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
10 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
11 Reconsideration a prerequisite for seeking judicial review in this matter.

12 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the
13 date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
14 written notice specifying the date by which it will act on a petition.

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

18 D. Judicial Review. Respondents have the right to petition the superior court for judicial
19 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
20 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

21 E. Non-compliance with Order. If you do not comply with the terms of this order,
22 including payment of any amounts owed within 30 days of receipt of this order, the Department may
23 seek its enforcement by the Office of the Attorney General to include the collection of the fines, fees,

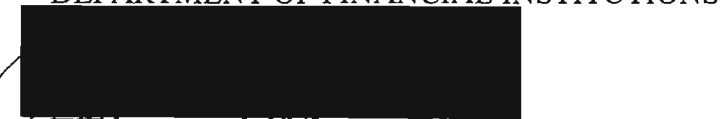
1 and restitution imposed herein. The Department also may assign the amounts owed to a collection
2 agency for collection.

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

6 DATED this 7th day of February, 2013



8 STATE OF WASHINGTON
9 DEPARTMENT OF FINANCIAL INSTITUTIONS



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11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services

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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:

2ND CHANCE NEGOTIATIONS, INC., a/k/a 2ND
CHANCE LEGAL SERVICES,
MICHAEL GARCIA, President,
CHRISTOPHER MESUNAS, Officer,
C P L VENTURES, INC. d/b/a SUPERIOR
PROPERTIES, and
PHIL MESUNAS, President,

Respondents.

No. C-11-0708-11-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO CEASE AND DESIST,
PROHIBIT FROM INDUSTRY, IMPOSE
FINE, ORDER RESTITUTION, 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 (Act)¹. After having conducted an
investigation pursuant to RCW 19.146.235, and based upon the facts available as of 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **2nd Chance Negotiations, Inc. (2nd Chance Negotiations)** was a California
corporation located at 7529 Sunset Ave. Ste. C1, Fair Oaks, California, 95628. 2nd Chance
Negotiations has also operated under the name 2nd Chance Legal Services. Respondent 2nd Chance

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¹ RCW 19.146 (2008)
STATEMENT OF CHARGES
C-11-0708-11-SC01
2nd Chance Negotiations, Inc., Michael Garcia, Christopher
Mesunas, C P L Ventures, Inc. d/b/a Superior Properties, and
Phil Mesunas

1 Negotiations has never been licensed to conduct the business of a Mortgage Broker by the
2 Department of Financial Institutions.

3 B. **Michael Garcia (Garcia)** was the President of 2nd Chance Negotiations. Respondent
4 Garcia has never been licensed by the Department of Financial Institutions in any capacity.

5 C. **Christopher Mesunas** was a former President of 2nd Chance Negotiations.
6 Respondent Christopher Mesunas has never been licensed by the Department of Financial Institutions
7 in any capacity.

8 D. **C P L Ventures, Inc. d/b/a Superior Properties (Superior Properties)** is a
9 California corporation located at 4401 Hazel Ave. Suite 200, Fair Oaks, California, 95628.
10 Respondent Superior Properties has never been licensed to conduct the business of a Mortgage
11 Broker by the Department of Financial Institutions.

12 E. **Phil Mesunas** is President of Superior Properties. Respondent Phil Mesunas has
13 never been licensed by the Department of Financial Institutions in any capacity.

14 **1.2 Unlicensed Activity.** Between at least January 19, 2009, and March 27, 2009, Respondents
15 assisted at least one borrower, [REDACTED], in applying to obtain a loan modification on property located in
16 the State of Washington from the unlicensed location referenced in paragraph 1.1. Respondents did
17 not obtain a loan modification for this borrower. On or about April 29, 2009, Respondents sent a
18 letter to the borrower. The letter stated that Respondent 2nd Chance Negotiations, Inc. was dissolved
19 and that its clients had two options available: to allow Respondent Superior Properties to assume the
20 processing of their loan modification or to request a refund. While borrower [REDACTED] originally
21 authorized Superior Properties to continue processing this loan modification, the borrower ultimately
22 requested a refund. On or about May 8, 2009, Respondents sent a letter declining to pay a refund.
23 This letter again offered to have Respondent Superior Properties continue assisting with the

1 borrower's loan modification. Ultimately, Respondents did not obtain a loan modification for this
2 borrower and did not refund the borrower's fee.

3 **1.3 Failure to Respond to Directive.** On or about June 3, 2009, the Department sent a Directive
4 and Requirement for Production of Records and Explanation to Respondents 2nd Chance Negotiations
5 and Superior Properties by First-Class mail. This Directive was not returned to the Department as
6 undeliverable by the United States Postal Service. There was no response to this Directive. On or
7 about July 2, 2009, the Department issued a Subpoena to Respondents 2nd Chance Negotiations and
8 Superior Properties by First-Class mail. The subpoena was not returned as undeliverable by the
9 United States Postal Service. There was no response to this Subpoena.

10 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
11 Act by Respondents continues to date.

12 II. GROUNDS FOR ENTRY OF ORDER

13 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
14 "Mortgage broker" means any person who, for compensation or gain, or in the expectation of
15 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
16 loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to
17 obtain a residential mortgage loan.

18 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006,
19 "Loan originator" means a natural person who (a) takes a residential mortgage loan application for a
20 mortgage broker, or (b) offers or negotiates terms of a mortgage loan, for direct or indirect
21 compensation or gain, or in the expectation of direct or indirect compensation or gain. "Loan
22 originator" does not mean persons performing purely administrative or clerical tasks for a mortgage
23 broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt,

1 collection, and distribution of information common for the processing of a loan in the mortgage
2 industry and communication with a borrower to obtain information necessary for the processing of a
3 loan. A person who holds him or herself out to the public as able to obtain a loan is not performing
4 administrative or clerical tasks.

5 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(3) and WAC 208-660-006,
6 “Borrower” means any person who consults with or retains a mortgage broker or loan originator in an
7 effort to obtain or seek advice or information on obtaining or applying to obtain a residential
8 mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the
9 person actually obtains such a loan.

10 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
11 Allegations set forth in Section I above, Respondents 2nd Chance Negotiation and Superior Properties
12 are in apparent violation of RCW 19.146.200(1) and WAC 208-660-155 for engaging in the business
13 of a mortgage broker without first obtaining and maintaining a license under the Act.

14 **2.5 Requirement to Comply with Investigation Authority.** Based on the Factual Allegations
15 set forth in Section I above, Respondents 2nd Chance Negotiations and Superior Properties are in
16 apparent violation of RCW 19.146.235 for failing to comply with the Department’s investigation
17 authority.

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, independent
21 contractor, agent, or other person subject to the Act to cease and desist from conducting business.

22 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
23 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a

1 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
2 mortgage broker or any person subject to licensing under the Act for: any violation of RCW
3 19.146.200, or failure to comply with any directive or order of the Director.

4 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3), the Director may impose fines
5 on an employee, loan originator, independent contractor, or agent of the licensee, or other person
6 subject to the Act, for any violations of RCW 19.146.200 or failure to comply with any directive or
7 order of the Director.

8 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
9 restitution against licensees or other persons subject to the Act for any violation of the Act.

10 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-
11 660-550(4), the Department will charge forty-eight dollars per hour for an examiner's time devoted to
12 an investigation of a licensee or other person subject to the Act.

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

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

18 **4.1** Respondents C P L Ventures, Inc. d/b/a Superior Properties and Phil Mesunas cease and
19 desist offering loan modification services or otherwise conducting the business of a mortgage broker
20 or loan originator in the State of Washington;

21 **4.2** Respondents 2nd Chance Negotiations, Inc. and C P L Ventures, Inc. d/b/a Superior Properties
22 be prohibited from participation in the conduct of the affairs of any mortgage broker subject to
23 licensure by the Director, in any manner, for a period of five years.

1 **4.3** Respondents Michael Garcia, Christopher Mesunas, and Phil Mesunas be prohibited from
2 participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director,
3 in any manner, for a period of five years.

4 **4.4** Respondents 2nd Chance Negotiations, Inc., Michael Garcia and Christopher Mesunas jointly
5 and severally pay a fine. As of the date of this Statement of Charges, the fine totals \$5,250.

6 **4.5** Respondents 2nd Chance Negotiations, Inc., Michael Garcia and Christopher Mesunas jointly
7 and severally pay restitution totaling \$2,500 to the borrower identified in paragraph 1.2 of this
8 Statement of Charges.

9 **4.6** Respondents 2nd Chance Negotiations, Inc. Michael Garcia and Christopher Mesunas jointly
10 and severally pay restitution in an amount to be shown at hearing to all similarly situated borrowers.

11 **4.7** Respondents 2nd Chance Negotiations, Inc., Michael Garcia, Christopher Mesunas, C P L
12 Ventures, Inc. d/b/a Superior Properties, and Phil Mesunas jointly and severally pay an investigation
13 fee. As of the date of this Statement of Charges, the investigation fee totals \$1,723.20.

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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.

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8 Dated this 2nd day of July, 2011



[Redacted signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

13 Presented by:

14 [Redacted signature]

15 ROBERT E. JONES
16 Financial Legal Examiner

17 Approved by:

18 [Redacted signature]

19 JAMES R. BRUSSELBACK
20 Enforcement Chief