

ORDER SUMMARY – Case Number: C-12-0905

Name(s): Protection Law Center;
Thomas William Austin Jr.;

Order Number: C-12-0905-12-FO01

Effective Date: November 2, 2012

License Number: U/L
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: November 2, 2017

Investigation Costs	\$912	Due NOW	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$12,000	Due NOW	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	\$10,355	Due NOW	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:		4		

Comments:

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:

No.: C-12-0905-12-FO01

5 PROTECTION LAW CENTER, LLC,
6 F/K/A RESIDENCE PROTECTION LAW
CENTER, LLC, and
7 THOMAS WILLIAM AUSTIN, JR., Owner,

FINAL ORDER

Respondents.

8
9 I. DIRECTOR'S CONSIDERATION

10 A. Default. This matter has come before the Director of the Department of Financial
11 Institutions of the State of Washington (Director), through his designee, Consumer Services Division
12 Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On September 27,
13 2012, the Director, through the Director's designee, issued a Statement of Charges and Notice of
14 Intention to Enter an Order to Produce Records, Cease and Desist Business, Prohibit from Industry,
15 Order Restitution, Impose Fine, and Collect Investigation Fee (Statement of Charges) against
16 Protection Law Center, LLC and Thomas William Austin, Jr. (collectively, Respondents). A copy of
17 the Statement of Charges is attached and incorporated into this order by this reference. The
18 Statement of Charges was accompanied by a cover letter dated October 8, 2012, a Notice of
19 Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative
20 Hearing for each Respondent (collectively, accompanying documents).

21 On October 8, 2012, the Department served Respondents with the Statement of Charges and
22 accompanying documents by First-Class mail and Federal Express overnight delivery. On October 9,
23

1 2012, the documents sent by Federal Express overnight delivery were delivered. The documents sent
2 by First-Class mail were not returned to the Department by the United States Postal 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 Statement of Charges, cover letter dated October 8, 2012,
8 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for
9 Adjudicative Hearing for each Respondent, with documentation of 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 Protection Law Center, LLC and Thomas William Austin, Jr. cease
17 and desist engaging in the business of a mortgage broker without obtaining and
18 maintaining a mortgage broker license from the Department or qualifying for an
exemption from licensure under chapter 19.146 RCW, the Mortgage Broker
Practices Act (Act).
- 19 2. Respondent Thomas William Austin, Jr. cease and desist engaging in the business
20 of a loan originator without obtaining and maintaining a loan originator license
from the Department or qualifying for an exemption from licensure under the Act.
- 21 3. Respondents Protection Law Center, LLC and Thomas William Austin, Jr. provide
22 the Department with a complete list of all transactions in which Respondents
23 provided or offered to provide residential mortgage loan modification services
related to real property or consumers located in the state of Washington. This list
must include each consumer's name, address, and telephone number, the date of

1 the transaction, and the total fees collected by Respondents from each consumer
2 for the provision of those services.

- 3 4. Respondents Protection Law Center, LLC and Thomas William Austin, Jr. are
4 prohibited from participation in the conduct of the affairs of any licensed mortgage
5 broker, in any manner, for a period of five years.
- 6 5. Respondents Protection Law Center, LLC and Thomas William Austin, Jr. jointly
7 and severally pay restitution to the following consumers in the following amounts:
8 \$2,535 to Consumer [REDACTED]; \$2,570 to Consumer [REDACTED]; \$2,700 to Consumer [REDACTED];
9 and \$2,550 to Consumer [REDACTED]
- 10 6. Respondents Protection Law Center, LLC and Thomas William Austin, Jr. jointly
11 and severally pay a fine of \$12,000.
- 12 7. Respondents Protection Law Center, LLC and Thomas William Austin, Jr. jointly
13 and severally pay an investigation fee of \$912.
- 14 8. Respondents Protection Law Center, LLC and Thomas William Austin, Jr.
15 maintain records in compliance with the Act and provide the Department with the
16 location of the books, records and other information relating to Respondents'
17 provision of residential loan modification services in Washington, and the name,
18 address and telephone number of the individual responsible for maintenance of
19 such records in compliance with the Act.

20 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
21 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
22 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
23 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
24 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. 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.

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

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

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

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

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

14 DATED this 2nd day of November, 2012

15
16 STATE OF WASHINGTON
17 DEPARTMENT OF FINANCIAL INSTITUTIONS

18
19 /s/ _____
20 DEBORAH BORTNER
21 Director
22 Division of Consumer Services
23

1
2
3
4
5
6
7
8

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

PROTECTION LAW CENTER, LLC,
F/K/A RESIDENCE PROTECTION LAW
CENTER, LLC, and
THOMAS WILLIAM AUSTIN, JR., Owner,

Respondents.

No. C-12-0905-12-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO PRODUCE RECORDS,
CEASE AND DESIST BUSINESS,
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). 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 Respondent Protection Law Center, LLC, F/K/A Residence Protection Law Center, LLC (Respondent PLC) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to engage in the business of a mortgage broker.

1.2 Respondent Thomas William Austin, Jr. (Respondent Austin) is Owner of Respondent PLC. Respondent Austin has never been licensed by the Department to engage in the business of a mortgage broker or loan originator. Respondent Austin has never been licensed to practice law in the state of Washington.

1 **1.3 Unlicensed Activity.** From at least in or around April 2011 through at least in or around
2 January 2012, Respondents offered to provide at least four consumers located in the state of
3 Washington with residential mortgage loan modification services related to residential mortgage loans
4 secured by real property located in the state of Washington, and collected at least \$10,355 in advance
5 fees from at least these four consumers as follows:

<u>Consumer</u>	<u>Advance Fee</u>
6 [REDACTED]	\$2,535
7 [REDACTED]	\$2,570
8 [REDACTED]	\$2,700
[REDACTED]	\$2,550

9 **1.4 Prohibited Acts.** The Department has received complaints from the four consumers identified
10 above alleging Respondents did not provide residential mortgage loan modification services to the
11 consumers' satisfaction and did not refund the advance fees these consumers had paid to Respondents.

12 **1.5 Misrepresentations and Omissions.** Respondents omitted disclosing to consumers in the
13 state of Washington that Respondents were neither licensed to provide residential mortgage loan
14 modification services in the state of Washington nor exempt from licensing.

15 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the
16 Act by Respondents continues to date.

17 II. GROUNDS FOR ENTRY OF ORDER

18 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
19 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
20 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
21 or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a
22 residential mortgage loan. Pursuant to WAC 208-660-006, a person "'assists a person in obtaining or
23 applying to obtain a residential mortgage loan' by, among other things, counseling on loan terms
24 (rates, fees, other costs), [and] preparing loan packages...."

1 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), “loan originator” means a
2 natural person who for direct or indirect compensation or gain, or in the expectation of direct or
3 indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
4 offers or negotiates terms of a mortgage loan; performs residential mortgage loan modification
5 services; or holds themselves out to the public as able to perform any of these activities.

6 **2.3 Residential Mortgage Loan Modification Defined.** Pursuant to RCW 19.146.010(20),
7 “residential mortgage loan modification” means a change in one or more of a residential mortgage
8 loan’s terms or conditions. Changes to a residential mortgage loan’s terms or conditions include but
9 are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types;
10 capitalization of arrearages; or principal reductions.

11 **2.4 Residential Mortgage Loan Modification Services Defined.** Pursuant to RCW
12 19.146.010(21), “residential mortgage loan modification services” includes negotiating, attempting to
13 negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage
14 loan modification. “Residential mortgage loan modification services” also includes the collection of
15 data for submission to any entity performing mortgage loan modification services.

16 **2.5 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
17 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
18 toward any person and obtaining property by fraud or misrepresentation.

19 **2.6 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
20 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
21 for engaging in the business of a mortgage broker without first obtaining and maintaining a license
22 under the Act.

23 **2.7 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
24 Allegations set forth in Section I above, Respondent Austin is in apparent violation of RCW

1 19.146.200(1) for engaging in the business of a loan originator without first obtaining and maintaining
2 a license under the Act.

3 **2.8 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
4 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
5 location that is on file with and readily available to the Department until at least twenty-five months
6 have elapsed following the effective period to which the books and records relate.

7 **III. AUTHORITY TO ORDER PRODUCTION OF RECORDS**

8 **3.1 Authority to Order Production of Records.** Pursuant to RCW 19.146.223, RCW 19.146.
9 235(2), and WAC 208-660-520, the Director may issue orders directing any person to produce books,
10 accounts, records, files, and any other documents the director or designated person deems relevant to
11 an investigation.

12 **IV. AUTHORITY TO IMPOSE SANCTIONS**

13 **4.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
14 Director may issue orders directing any person subject to the Act to cease and desist from conducting
15 business.

16 **4.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
17 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
18 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
19 (13), or RCW 19.146.200.

20 **4.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
21 restitution against any person subject to the Act for any violation of the Act.

22 **4.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
23 against any person subject to the Act for any violation of the Act. Pursuant to RCW 19.146.220(3),
24

1 the Director may impose fines on any person subject to the Act for any violations of RCW
2 19.146.0201(1) through (9) or (13), or RCW 19.146.200.

3 **4.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
4 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
5 to an investigation of any person subject to the Act.

6 V. NOTICE OF INTENT TO ENTER ORDER

7 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
8 set forth above constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221,
9 and RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

10 **5.1** Respondents Protection Law Center, LLC and Thomas William Austin, Jr. cease and desist
11 engaging in the business of a mortgage broker without obtaining and maintaining a mortgage
12 broker license from the Department or qualifying for an exemption from licensure under the
13 Act.

14 **5.2** Respondent Thomas William Austin, Jr. cease and desist engaging in the business of a loan
15 originator without obtaining and maintaining a loan originator license from the Department or
16 qualifying for an exemption from licensure under the Act.

17 **5.3** Respondents Protection Law Center, LLC and Thomas William Austin, Jr. provide the
18 Department with a complete list of all transactions in which Respondents provided or offered
19 to provide residential mortgage loan modification services related to real property or
20 consumers located in the state of Washington. This list must include each consumer's name,
21 address, and telephone number, the date of the transaction, and the total fees collected by
22 Respondents from each consumer for the provision of those services.

23 **5.4** Respondents Protection Law Center, LLC and Thomas William Austin, Jr. be prohibited from
24 participation in the conduct of the affairs of any licensed mortgage broker, in any manner, for
a period of five years.

5.5 Respondents Protection Law Center, LLC and Thomas William Austin, Jr. jointly and
severally pay restitution totaling the amount collected from all consumers for residential
mortgage loan modification services related to real property or consumers located in the state
of Washington, including at least \$2,535 to Consumer [REDACTED], \$2,570 to Consumer [REDACTED], \$2,700
to Consumer [REDACTED], and \$2,550 to Consumer [REDACTED].

5.6 Respondents Protection Law Center, LLC and Thomas William Austin, Jr. jointly and
severally pay a fine of \$3,000 for each transaction in which Respondents provided or offered
to provide residential mortgage loan modification services related to real property or

1 consumers located in the state of Washington. As of the date of this Statement of Charges,
2 the fine totals \$12,000.

3 **5.7** Respondents Protection Law Center, LLC and Thomas William Austin, Jr. jointly and
4 severally pay an investigation fee. As of the date of this Statement of Charges, the
5 investigation fee totals \$912.

6 **5.8** Respondents Protection Law Center, LLC and Thomas William Austin, Jr. maintain records in
7 compliance with the Act and provide the Department with the location of the books, records
8 and other information relating to Respondents' provision of residential mortgage loan
9 modification services in Washington, and the name, address and telephone number of the
10 individual responsible for maintenance of such records in compliance with the Act.

11 **VI. AUTHORITY AND PROCEDURE**

12 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
13 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
14 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
15 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
16 accompanying this Statement of Charges.

17 Dated this 27th day of September, 2012.



18 DEBORAH BORTNER
19 Director, Division of Consumer Services
20 Department of Financial Institutions

21 Presented by: 

22 MARK T. OLSON
23 Financial Legal Examiner

24 Approved by: 

CHARLES E. CLARK
Enforcement Chief

