

ORDER SUMMARY – Case Number: C-12-0923

Name(s): 1st Loss Mitigation
Barbara Weidner

Order Number: C-12-0923-13-FO01

Effective Date: December 31, 2013

License Number: n/a
Or NMLS Identifier [U/L] _____
License Effect: N/A

Not Apply Until: December 31, 2018

Not Eligible Until: December 31, 2018

Prohibition/Ban Until: December 31, 2018

Investigation Costs	\$528	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 10/1/2015
Fine	\$3,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 10/1/2015
Assessment(s) n/a	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$3,795	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment n/a	\$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:		1		

Comments: _____



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

1st Loss Mitigation and Barbara Weidner,
President,

Respondents.

No.: C-12-0923-13-FO01

FINAL ORDER RE:

1st Loss Mitigation and Barbara Weidner

I. DIRECTOR'S CONSIDERATION

Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington ("Director"), pursuant to RCW 34.05.440(2). On September 27, 2012, the Director, through his designee, Consumer Services Division Director Deborah Bortner, issued a Statement of Charges and Notice of Intention to Enter an Order to Produce Records, Cease and Desist Business, Prohibit From Industry, Order Restitution, Impose Fine, and Collect Investigation Fee ("Statement of Charges") against 1st Loss Mitigation and Barbara Weidner ("Respondents"). The Statement of Charges was accompanied by a cover letter dated November 2, 2012, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents 1st Loss Mitigation and Barbara Weidner.

On November 10, 2012, the Department received confirmation from ABC Legal Services that Respondents were served with the Statement of Charges and accompanying documents by personal service on Respondent Weidner at her residential address.

1 On November 13, 2012, Respondents filed an Application for Adjudicative Hearing. On
2 January 30, 2013, the Department made a request to the Office of Administrative Hearings
3 (“OAH”) to assign an Administrative Law Judge (“ALJ”) to schedule and conduct a telephonic
4 hearing on the Statement of Charges. On February 27, 2013, OAH issued a Notice of Conference
5 assigning ALJ Steven C. Smith (“ALJ Smith”) to preside over prehearing and hearing
6 proceedings and issue a decision.

7 On February 26, 2013, OAH scheduled a prehearing telephonic conference for Monday,
8 April 8, 2013, at 11:00 a.m. That Order stated: “You must participate in the conference. If you do
9 not, a default may be entered. This means you lose the opportunity to further challenge the agency
10 action.”

11 On April 5, 2013, Respondent Weidner sent correspondence to OAH requesting that the
12 prehearing conference be rescheduled. Respondent Weidner’s request was not granted.

13 On April 8, 2013, the telephonic pre-hearing conference was convened by ALJ Smith at
14 11:00 a.m. Respondents failed to appear and Department’s motion for default judgment was
15 granted.

16 On April 9, 2013, ALJ Smith issued an Order of Default and sent a copy of the Order to
17 Respondents.

18 On April 11, 2013, Respondent Weidner sent correspondence to OAH requesting the Order
19 of Default be vacated and the hearing reinstated.

20 On April 12, 2013, ALJ Smith issued an Order and Notice: Telephonic Hearing Regarding
21 Petition of Respondents to Vacate Order of Default Against Respondents; and, Conditional
22 Telephonic Prehearing Conference, to be held on April 24, 2013, at 9:00 a.m., and sent notice to
23 Respondents.

1 On April 24, 2013, the telephonic pre-hearing conference was convened by ALJ Smith at
2 9:00 a.m. regarding Respondents' motion to vacate the Order of Default. Respondents failed to
3 appear, and ALJ Smith issued an Order and Notice: Denying Respondents' Motion to Vacate Order
4 of Default.

5 On June 26, 2013, ALJ Smith issued a Corrected Order & Notice: Denying Respondents'
6 Motion to Vacate Order of Default.¹

7 Pursuant to RCW 34.05.440(3), Respondents had seven (7) days from the date of service of
8 the Order of Default to file a written motion with OAH requesting that the Order of Default be
9 vacated, and stating the grounds relied upon. Respondents did not make a request to vacate during
10 the statutory period.

11 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty (20) days from
12 the date of service of the Order of Default to file a Petition for Review of the Order of Default.
13 Respondents did not file a Petition for Review during the statutory period.

14 A. Record Presented. The record presented to the Director for his review and for entry
15 of a final decision included the following:

- 16 1. Statement of Charges, cover letter dated November 2, 2012, and Notice of
17 Opportunity to Defend and Opportunity for Hearing, with documentation of
service.
- 18 2. Application for Adjudicative Hearing for Barbara Weidner and 1st Loss
19 Mitigation.
- 20 3. Request to OAH for Assignment of Administrative Law Judge dated January 30,
21 2013.
- 22 4. Notice of Assignment of Administrative Law Judge and Order for Telephonic
23 Prehearing Conference dated February 26, 2013, with documentation of service.
- 24 5. Order of Default dated April 9, 2013, with documentation of service.

¹The correction changed a typographical error throughout Order as to year of issuance of Statement of Charges from 2013 to 2012.

- 1 6. Order and Notice: Telephonic Hearing Regarding Petition of Respondents to
2 Vacate Order of Default Against Respondents; and, Conditional Telephonic
3 Prehearing Conference, with documentation of service.
- 4 7. Order and Notice: Denying Respondents' Motion to Vacate Order of Default
5 dated April 24, 2013, with documentation of service.
- 6 8. Corrected Order & Notice: Denying Respondents' Motion to Vacate Order of
7 Default dated June 26, 2013, with documentation of service.

8 B. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(2), the
9 Director hereby adopts the Statement of Charges, which is attached hereto. Pursuant to RCW
10 34.05.461, the Director hereby adopts the Order of Default, which is attached hereto.

11 II. FINAL ORDER

12 Based upon the foregoing, and the Director having considered the record and being
13 otherwise fully advised, NOW, THEREFORE:

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondents Barbara Weidner and 1st Loss Mitigation are prohibited from
16 participation in the conduct of the affairs of any mortgage broker subject to
17 licensure by the Director, in any manner, for a period of five (5) years.
- 18 2. Respondents Barbara Weidner and 1st Loss Mitigation shall jointly and severally
19 pay to the Washington State Department of Financial Institutions, within thirty
20 (30) days of receipt of this order, a fine of \$3,000.
- 21 3. Respondents Barbara Weidner and 1st Loss Mitigation shall jointly and severally
22 pay \$3,795 in restitution to Washington consumer S.I.
- 23 4. Respondents Barbara Weidner and 1st Loss Mitigation shall jointly and severally
24 pay to the Washington State Department of Financial Institutions, within thirty
(30) days of receipt of this order, an investigation fee of \$528.
5. Respondents Barbara Weidner and 1st Loss Mitigation shall maintain records in
compliance with the Act and provide the Department with the location of the
books, records and other information relating to Respondents' provision of
residential mortgage loan modification services in Washington, and the name,
address and telephone number of the individual responsible for maintenance of
such records in compliance with the Act.

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

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

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

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

17 E. Non-compliance with Order. If you do not comply with the terms of this order,
18 including payment of any amounts owed within thirty (30) days of receipt of this order, the
19 Department may seek its enforcement by the Office of the Attorney General to include the
20 collection of the fines, investigation fee, and restitution imposed herein. The Department also may
21 assign the amounts owed to a collection agency for collection.

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

4 DATED this 31st day of December 2013.



5 STATE OF WASHINGTON
6 DEPARTMENT OF FINANCIAL INSTITUTIONS

7 [REDACTED]
8 SCOTT JARVIS
9 Director

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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:

1ST LOSS MITIGATION, and
BARBARA WEIDNER, President,

Respondents.

No. C-12-0923-12-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 1st Loss Mitigation (Respondent 1st Loss) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator.

1.2 Respondent Barbara Weidner (Respondent Weidner) is President of Respondent 1st Loss. During the relevant time period, Respondent Weidner was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1.3 Unlicensed Activity. On or about March 28, 2011, Respondents 1st Loss and Weidner (Respondents) were offering residential mortgage loan modification services to Washington consumers on property located in Washington State. Respondents entered into a contractual

1 relationship with at least one Washington consumer to provide those services and collected an advance
2 fee for the provision of those services. The Department has received at least one complaint from a
3 Washington consumer alleging Respondents provided or offered to provide residential mortgage loan
4 modification services while not licensed by the Department to provide those services. The consumer
5 S.I. paid Respondents a fee of \$3,795.

6 **1.4 Misrepresentations and Omissions.** Respondents represented that they were licensed to
7 provide the residential mortgage loan modification services or omitted disclosing that they were not
8 licensed to provide those services.

9 **1.5 On-Going Investigation.** The Department’s investigation into the alleged violations of the
10 Act by Respondents continues to date.

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

12 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
13 “Mortgage Broker” means any person who, for compensation or gain, or in the expectation of
14 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
15 or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person
16 in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
17 person “‘assists a person in obtaining or applying to obtain a residential mortgage loan’ by, among
18 other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages....”

19 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), “loan originator” means a
20 natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
21 compensation or gain: takes a residential mortgage loan application for a mortgage broker; offers or
22 negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform any of
23 these activities.

1 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
2 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
3 toward any person and obtaining property by fraud or misrepresentation.

4 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
5 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
6 for engaging in the business of a mortgage broker for Washington residents or property without first
7 obtaining a license to do so.

8 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
9 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
10 for engaging in the business of a loan originator without first obtaining and maintaining a license.

11 **2.6 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
12 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
13 location that is on file with and readily available to the Department until at least twenty-five months
14 have elapsed following the effective period to which the books and records relate.

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

16 **3.1 Authority to Order Production of Records.** Pursuant to RCW 19.146.223, RCW 19.146.
17 235(2), and WAC 208-660-520, the Director may issue orders directing any person to produce books,
18 accounts, records, files, and any other documents the director or designated person deems relevant to
19 an investigation.

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1 **IV. AUTHORITY TO IMPOSE SANCTIONS**

2 **4.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
3 Director may issue orders directing any person subject to the Act to cease and desist from conducting
4 business.

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

9 **4.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
10 restitution against any person subject to the Act for any violation of the Act.

11 **4.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
12 against any person subject to the Act for any violation of the Act.

13 **4.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
14 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner’s time devoted
15 to an investigation of any person subject to the Act.

16 **V. NOTICE OF INTENT TO ENTER ORDER**

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

20 **5.1** Respondents cease and desist engaging in the business of a mortgage broker or loan originator.

21 **5.2** Respondents provide the Department with a list detailing all residential mortgage loan
22 modification services transactions with Washington consumers, including the name, address,
23 and phone numbers of the consumers, the transaction date, and fees collected by Respondents
24 for the provision of those services.

5.3 Respondents be 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.

1 **5.4** Respondents jointly and severally pay restitution to the one consumer, who is identified by the
2 Department in paragraph 1.3 as having paid \$3,795 to Respondents, and that Respondents
3 jointly and severally pay restitution to each Washington consumer with whom they entered into
4 a contract for residential mortgage loan modification services related to real property or
5 consumers located in the state of Washington equal to the amount collected from that
6 Washington consumer for those services in an amount to be determined at hearing.

7 **5.5** Respondents jointly and severally pay a fine of \$3,000 for each residential loan modification
8 transaction entered into with Washington consumers. As of the date of this Statement of
9 Charges, the fine totals \$3,000.

10 **5.6** Respondents jointly and severally pay an investigation fee at the rate of \$48.00 per hour. As of
11 the date of this Statement of Charges, the investigation fee totals \$528.

12 **5.7** Respondents maintain records in compliance with the Act and provide the Department with the
13 location of the books, records and other information relating to Respondents' provision of
14 residential mortgage loan modification services in Washington, and the name, address and
15 telephone number of the individual responsible for maintenance of such records in compliance
16 with the Act.

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1 **VI. 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 34.05
4 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
5 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
6 accompanying this Statement of Charges.

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8 Dated this 27th day of September, 2012.

9 /S/
10 DEBORAH BORTNER
11 Director, Division of Consumer Services
12 Department of Financial Institutions

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15 Presented by:

16 /S/
17 WILMA M. COLWELL
18 Financial Examiner

19 Approved by:

20 /S/
21 CHARLES E. CLARK
22 Enforcement Chief