

ORDER SUMMARY – Case Number: C-12-0970

Name(s): Wall Street Financial, Inc. d/b/a Fidelity Financial Group
 Michael T. McDevitt

Order Number: C-12-0970-12-FO01

Effective Date:

License Number: UL
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: 5 years

Investigation Costs	\$336	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$9,000	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Assessment(s)	\$n/a	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$7,550	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment	\$n/a	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:				

Comments: Default FO. R's are banned for five years and owe restitution, a fine, and a fee.

1 B. Record Presented. The record presented to the Director's designee for her review and
2 for entry of a final decision included the following:

3 Statement of Charges, cover letter dated September 27, 2012, Notice of
4 Opportunity to Defend and Opportunity for Hearing, and blank Application for
Adjudicative Hearing for Respondent, with documentation of service.

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

7 II. FINAL ORDER

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

10 A. IT IS HEREBY ORDERED, That:

- 11 1. Respondents cease and desist engaging in the business of a mortgage broker or
12 loan originator.
- 13 2. Respondents provide the Department with a list detailing all residential mortgage
14 loan modification service transactions with Washington consumers, including the
name, address, and phone numbers of the consumers, the transaction date, and fees
collected by Respondents for the provision of those services.
- 15 3. Respondents are prohibited from participation in the conduct of the affairs of any
16 mortgage broker subject to licensure by the Director, in any manner, for a period
of five years.
- 17 4. Respondents jointly and severally pay restitution totaling \$7,550 to the three
18 consumers identified by the Department in paragraph 1.3 of the Statement of
Charges.
- 19 5. Respondents jointly and severally pay a fine of \$9,000.
- 20 6. Respondents jointly and severally pay an investigation fee of \$336.
- 21 7. Respondents maintain records in compliance with the Act and provide the
22 Department with the location of the books, records and other information relating
to Respondents' provision of residential mortgage loan modification services in
23 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 have the right to file a
2 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
3 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
4 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten (10) days of service of this order upon Respondents. The
6 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
7 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 a
10 written notice specifying the date by which it will act on a petition.

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

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

17 E. Non-compliance with Order. If Respondents do not comply with the terms of this
18 order, the Department may seek its enforcement by the Office of the Attorney General to include the
19 collection of the restitution, fine, and fee imposed herein. The Department may also assign the
20 amounts owed to a collection agency for collection.

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

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DATED this 18th day of December, 2012

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

/s/
DEBORAH BORTNER
Director
Division of Consumer Services

1 contractual relationship with at least three Washington consumers to provide those services and
2 collected advance fees for the provision of those services. The Department has received at least three
3 complaints from Washington consumers alleging Respondents provided or offered to provide
4 residential mortgage loan modification services while not licensed by the Department to provide those
5 services. A list of Washington consumers with whom Respondents conducted business as a mortgage
6 broker or loan originator, and the amount paid by each, is appended hereto and incorporated herein by
7 reference.

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

11 **1.5 On-Going Investigation.** The Department’s investigation into the alleged violations of the
12 Act by Respondents continues to date.

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

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

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

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

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

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

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

17 III. AUTHORITY TO ORDER PRODUCTION OF RECORDS

18 **3.1 Authority to Order Production of Records.** Pursuant to RCW 19.146.223, RCW 19.146.
19 235(2), and WAC 208-660-520, the Director may issue orders directing any person to produce books,
20 accounts, records, files, and any other documents the director or designated person deems relevant to
21 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.

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- 5.4** Respondents jointly and severally pay restitution to the three consumers identified by the Department in paragraph 1.3 as having paid \$7,550 to Respondents, and that Respondents jointly and severally pay restitution to each Washington consumer with whom they entered into a contract for residential mortgage loan modification services related to real property or consumers located in the state of Washington equal to the amount collected from that Washington consumer for those services in an amount to be determined at hearing.
- 5.5** Respondents jointly and severally pay a fine of \$3,000 for each residential loan modification transaction entered into with Washington consumers. As of the date of this Statement of Charges, the fine totals \$9,000.
- 5.6** Respondents jointly and severally pay an investigation fee at the rate of \$48.00 per hour. As of the date of this Statement of Charges, the investigation fee totals \$336.
- 5.7** Respondents 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.

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VI. AUTHORITY AND PROCEDURE

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

19 Dated this 27th day of September, 2012

20 /s/
21 DEBORAH BORTNER
22 Director, Division of Consumer Services
23 Department of Financial Institutions
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1 Presented by:

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/s/

3 KENNETH J. SUGIMOTO
4 Financial Legal Examiner

5 Approved by:

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/s/

7 CHARLES E. CLARK
8 Enforcement Chief

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