

ORDER SUMMARY – Case Number: C-12-0979

Name(s): Sunbelt Fidelity Corporation LLC; Janice E McCarthy

Order Number: C-12-0979-13-FO01

Effective Date: May 9, 2013

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Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: May 9, 2018

Not Eligible Until: May 9, 2018

Prohibition/Ban Until: May 9, 2018

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|----------------------------------------|---------|-------------------------------------------------------|--------------------------------------------------------------------------|------|
| Investigation Costs | \$720 | Due | Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N | Date |
| Fine | \$6,000 | Due | 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 | \$3,375 | Due | 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: | | 2 | | |

Comments: _____

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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-12-0979-13-FO01

SUNBELT FIDELITY CORPORATION, LLC,
and
JANICE E. MCCARTHY, Principal,

Respondents.

FINAL ORDER

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I. DIRECTOR'S CONSIDERATION

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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 March 14, 2013, the Director, through the Director's designee, issued Statement of Charges No. C-12-0979-13-SC01 (Statement of Charges) against Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy (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 March 28, 2013, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for each Respondent (collectively, accompanying documents).

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On March 28, 2013, the Department sent the Statement of Charges and accompanying documents to Respondents by Federal Express overnight delivery and First-Class mail by the United States Postal Service. On March 29, 2013, the documents sent by Federal Express overnight delivery were delivered. The documents sent by First-Class mail were not returned to the Department by the United States Postal Service. Respondents did not request an adjudicative hearing within twenty

1 calendar days after the Department served the Notice of Opportunity to Defend and Opportunity for
2 Hearing, as provided for in WAC 208-08-050(2).

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

5 Statement of Charges, cover letter dated March 28, 2013, Notice of Opportunity to
6 Defend and Opportunity for Hearing, and blank Application for Adjudicative
7 Hearing for Respondent, with documentation of service.

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

10 II. FINAL ORDER

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

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondents cease and desist engaging in the business of a mortgage broker or
15 loan originator.
- 16 2. Respondents provide the Department with a list detailing all residential mortgage
17 loan modification service transactions with Washington consumers, including the
18 name, address, and phone numbers of the consumers, the transaction date, and fees
19 collected by Respondents for the provision of those services.
- 20 3. Respondents are prohibited from participation in the conduct of the affairs of any
21 mortgage broker subject to licensure by the Director, in any manner, for a period
22 of five years.
- 23 4. Respondents jointly and severally pay restitution totaling \$3,375 to the two
24 consumers identified by the Department in paragraph 1.2 of the Statement of
Charges.
5. Respondents jointly and severally pay a fine of \$6,000.
6. Respondents jointly and severally pay an investigation fee of \$720.
7. Respondents maintain records in compliance with the Act and provide the
Department with the location of the books, records and other information relating

1 to Respondents' provision of residential mortgage loan modification services in
2 Washington, and the name, address and telephone number of the individual
responsible for maintenance of such records in compliance with the Act.

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

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

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

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

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

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

4 DATED this 9th day of May, 2013

6 STATE OF WASHINGTON
7 DEPARTMENT OF FINANCIAL INSTITUTIONS

8 /s/ _____
9 DEBORAH BORTNER
10 Director
11 Division of Consumer Services

**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:

SUNBELT FIDELITY CORPORATION, LLC, and
JANICE E. MCCARTHY, Principal,

Respondents.

No. C-12-0979-13-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO 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 Respondents.

A. Sunbelt Fidelity Corporation, LLC (Respondent Sunbelt) 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.

B. Janice E. McCarthy (Respondent McCarthy) is a principal of Respondent Sunbelt. During the relevant time period, Respondent McCarthy was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1.2 Unlicensed Activity. Between at least January 9, 2012, and January 23, 2012, Respondents were offering residential mortgage loan modification services to Washington consumers on property

1 located in Washington State. Respondents entered into a contractual relationship with at least two
2 Washington consumers to provide those services and collected an advance fee for the provision of
3 those services. A list of Washington consumers with whom Respondents conducted business as a
4 mortgage broker or loan originator, and the amount paid by each is appended hereto and incorporated
5 herein by reference.

6 **1.3 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 **1.4 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
21 indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
22 offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform
23 any of 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 IMPOSE SANCTIONS

16 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
17 Director may issue orders directing any person subject to the Act to cease and desist from conducting
18 business.

19 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
20 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
21 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
22 (13), or RCW 19.146.200.

23 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
24 restitution against any person subject to the Act for any violation of the Act.

1 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
2 against any person subject to the Act for any violation of the Act.

3 **3.5 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 **IV. 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 **4.1** Respondents Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy cease and desist
11 engaging in the business of a mortgage broker or loan originator.
- 12 **4.2** Respondents Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy be prohibited from
13 participation, in any manner, in the conduct of the affairs of any mortgage broker subject to
14 licensure by the Director for a period of five years.
- 15 **4.3** Respondents Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy jointly and severally
16 pay restitution to the two consumers identified by the Department in paragraph 1.2 in the
17 amount set forth therein, and that Respondents Sunbelt Fidelity Corporation, LLC and Janice
18 E. McCarthy jointly and severally pay restitution to each Washington consumer with whom
19 they entered into a contract for residential mortgage loan modification services related to real
20 property or consumers located in the state of Washington equal to the amount collected from
21 that Washington consumer for those services in an amount to be determined at hearing.
- 22 **4.4** Respondents Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy jointly and severally
23 pay a fine, which as of the date of this Statement of Charges totals \$6,000.
- 24 **4.5** Respondents Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy jointly and severally
pay an investigation fee, which as of the date of this Statement of Charges totals \$720.
- 4.6** Respondents Sunbelt Fidelity Corporation, LLC and Janice E. McCarthy maintain records in
compliance with the Act and provide the Department with the location of the books, records
and other information relating to Respondents Sunbelt Fidelity Corporation, LLC and Janice E.
McCarthy's 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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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 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 14th day of March, 2013.

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11 /s/ _____
12 DEBORAH BORTNER
13 Director, Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

16 /s/ _____
17 KENNETH J. SUGIMOTO
18 Financial Legal Examiner

19 Approved by:

20 /s/ _____
21 CHARLES E. CLARK
22 Enforcement Chief

APPENDIX – RESTITUTION

| Borrower | Amount |
|---------------|-------------|
| █ | \$ 1,500.00 |
| █. | \$ 1,875.00 |
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| Total: | \$ 3,375.00 |

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