

ORDER SUMMARY – Case Number: C-12-1055

Name(s): Summit Legal Group, P.A. a/k/a Summit Law Group; William T. O’Toole

Order Number: C-12-1055-12-FO01

Effective Date: November 20, 2012

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Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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	\$240	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$3,000	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	\$1,925	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.

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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-12-1055-12-FO01

SUMMIT LEGAL GROUP, P.A. A/K/A
SUMMIT LAW GROUP, and
WILLIAM T. O'TOOLE, President,

FINAL ORDER

Respondents.

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 September 27, 2012, the Director, through the Director's designee, issued Statement of Charges No. C-12-1055-12-SC01 (Statement of Charges) against Summit Legal Group, P.A. a/k/a Summit Law Group and William T. O'Toole (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 September 27, 2012, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent (collectively, accompanying documents).

On October 1, 2012, the Department served Respondents with the Statement of Charges and accompanying documents by Federal Express overnight delivery and First-Class mail. On October 2, 2012, 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.

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

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

6 Statement of Charges, cover letter dated September 27, 2012, Notice of
7 Opportunity to Defend and Opportunity for Hearing, and blank Application for
8 Adjudicative 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 \$1,925 to the consumer
24 identified by the Department in paragraph 1.3 of the Statement of Charges.
5. Respondents jointly and severally pay a fine of \$3,000.
6. Respondents jointly and severally pay an investigation fee of \$240.

1 7. Respondents maintain records in compliance with the Act and provide the
2 Department with the location of the books, records and other information relating
3 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.

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

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

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

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

20 E. Non-compliance with Order. If Respondents do not comply with the terms of this
21 order, the Department may seek its enforcement by the Office of the Attorney General to include the
22 collection of the restitution, fine, and fee imposed herein. The Department may also assign the
23 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 20th day of November, 2012

6 STATE OF WASHINGTON
7 DEPARTMENT OF FINANCIAL INSTITUTIONS

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

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:

5 SUMMIT LEGAL GROUP, P.A. A/K/A SUMMIT
LAW GROUP, and
6 WILLIAM T. O'TOOLE, President,

7 Respondents.

No. C-12-1055-12-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

8 **INTRODUCTION**

9 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial
10 Institutions of the State of Washington (Director) is responsible for the administration of chapter
11 19.146 RCW, the Mortgage Broker Practices (Act). After having conducted an investigation pursuant
12 to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the
13 Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes
14 this proceeding and finds as follows:

15 **I. FACTUAL ALLEGATIONS**

16 **1.1 Respondent** Summit Legal Group, P.A. A/K/A Summit Law Group (Respondent Summit) has
17 never been licensed by the Department of Financial Institutions of the State of Washington
18 (Department) to conduct business as a mortgage broker or loan originator.

19 **1.2 Respondent** William T. O'Toole (Respondent O'Toole) is President of Respondent Summit.
20 During the relevant time period, Respondent O'Toole was not licensed by the Department to conduct
21 business as a mortgage broker or loan originator.

22 **1.3 Unlicensed Activity.** On or about November 24, 2010, Respondents Summit and O'Toole
23 (Respondents) were offering residential mortgage loan modification services to Washington
24 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 [REDACTED] paid Respondents a fee of \$1,925.

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. During the relevant time period, Respondent O’Toole represented
9 that he was licensed to practice law in Washington or omitted disclosing that he was not licensed to
10 practice law in the State of Washington.

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
24

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.

1 **5.4** Respondents jointly and severally pay restitution to the consumer identified by the Department
2 in paragraph 1.3 as having paid \$1,925 to Respondents, and that Respondents jointly and
3 severally pay restitution to each Washington consumer with whom they entered into a contract
4 for residential mortgage loan modification services related to real property or consumers
5 located in the state of Washington equal to the amount collected from that Washington
6 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 \$240.

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.

17 **VI. AUTHORITY AND PROCEDURE**

18 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
19 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
20 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
21 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
22 accompanying this Statement of Charges.

23 Dated this 27th day of September, 2012.

24 /s/
DEBORAH BORTNER
Director, Division of Consumer Services
Department of Financial Institutions

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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