

Terms Completed

ORDER SUMMARY – Case Number: C-13-1199

Name(s): McCabe & Samiljan, LLC; Steven T Samiljan

Order Number: C-13-1199-13-CO01

Effective Date: May 16, 2013

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Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: _____

Investigation Costs	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input 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:	1		

Comments: Cooperation with Dept. required.

1
2
3
4
5
6
7
8
9

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

10
11
12
13
14
15
16
17
18

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

No.: C-13-1199-13-CO01

TIMOTHY MCCABE, P.A. d/b/a LAW
OFFICES OF TIMOTHY P. MCCABE;
MCCABE & SAMILJAN, LLC;
FEDERATED LAW, LLC;
TIMOTHY P. MCCABE, Principal; and
STEVEN T. SAMILJAN, Principal,

CONSENT ORDER AS TO
MCCABE & SAMILJAN, LLC
AND
STEVEN T. SAMILJAN

Respondents.

19
20
21
22
23
24

COMES NOW the Director of the Department of Financial Institutions (Director), through his
designee Deborah Bortner, Division Director, Division of Consumer Services, and McCabe &
Samiljan, LLC (Respondent McCabe & Samiljan) and Steven T. Samiljan, Principal (Respondent
Samiljan) (hereafter Respondents), and finding that the issues raised in the above-captioned matter
may be economically and efficiently settled solely as they relate to Respondent McCabe & Samiljan
and Respondent Samiljan, agree to the entry of this Consent Order. This Consent Order is entered
pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the
Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and
Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges
No. C-13-1199-13-SC01 (Statement of Charges), entered March 27, 2013, (copy attached hereto)
solely as they relate to Respondent McCabe & Samiljan and Respondent Samiljan. Pursuant to
chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the
Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent

1 Order and further agree that the issues raised in the above-captioned matter may be economically and
2 efficiently settled by entry of this Consent Order solely as they relate to Respondent McCabe &
3 Samiljan and Respondent Samiljan. The parties intend this Consent Order to fully resolve the
4 Statement of Charges solely as they relate to Respondent McCabe & Samiljan and Respondent
5 Samiljan and agree that the Respondents do not admit any wrongdoing by its entry. Respondents are
6 agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

7 Based upon the foregoing:

8 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
9 of the activities discussed herein.

10 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
11 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
12 administrative and judicial review of the issues raised in this matter, or of the resolution reached
13 herein. Accordingly, Respondents, by the signatures below, withdraw their appeal to the Office of
14 Administrative Hearings.

15 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
16 Statement of Charges and agree that Respondents do not admit to any wrongdoing by its entry.

17 **D. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
18 consent of any person or entity not a party to this Consent Order to take any action concerning their
19 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
20 Order, this Consent Order does not limit or create any private rights or remedies against Respondents,
21 limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

22 **E. Florida Bar's Clients' Security Fund.** It is AGREED that Respondents will not oppose
23 any claim by the Complainant for restitution from the Florida Bar Clients' Security Fund.

1 **F. Complete Cooperation with the Department (Statements).** It is AGREED that, upon
2 written request by the Department, Respondent Samiljan shall provide the Department truthful and
3 complete sworn statements outlining his activities with respect to Respondents McCabe & Samiljan,
4 Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe (McCabe) and Federated Law,
5 LLC (Federated) and any and all persons involved or in any way associated with Respondents
6 McCabe & Samiljan, McCabe, and Federated, including but not limited to owners, employees,
7 independent contractors, agents, businesses and persons with whom Respondents McCabe &
8 Samiljan, McCabe and Federated dealt, communicated, or otherwise related. The “sworn statements”
9 may take the form of affidavits, declarations, or deposition testimony, at the Department’s discretion.
10 A failure to cooperate fully, truthfully, and completely is a breach of this Consent Order.

11 **G. Complete Cooperation with the Department.** In addition to providing the sworn
12 statements as described in Paragraph F, it is AGREED that, upon written request by the Department,
13 Respondent Samiljan shall cooperate fully, truthfully, and completely with the Department and
14 provide any and all information known to him relating in any manner to Respondents McCabe and
15 Federated and any and all persons involved or in any way associated with Respondents McCabe and
16 Federated, including but not limited to owners, employees, independent contractors, agents,
17 businesses and persons with whom Respondents McCabe and Federated dealt, communicated, or
18 otherwise related. It is further AGREED that, upon written request by the Department, Respondent
19 Samiljan shall provide any and all documents, writings or materials, or objects or things of any kind
20 in his possession or under his care, custody, or control that he is authorized to possess, obtain, or
21 distribute relating directly or indirectly to all areas of inquiry and investigation. It is further
22 AGREED that Respondent Samiljan shall testify fully, truthfully, and completely at any and all
23 proceedings related to any Department investigation or enforcement action or both related to any and
24 all persons involved or in any way associated with Respondents McCabe and Federated and any

1 Respondents named therein. A failure to cooperate fully, truthfully, and completely is a breach of
2 this Consent Order.

3 H. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to
4 abide by the terms and conditions of this Consent Order may result in further legal action by the
5 Director. In the event of such legal action, Respondents may be responsible to reimburse the Director
6 for the cost incurred in pursuing such action, including but not limited to, attorney fees.


7 I. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
8 entered into this Consent Order, which is effective when signed by the Director's designee.

9 J. **Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
10 this Consent Order in its entirety and fully understand and agree to all of the same.

11 **RESPONDENTS:**


12 **McCabe & Samiljan, LLC**

13 By: 

14 
15 Steven T. Samiljan
Principal

Date

5-14-13

16 
17 Steven T. Samiljan
Individually

Date

5-14-13

18
19 **DO NOT WRITE BELOW THIS LINE**

1 THIS ORDER ENTERED THIS 16th DAY OF March, 2013



2 [Redacted Signature]

3 DEBORAH BORTNER
4 Director
5 Division of Consumer Services
6 Department of Financial Institutions

7 Presented by:

8 [Redacted Signature]

9 DEVON P. PHELPS
Financial Legal Examiner

10 Approved by:

11 [Redacted Signature]

12 CHARLES E. CLARK
13 Enforcement Chief

1
2
3
4
5
6
7
8
9

**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-13-1199-13-FO01

TIMOTHY MCCABE, P.A. d/b/a LAW
OFFICES OF TIMOTHY P. MCCABE;
MCCABE & SAMILJAN, LLC;
FEDERATED LAW, LLC;
TIMOTHY P. MCCABE, Principal; and
STEVEN T. SAMILJAN, Principal,

FINAL ORDER AS TO:
TIMOTHY MCCABE, P.A. d/b/a LAW
OFFICES OF TIMOTHY P. MCCABE;
FEDERATED LAW, LLC; AND
TIMOTHY P. MCCABE

Respondents.

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

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 March 27, 2013, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist Business, Prohibit from Industry, Order Restitution, Impose Fine, and Collect Investigation Fee (Statement of Charges) against Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe (Respondent Law Offices of McCabe), Federated Law, LLC (Respondent Federated), McCabe & Samiljan (Respondent McCabe & Samiljan), Timothy P. McCabe (Respondent McCabe), and Steven T. Samiljan (Respondent Samiljan). 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).

1 On March 28, 2013, the Department served Respondents with the Statement of Charges and
2 accompanying documents by First-Class mail and Federal Express overnight delivery. On March 29,
3 2013, the documents sent by Federal Express overnight delivery were delivered. The documents sent
4 by First-Class mail were not returned to the Department by the United States Postal Service.

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

8 B. Record Presented. The record presented to the Director's designee for her review and
9 for entry of a final decision included the following: Statement of Charges, cover letter dated March
10 28, 2013, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
11 Adjudicative Hearing for each Respondent, with documentation for service.

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

14 II. FINAL ORDER

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

17 A. IT IS HEREBY ORDERED, That:

- 18 1. Respondents Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe,
19 Federated Law, LLC, and Timothy P. McCabe cease and desist engaging in the
business of a mortgage broker or loan originator.
- 20 2. Respondents Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe,
21 Federated Law, LLC, and Timothy P. McCabe be prohibited from participation,
22 in any manner, in the conduct of the affairs of any mortgage broker subject to
licensure by the Director for a period of five years.
- 23 3. Respondents Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe,
24 Federated Law, LLC, and Timothy P. McCabe jointly and severally pay a \$3,000
fine.

1 4. Respondents Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe,
2 Federated Law, LLC, and Timothy P. McCabe jointly and severally pay a
\$585.60 investigation fee.

3 5. Respondents Timothy McCabe, P.A. d/b/a Law Offices of Timothy P. McCabe,
4 Federated Law, LLC, and Timothy P. McCabe maintain records in compliance
5 with the Act and provide the Department with the location of the books, records
6 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.

7 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents Law Offices of McCabe,
8 Federated, and McCabe have the right to file a Petition for Reconsideration stating the specific
9 grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the
10 Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington
11 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days
12 of service of the Final Order upon Respondents Law Offices of McCabe, Federated, and McCabe.
13 The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
14 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

21 D. Judicial Review. Respondents Law Offices of McCabe, Federated, and McCabe have
22 the right to petition the superior court for judicial review of this agency action under the provisions of
23 chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW
24 34.05.510 and sections following.

1 E. Non-compliance with Order. If you do not comply with the terms of this order,
2 **including payment of any amounts owed within 30 days of receipt of this order**, the Department
3 may seek its enforcement by the Office of the Attorney General to include the collection of the fines
4 and fees imposed herein. The Department also may assign the amounts owed to a collection agency
5 for collection.

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

9 DATED this 16th day of May, 2013.



10 STATE OF WASHINGTON
11 DEPARTMENT OF FINANCIAL INSTITUTIONS

12 [REDACTED]
13 _____
14 DEBORAH BORTNER
15 Director
16 Division of Consumer Services
17
18
19
20
21
22
23
24

1 **B. McCabe & Samiljan, LLC (Respondent McCabe & Samiljan)** was formed in Florida on
2 March 22, 2002, and continues to date. Respondent McCabe & Samiljan has never been licensed by
3 the Department to conduct business as a mortgage broker or loan originator.

4 **C. Federated Law, LLC (Respondent Federated Law)** was formed in Florida November 14,
5 2011, and continues to date. Respondent Federated Law has never been licensed by the Department to
6 conduct business as a mortgage broker or loan originator.

7 **D. Timothy P. McCabe (Respondent McCabe)** is President of Respondent Law Offices of
8 Timothy P. McCabe and a Managing Member of Respondent McCabe & Samiljan and Respondent
9 Federated Law. During the relevant time period, Respondent McCabe was not licensed by the
10 Department to conduct business as a mortgage broker or loan originator.

11 **E. Steven T. Samiljan (Respondent Samiljan)** is a Managing Member of Respondent
12 McCabe & Samiljan and Respondent Federated Law. During the relevant time period, Respondent
13 Samiljan was not licensed by the Department to conduct business as a mortgage broker or loan
14 originator.

15 **1.2 Unlicensed Activity.** In or around February 2012, Respondents were offering residential
16 mortgage loan modification services to Washington consumers on property located in Washington
17 State. Respondents entered into a contractual relationship with at least one Washington consumer to
18 provide those services and collected an advance fee for the provision of those services. The
19 Department has received at least one complaint from a Washington consumer alleging Respondents
20 provided or offered to provide residential mortgage loan modification services while not licensed by
21 the Department to provide those services. Consumer [REDACTED]. paid Respondents a fee of \$3,085.¹

22 //

23 //

24 ¹ Consumer S.F. previously received a refund of \$3,085.

1 **1.3 Misrepresentations and Omissions.** Respondents represented that they were licensed to
2 provide the residential mortgage loan modification services or omitted disclosing that they were not
3 licensed to provide those services.

4 **1.4 On-Going Investigation.** The Department’s investigation into the alleged violations of the
5 Act by Respondents continues to date.

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

7 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
8 “Mortgage Broker” means any person who, for compensation or gain, or in the expectation of
9 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
10 or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person
11 in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
12 person “‘assists a person in obtaining or applying to obtain a residential mortgage loan’ by, among
13 other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages....”

14 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), “loan originator” means a
15 natural person who for direct or indirect compensation or gain, or in the expectation of direct or
16 indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
17 offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform
18 any of these activities.

19 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
20 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
21 toward any person and obtaining property by fraud or misrepresentation.

22 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
23 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
24

1 for engaging in the business of a mortgage broker for Washington residents or property without first
2 obtaining a license to do so.

3 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
4 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
5 for engaging in the business of a loan originator without first obtaining and maintaining a license.

6 **2.6 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
7 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
8 location that is on file with and readily available to the Department until at least twenty-five months
9 have elapsed following the effective period to which the books and records relate.

10 III. AUTHORITY TO IMPOSE SANCTIONS

11 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
12 Director may issue orders directing any person subject to the Act to cease and desist from conducting
13 business.

14 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
15 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
16 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
17 (13), or RCW 19.146.200.

18 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
19 restitution against any person subject to the Act for any violation of the Act.

20 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
21 against any person subject to the Act for any violation of the Act.

22 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
23 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
24 to an investigation of any person subject to the Act.

1 **IV. NOTICE OF INTENT TO ENTER ORDER**

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

5 **4.1** Respondents cease and desist engaging in the business of a mortgage broker or loan originator.

6 **4.2** Respondents be prohibited from participation, in any manner, in the conduct of the affairs of
7 any mortgage broker subject to licensure by the Director for a period of five years.

8 **4.3** Respondents jointly and severally pay restitution to each Washington consumer with whom
9 they entered into a contract for residential mortgage loan modification services related to real
10 property or consumers located in the state of Washington equal to the amount collected from
11 that Washington consumer for those services in an amount to be determined at hearing.

12 **4.4** Respondents jointly and severally pay a fine, which as of the date of this Statement of Charges
13 totals \$3,000.

14 **4.5** Respondents jointly and severally pay an investigation fee, which as of the date of this
15 Statement of Charges totals \$585.60.

16 **4.6** Respondents maintain records in compliance with the Act and provide the Department with the
17 location of the books, records and other information relating to Respondents' provision of
18 residential mortgage loan modification services in Washington, and the name, address and
19 telephone number of the individual responsible for maintenance of such records in compliance
20 with the Act.
21
22
23
24

//
//
//
//
//
//
//
//
//
//

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.

7
8 Dated this 27th day of March, 2013.

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

15 Presented by:

16 /S/
17 DEVON P. PHELPS
18 Financial Legal Examiner

19 Approved by:

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