

Terms Complete
ORDER SUMMARY – Case Number C-14-1499

Respondent Name:	Pacific Finance Group, LLC
NMLS Number:	119153
Order Number:	C-14-1499-16-CO01. This CO resolves the Department's Statement of Charges, no. C-14-1499-16-SC01, entered August 31, 2016.
Effective Date:	September 29, 2016
License Effect:	None.

Financial Literacy	\$ 10,000	Due: Upon entry	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 9/20/16
Investigation Fees	\$ 10,000	Due: Upon entry	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 9/20/16
Fine (Paid)	\$ 6,000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 9/20/16
Fine (Stayed)	\$ 5,000	Due: Only if lifted.	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date:

Comments: See Consent Order, below, for details relating to Admissions, Agreement to Cease and Desist, and Affirmative Action
--

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:

No. C-14-1499-16-CO01

CONSENT ORDER

5 PACIFIC FINANCE GROUP, LLC,
6 NMLS No. 119153,

Respondent.

7
8 COME NOW the Director of the Department of Financial Institutions (Director), through his
9 designee Charles E. Clark, Division Director, Division of Consumer Services, and Pacific Finance Group,
10 LLC (Respondent), by and through its counsel, Douglas L. Davies of Advocates Law and John L. Bley of
11 Foster Pepper PLLC, and finding that the issues raised in the above-captioned matter may be
12 economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is
13 entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060 of
14 the Administrative Procedure Act, based on the following:

15 **AGREEMENT AND ORDER**

16 The Department of Financial Institutions, Division of Consumer Services (Department) and
17 Respondent have agreed upon a basis for resolution of the matters alleged in attached Statement of
18 Charges No. C-14-1499-16-SC01 (Statement of Charges) entered August 31, 2016. Pursuant to chapter
19 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative
20 Procedure Act, Respondent, by the signatures of its authorized representatives below, hereby agrees to
21 the Department's entry of this Consent Order. The parties intend this Consent Order to fully resolve the
22 Statement of Charges and all other complaints or other matters related to or concerning Respondent, its
23 owners and members, pending before the Department at the time of entry of this Consent Order.

1 **Based upon the foregoing:**

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

4 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
5 before an administrative law judge, and by the signatures of its authorized representatives hereby waives
6 its right to a hearing and any and all administrative and judicial review of the issues raised in this matter,
7 or of the resolution reached herein.

8 C. **Admissions.** It is AGREED that Respondent admits that as part of a business practice it employed
9 from about 2012 through 2013, it manufactured bias in its online reputation on the Internet. It is further
10 AGREED that with that above exception, Respondent neither admits nor denies the Factual Allegations
11 in the Statement of Charges; will not take any action or make or permit to be made any public statement
12 creating the impression that this Consent Order is without factual basis; and that nothing in this paragraph
13 affects Respondent's right, through its authorized representatives, to take legal or factual positions in
14 defense of litigation.

15 D. **Cease and Desist and Future Compliance with the Act.** It is AGREED that Respondent has
16 represented to the Department that it has ceased and desisted from the conduct described in the Statement
17 of Charges, and it is ORDERED that Respondent shall henceforth comply with the Act and the rules
18 adopted thereunder, now existing and as hereafter amended.

19 E. **Affirmative Action.** It is AGREED and ORDERED that Respondent shall take the following
20 affirmative actions to prevent future similar violations and to comply with the Act:

- 21 1. **Outside Auditor.** Within six (6) months of entry of this Consent Order, Respondent shall
22 retain an independent auditing firm (the "Auditor") to conduct an independent analysis
23 and compliance review of Respondent's advertising, origination, processing, and back-
office activities. The Auditor shall file a report of its findings with Respondent's
authorized representatives, the Department, and, if available, Respondent's new

1 Compliance Officer. The report shall note any deficiencies discovered and make
2 recommendations for new compliance policies and procedures to correct and prevent
future deficiencies.

3 2. **Compliance Officer.** Within three (3) months of entry of this Consent Order,
4 Respondent shall complete the job description for a new Compliance Officer, and within
5 six (6) months of entry of this Consent Order hire a suitable person to independently
6 provide day-to-day operational oversight of all Respondent's advertising, origination,
7 processing, and back-office activities. Within three (3) months of hiring, the Compliance
Officer shall have in place policies and procedures reasonably designed to detect and
prevent future violations of the Act, addressing in particular avoiding manufacturing bias
in Respondent's online reputation; filing MCR reports with NMLS as required; and
timely and completely responding to the Department's Directives and Subpoenas.

8 3. **Compliance Examination.** Approximately one (1) year from the date of entry of this
9 Consent Order, Respondent shall be subject to a compliance examination by the
10 Department to determine compliance with the Act, the affirmative remedial actions
detailed above, and this Consent Order. Respondent shall be liable for and shall pay all
costs of the examination authorized by WAC 208-660-510(8).

11 F. **Financial Literacy Payment.** Pursuant to RCW 19.146.218, the Director may accept payments to
12 the Department for purposes of financial literacy and education programs authorized under RCW
13 43.320.150. Accordingly, it is AGREED that upon entry of this Consent Order Respondent shall pay
14 \$10,000 to the Department for purposes of financial literacy and education programs (the "Financial
15 Literacy Payment"). It is FURTHER AGREED and ORDERED that Respondent shall not advertise the
16 Financial Literacy Payment.

17 G. **Fine.** It is AGREED that upon entry of this Consent Order Respondent shall pay a fine to the
18 Department in the amount of \$11,000, with \$5,000 of that amount stayed contingent upon Respondent's
19 compliance with the terms of Sections E, F, and I of this Consent Order.

20 H. **Lifting of Stay.** It is AGREED and ORDERED that:

21 1. If the Department determines that Respondent has not complied with the terms of this Consent
22 Order to a degree sufficient to warrant imposition of the stayed fine, and the Department
23 accordingly seeks to lift the stay and impose the stayed fine set forth in Paragraph G above, the
Department will first notify Respondent in writing of its determination.

2. The Department's notification will include:
 - a) A description of the alleged noncompliance;
 - b) A statement that because of the noncompliance, the Department seeks to lift the stay and impose the fine;
 - c) The opportunity for Respondent to contest the Department's determination of noncompliance in an administrative hearing before an Administrative Law Judge (ALJ) of the Office of Administrative Hearings (OAH); and
 - d) A copy of this Consent Order. The notification and hearing process provided in this Consent Order applies only to this Consent Order. It is solely provided in the event Respondent chooses to contest the Department's determination of noncompliance.
3. Respondent will be afforded ten (10) business days from the date of receipt of the Department's notification to submit a written request to the Department for an administrative hearing to be held before an ALJ from the OAH.
4. Respondent, in addition to his request for hearing, may provide a written response to include any information pertaining to the alleged noncompliance.
5. The scope and issues of the hearing are limited solely to whether or not Respondent is in violation of the terms of this Consent Order to a degree sufficient to warrant imposition of the stayed fine.
6. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party may file a Petition for Review with the Director of the Department.
7. If Respondent does not request the hearing within the stated time, the Department will impose the stayed fine and pursue whatever action it deems necessary to enforce the fine.

I. **Investigation Fee and Payment.** It is AGREED that upon entry of this Consent Order Respondent shall pay to the Department an investigation fee of \$10,000. The Financial Literacy Payment, paid Fine, and Investigation Fee totaling \$26,000 shall be paid upon entry of this Consent by cashier's check made payable to the "Washington State Treasurer."

J. **Rights of Non-Parties.** It is AGREED that the Department does not represent or have the consent of any person or entity not a party to this Consent Order to take any action concerning their personal legal rights, and this Consent Order does not limit or create any private rights or remedies against Respondent, limit or create liability of Respondent, or limit or create defenses of Respondent to any claims.

1 **K. Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted
2 that they have the full power and right to execute this Consent Order on behalf of Respondent.

3 **L. Successors and Assigns.** It is AGREED and ORDERED that the terms and conditions of this
4 Consent Order shall be binding on Respondent's successors and assigns.

5 **M. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide by
6 the terms and conditions of this Consent Order may result in both the imposition of the stayed fine and
7 further legal action by the Director. In either event, Respondent may be responsible to reimburse the
8 Department for the costs and expenses incurred in pursuing such action, including but not limited to,
9 attorney fees.

10 **N. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this Consent
11 Order, which is effective when signed and entered by the Director's designee.

12 **O. Completely Read, Understood, and Agreed.** It is AGREED that the undersigned have read this
13 Consent Order in its entirety and fully understand and agree to all of the same.

14 **RESPONDENT PACIFIC FINANCE GROUP, LLC**

15 By:

16 /s/
Robert W. Owsley II
Managing Member and Co-Owner

9-20-2016
Date

18 /s/
Patrick M. Rogers
Managing Member and Co-Owner

9-20-2016
Date

19 **Approved for Entry:**

20
21 /s/
22 Douglas L. Davies, WSBA No. 16750
23 Advocates Law Group, PLLC
Attorneys for Respondent Pacific Finance Group, LLC
and Robert W. Owsley II

9-22-2016
Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

/s/
John L. Bley, WSBA No. 15230
Foster Pepper PLLC
Attorneys for Patrick M. Rogers

9-27-2016
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 29th DAY OF SEPTEMBER, 2016.

/s/
CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

Approved by:

/s/
ANTHONY W. CARTER
Senior Legal Examiner

/s/
STEVEN C. SHERMAN
Enforcement Chief

1
2
3
4
5
6
7
8

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

9
10
11
12
13
14

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

15
16
17
18
19
20
21
22

PACIFIC FINANCE GROUP, LLC,
NMLS No. 119153,

Respondent.

No. C-14-1499-16-SC01

STATEMENT OF CHARGES and NOTICE
OF INTENT TO ENTER AN ORDER TO
CEASE AND DESIST, TAKE
AFFIRMATIVE ACTION, IMPOSE FINE,
COLLECT INVESTIGATION FEES, and
RECOVER COSTS AND EXPENSES

23
24

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 (Act). 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 Charles E. Clark, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent Pacific Finance Group, LLC (Respondent), was licensed by the Washington State Department of Financial Institutions (Department) to conduct business as a mortgage broker under the Act on or about January 26, 2009, and continues to be licensed to date. Respondent currently conducts business from a main office located in Redmond, Washington, and has conducted business in the past from a main office located in Kirkland as well as from licensed branches located in Kirkland, Washington, and Shelton, Washington.

1.2 Prohibited Conduct.

A. False Advertising. Between December 19, 2012, and January 19, 2013, Respondent's Kirkland branch distributed an advertisement in Washington falsely claiming to be "A" rated by the Better

1 Business Bureau (BBB). At the time Respondent's main office in Kirkland was rated "A" by the BBB,
2 but its Kirkland branch had a separate, lower, "B+" rating from the BBB.

3 The advertisement contained other express claims, including that:

- 4 1. Respondent was one of the largest brokers in Washington State;
- 5 2. Respondent offered mortgage loans at "no closing costs" interest rates; and
- 6 3. No other mortgage broker allows borrowers full access to their loan documents.

7 Respondent was not able to substantiate any of these express claims.

8 **B. Manufacturing Bias in its Online Reputation.** As detailed above, during 2013 Respondent's
9 main office in Kirkland had an "A" rating from the BBB, but its Kirkland branch had a "B+" rating.
10 Respondent advertised on the Internet that its Kirkland branch had an "A" rating from the BBB, and
11 provided what purported to be a link to the BBB report for the Kirkland branch. However, the link
12 directed consumers to the report for Respondent's main office in Kirkland, rather than to the BBB report
13 for Respondent's Kirkland branch. At the time the BBB reported it had received 17 complaints against
14 the Kirkland branch, while the main office had received only two complaints.

15 In addition to directing consumers to the wrong BBB report, Respondent adopted other tactics in
16 defense of its online reputation, manufacturing bias in consumer reviews of the Kirkland branch by:

- 17 1. Instructing its employees to solicit only completely satisfied borrowers to post
18 favorable reviews of Respondent on Internet websites that published consumer
19 reviews, and paying an incentive to its employees when those borrowers posted
20 favorable reviews of Respondent; and
- 21 2. Requesting that an Internet website with consumer reviews about Respondent take
22 down specific negative reviews, and, when that effort failed, arranging for all the
23 reviews of its Kirkland branch to be moved and attributed to its Shelton branch.

24 **C. Failure to Timely File Mortgage Call Reports.** The Secure and Fair Enforcement for Mortgage
Licensing Act of 2008 requires all state mortgage licensees to submit annual reports of financial
condition and loan activity to the Nationwide Mortgage Licensing System (NMLS) on Mortgage Call
Reports (MCRs). The MCR consists of two components: the annual Financial Condition (FC) report,

1 and the quarterly Residential Mortgage Loan Activity (RMLA) report. The Act requires that Respondent
2 timely file the MCR through NMLS as prescribed by the Director.

3 For each year from 2011 through 2015, Respondent failed to timely file its annual FC report. In
4 addition, Respondent failed to timely file each quarterly RMLA report from 2011 through 2015, and for
5 the 1st quarter of 2016.

6 **D. Failure to Comply with Directives.** Respondent failed to comply with Directives issued by the
7 Department, including by:

- 8 1. Failing to comply with a Directive issued on February 15, 2013, in complaint no. 041704;
and
- 9 2. Failing to comply with a Directive issued on April 23, 2014, in complaint no. 043178.

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

11 **2.1 Prohibition Against Unfair or Deceptive Practices.** Based on the Factual Allegations set forth in
12 Section I above, Respondent is in apparent violation of RCW 19.146.0201(2) for directly or indirectly
13 engaging in an unfair or deceptive practice toward any person through false advertising and
14 manufacturing bias in its online reputation.

15 **2.2 Requirement to File Mortgage Call Reports.** Based on the Factual Allegations set forth in
16 Section I above, Respondent is in apparent violation of RCW 19.146.390 for failing to submit MCRs
17 through NMLS as required.

18 **2.3 Requirement to Comply with the Department's Investigation Authority.** Based on the Factual
19 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.235 for
20 failing to comply with the Department's authority to conduct investigations.

21 **III. AUTHORITY TO IMPOSE SANCTIONS**

22 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(3), the Director
23 may issue orders directing a licensee to cease and desist from conducting business and to take such
24 affirmative action as is necessary to comply with the Act.

1 **3.2 Authority to Issue an Order to Take Affirmative Action.** Pursuant to RCW 19.146.220(3), the
2 Director may issue orders directing a licensee to cease and desist from conducting business and to take
3 such affirmative action as is necessary to comply with the Act.

4 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
5 against a licensee for any violation of the Act.

6 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520(9)
7 and (11), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per hour for an
8 examiner's time devoted to an investigation of a licensee.

9 **3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director may
10 recover the state's costs and expenses for prosecuting violations of the Act.

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

12 Respondent's violations of the provisions of chapter 19.146 RCW, as set forth in the above Factual
13 Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis for the
14 entry of an Order under RCW 19.146.220, RCW 19.146.221, and RCW 19.146.223. Therefore, it is the
15 Director's intent to ORDER that:

16 **4.1** Respondent Pacific Finance Group, LLC immediately cease and desist false and
17 deceptive advertising; manufacturing bias of its online reputation; failing to file
18 MCRs with NMLS as required; and failing to comply with the Department's
19 investigative authority.

19 **4.2** Respondent Pacific Finance Group, LLC, take such affirmative remedial action
20 as is necessary to prevent future similar violations of the Act.

20 **4.3** Respondent Pacific Finance Group, LLC, pay a fine. As of the date of this
21 Statement of Charges the fine totals \$ 10,000.00.

21 **4.4** Respondent Pacific Finance Group, LLC pay an investigation fee. As of the
22 date of this Statement of Charges, the investigation fee totals \$21,000.00.

22 **4.5** Respondent Pacific Finance Group, LLC pay the Department's costs and
23 expenses for prosecuting violations of the Act in an amount to be determined at
24

1 hearing or by declaration with supporting documentation in event of default by
2 Respondent.

3 **V. AUTHORITY AND PROCEDURE**

4 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
5 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
6 RCW (the Administrative Procedure Act). Respondent, through its authorized representatives, may
7 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
8 AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

9
10 Dated this 31st day of August, 2016.

11
12 /s/
13 CHARLES E. CLARK
14 Director, Division of Consumer Services
15 Department of Financial Institutions

16
17
18 Presented by:

Approved by:

19 /s/
20 ANTHONY W. CARTER
21 Senior Legal Examiner

/s/
22 STEVEN C. SHERMAN
23 Enforcement Chief