

ORDER SUMMARY – Case Number: C-17-2173

Name(s): Mahshid Homayounfar Kashani d/b/a American Mortgage Services
d/b/a amsmortgageservices.com

Order Number: C-17-2173-18-CO01

Effective Date: 8/9/2018

License Number: U/L – NMLS ID 1779902
Or NMLS Identifier [U/L]

License Effect:

Not Apply Until: 8/9/2023

Not Eligible Until: 8/9/2023

Prohibition/Ban Until: 8/9/2023

Investigation Costs	\$1,459.20		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$25,000.00	Due 2/9/2019	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Refunds	\$16,480.00	Due 2/9/2019	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Financial Literacy and Education	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Cost of Prosecution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
	No. of Victims:	5		

Comments: The \$25,000 fine is suspended for six months conditional on payment of full refunds within six months. The fine will be waived if Respondent pays refunds as required.

1
2
3
4
5
6
7

**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-17-2173-18-CO01

CONSENT ORDER

MAHSHID HOMAYOUNFAR KASHANI d/b/a
AMERICAN MORTGAGE SERVICES and
WWW.AMSMORTGAGESERVICES.COM,

Respondent.

8
9
10
11
12
13
14
15

COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Charles E. Clark, Division Director, Division of Consumer Services, and Mahshid Homayounfar Kashani d/b/a American Mortgage Services d/b/a amsmortgageservices.com (Respondent), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, 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:

16
17
18
19
20
21
22
23

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-17-2173-18-SC01 (Statement of Charges), entered March 16, 2018 (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

1 Based upon the foregoing:

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

4 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
5 hearing before an administrative law judge, and hereby waives her right to a hearing and any and all
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached
7 herein. Accordingly, Respondent, by her signature and the signature of her representative below,
8 withdraw her appeal to the Office of Administrative Hearings.

9 C. **Prohibition from Industry.** It is AGREED that, for a period of five years from the date
10 of entry of this Consent Order, Respondent is prohibited from participating, in any capacity, in the
11 conduct of the affairs of any mortgage broker or consumer loan company licensed by the Department
12 or subject to licensure or regulation by the Department.

13 D. **Application for License.** It is AGREED that, for a period of five years from the date of
14 entry of this Consent Order, Respondent shall not apply to the Department for any license under any
15 name. It is further AGREED that, should Respondent apply to the Department for any license under
16 any name at any time later than five years from the date of entry of this Consent Order, Respondent
17 shall be required to meet any and all application requirements in effect at that time.

18 E. **Confession of Judgment.** It is AGREED that the Department has accepted a Confession
19 of Judgment from Respondent for the fine agreed to in Paragraph F of this Consent Order. A copy of
20 this Confession of Judgment is attached and incorporated into this Consent Order by this reference.
21 Consistent with RCW 4.60, the Department may immediately, and without further notice to
22 Respondent, seek entry of the judgment if Respondent does comply with paragraphs G.1 through G.5
23 of this Consent Order. It is further AGREED that Respondent shall, upon the Department's request,

1 fully and promptly cooperate with the Department in its efforts to get the judgment entered by the
2 superior court.

3 F. **Fine.** It is AGREED that Respondent shall pay a fine to the Department in the amount of
4 \$25,000.00. It is further AGREED that the fine shall be suspended for a period of six months after
5 entry of this Consent Order and shall be waived upon Respondent completing the terms in Paragraphs
6 G.1 through G.5 of this Consent Order.

7 G. **Refunds.** It is AGREED that Respondent shall pay refunds as follows:

8 1. **Refund Amounts.** Respondent shall pay refunds to each of the following consumers in
9 the following amounts:

<u>Consumer Initials</u>	<u>Refund Amount</u>
J.T.	\$4,700.00
L.Y.	\$2,680.00
K.M.	\$3,000.00
K.H.	\$3,500.00
R.H.	\$2,600.00

10
11
12
13
14
15
16 Respondent acknowledges these amounts as debts owed to each consumer and agrees that each
17 consumer is a former client of Respondent whose name and address are known to Respondent.

18 2. **Method of Payment.** Respondent shall pay each refund in the form of a cashier's check
19 made payable to each consumer listed in Paragraph G.1 above. Within six months entry of this
20 Consent Order, Respondent shall mail each refund check to each consumer's last known address.

21 3. **Unclaimed Property.** Between 90 and 120 days after mailing the refund checks,
22 Respondent shall seek permission from the Washington State Department of Revenue (DOR) to file
23 an early unclaimed property report for any refund checks that were not negotiated. Within thirty days

1 of receiving DOR's permission to file an early unclaimed property report, Respondent shall file the
2 unclaimed property report with DOR in accordance with chapter 63.29 RCW and its related rules. If
3 DOR does not grant permission to file an early unclaimed property report, Respondent shall file the
4 unclaimed property report as soon as permitted by chapter 63.29 RCW and its related rules. Within
5 thirty days of filing the unclaimed property report with DOR, Respondent shall provide the
6 Department with a copy of the unclaimed property report.

7 **4. Refund Reporting.** Within six months after entry of this Consent Order, Respondent
8 shall provide the Department with copies of each refund check mailed to each consumer. Between 90
9 and 120 days after mailing the refund checks, Respondent shall provide to the Department copies of
10 the front and back of each cancelled refund check and a copy of the letter from Respondent to DOR
11 seeking permission to file an unclaimed property report for those refund checks that were not
12 negotiated. Within thirty days of receiving DOR's response, Respondent shall provide the
13 Department with a copy of DOR's response. Within thirty days of filing the unclaimed property
14 report with DOR, Respondent shall provide the Department with a copy of the unclaimed property
15 report.

16 **5. Refund-Related Costs.** Respondent shall bear all costs related to making refunds,
17 including, but not limited to, attorney fees and mailing expenses..

18 **H. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
19 consent of any person or entity not a party to this Consent Order to take any action concerning their
20 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
21 Order, this Consent Order does not limit or create any private rights or remedies against Respondent,
22 limit or create liability of Respondent, or limit or create defenses of Respondent to any claims.
23

1 **I. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
2 investigation fee of \$1,459.20, in the form of a cashier’s check made payable to the “Washington
3 State Treasurer,” upon entry of this Consent Order.

4 **J. Regulation D Rule 506.** It is AGREED that this Consent Order is not intended to result
5 in disqualification of Respondent from Rule 506 of Regulation D (17 C.F.R. § 230.501 et seq.)
6 promulgated under the Securities Act of 1933 (15 U.S.C. § 77(a) et seq.). It is further AGREED, and
7 Respondent acknowledges, that this paragraph shall not be binding upon the Securities and Exchange
8 Commission, the Department of Financial Institutions, Division of Securities, or any other state or
9 federal agency.

10 **K. Change of Address.** It is AGREED that for the duration of the period this Consent Order
11 is in effect, unless otherwise agreed to in writing by the Department, Respondent shall provide the
12 Department with a mailing address and telephone number at which Respondent can be contacted and
13 Respondent shall notify the Department in writing of any changes to her mailing address or telephone
14 number within fifteen days of any such change.

15 **L. Records Retention.** It is AGREED that Respondent, its officers, employees, and agents
16 shall maintain records in compliance with the Act and provide the Director with the location of the
17 books, records and other information relating to Respondent’s mortgage broker business, and the
18 name, address and telephone number of the individual responsible for maintenance of such records in
19 compliance with the Act.

20 **M. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to
21 abide by the terms and conditions of this Consent Order may result in further legal action by the
22 Director. In the event of such legal action, Respondent may be responsible to reimburse the Director
23 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

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

3 O. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read
4 this Consent Order in its entirety and fully understand and agree to all of the same.

5 P. **Counterparts.** This Consent Order may be executed by the Respondent in any number of
6 counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be deemed
7 to be an original, but all of which, taken together, shall constitute one and the same Consent Order.

8
9 **RESPONDENT:**
10 **Mahshid Homayounfar Kashani d/b/a American Mortgage Services d/b/a**
11 **amsmortgageservices.com**

12 /s/
13 Mahshid Homayounfar Kashani

07-12-2018
Date

14 Approved for Entry:

15 /s/
16 William C. Lenz, WSBA No. 49891
17 Witherspoon Kelley
Attorneys for Respondent

7/30/18
Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 9th DAY OF August, 2018.

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

Presented by:

/s/
AMANDA J. HERNDON
Financial Legal Examiner

Approved by:

/s/
STEVEN C. SHERMAN
Enforcement Chief

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 MAHSHID HOMAYOUNFAR KASHANI d/b/a
6 AMERICAN MORTGAGE SERVICES and
WWW.AMSMORTGAGESERVICES.COM,

7 Respondent.

No. C-17-2173-18-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, PROHIBIT FROM INDUSTRY,
ORDER RESTITUTION, IMPOSE FINE,
COLLECT INVESTIGATION FEE, and
RECOVER COSTS AND EXPENSES

8 **INTRODUCTION**

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

15 **I. FACTUAL ALLEGATIONS**

16 **1.1 Respondent.** Respondent Mahshid Homayounfar Kashani (Respondent), at all relevant
17 times, engaged in business as a sole proprietor doing business as American Mortgage Services
18 and www.amsmortgageservices.com. Respondent has never been licensed by the Department of
19 Financial Institutions of the State of Washington (Department) to conduct business as a mortgage
20 broker.

21 **1.2 Unlicensed Activity.** Between at least November 16, 2015, and April 7, 2017,
22 Respondent offered to provide residential mortgage loan modification services to Washington
23 consumers while Respondent was not licensed by the Department to provide those services.

1 Respondent entered into a contractual relationship with at least one Washington consumer to
2 provide those services and collected an advance fee for the provision of those services.

3 Consumer L.M. paid Respondent an advanced fee of \$3,300 for loan modification services.

4 **1.3 Misrepresentations and Omissions.** Respondent represented that she was licensed to
5 provide the residential mortgage loan modification services or omitted disclosing that she was
6 not licensed to provide those services.

7 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of
8 the Act by Respondents continues to date.

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

10 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14), "Mortgage broker"
11 means any person who for direct or indirect compensation or gain, or in the expectation of direct
12 or indirect compensation or gain (a) assists a person in obtaining or applying to obtain a
13 residential mortgage loan or performs residential mortgage loan modification services or (b)
14 holds himself or herself out as being able to assist a person in obtaining or applying to obtain a
15 residential mortgage loan or provide residential mortgage loan modification services.

16 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above,
17 Respondent is in apparent violation of RCW 19.146.0201(2) and (3) for engaging in an unfair or
18 deceptive practice toward any person and obtaining property by fraud or misrepresentation.

19 **2.3 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the
20 Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW
21 19.146.200(1) for engaging in the business of a mortgage broker for Washington residents or
22 property without first obtaining a license to do so.

1 **2.4 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth
2 in Section I above, Respondent is in apparent violation of RCW 19.146.0201(11) and 12 C.F.R.
3 § 1015.5 for taking advance fees for loan modification services.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(3), the
6 Director may issue orders directing any person subject to the Act to cease and desist from
7 conducting business.

8 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(4), the Director
9 may issue orders prohibiting from participation in the conduct of the affairs of a licensed
10 mortgage broker any person subject to licensing under the Act for any violation of the Act.

11 **3.3 Authority to Order Refunds.** Pursuant to RCW 19.146.220(2), the Director may order
12 refunds against any person subject to the Act for any violation of the Act.

13 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose
14 fines against any person subject to the Act for any violation of the Act.

15 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC
16 208-660-550(4)(a), the Department will charge \$48 per hour for an examiner's time devoted to
17 an investigation of any person subject to the Act.

18 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the
19 Director may recover the state's costs and expenses for prosecuting violations of the Act.

20 //

21 //

22 //

23 //

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

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

- 5 **4.1** Respondent Mahshid Homayounfar Kashani cease and desist engaging in the
6 business of a mortgage broker.
- 7 **4.2** Respondent Mahshid Homayounfar Kashani be prohibited from participation, in
8 any manner, in the conduct of the affairs of any mortgage broker subject to
9 licensure by the Director for a period of five years.
- 10 **4.3** Respondent Mahshid Homayounfar Kashani pay refunds to each Washington
11 State consumer with whom Respondent entered into a contract for residential
12 mortgage loan modification services and each consumer with whom she entered
13 into a contract for residential mortgage loan modification services related to real
14 property in State Washington equal to the amount collected from those consumers
15 for those services in an amount to be determined at hearing.¹
- 16 **4.4** Respondent Mahshid Homayounfar Kashani pay a fine, which as of the date of
17 this Statement of Charges totals \$3,000.00.
- 18 **4.5** Respondent Mahshid Homayounfar Kashani pay an investigation fee, which as of
19 the date of this Statement of Charges totals \$616.80.
- 20 **4.6** Respondent Mahshid Homayounfar Kashani maintain records in compliance with
21 the Act and provide the Department with the location of the books, records and
22 other information relating to Respondent’s provision of residential mortgage loan
23 modification services in Washington, and the name, address and telephone
24 number of the individual responsible for maintenance of such records in
compliance with the Act.
- 4.7** Respondent Mahshid Homayounfar Kashani pay the Department’s costs and
expenses for prosecuting violations of the Act in an amount to be determined at
hearing or by Declaration with supporting documentation in event of default by
Respondent.

21 //
22 //

24 ¹ Respondent issued a full refund to Consumer L.M. on or about June 2, 2017.

1 **V. AUTHORITY AND PROCEDURE**

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

7 Dated this 16th day of March, 2018.

8
9
10 /s/
11 CHARLES E. CLARK
12 Director, Division of Consumer Services
13 Department of Financial Institutions

14 Presented by:

15 /s/
16 AMANDA J. HERNDON
17 Financial Legal Examiner

18 Approved by:

19 /s/
20 STEVEN C. SHERMAN
21 Enforcement Chief
22
23