

ORDER SUMMARY – Case Number: C-17-2318

Name(s): Darrell W Beard

Order Number: C-17-2318-20-CO01

Effective Date: 8/17/2020

License Number: 78726

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$ 500		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 8/24/2020
Fine	\$ 2,500 (\$2,000 STAYED)	Due \$500	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 8/24/2020
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
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:			

Comments: _____

1 Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges solely
2 as to Respondent Beard.

3 Based upon the foregoing:

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

6 **B. Waiver of Hearing.** It is AGREED that Respondent Beard has been informed of the right
7 to a hearing before an administrative law judge (ALJ), and hereby waives his right to a hearing and
8 any and all administrative and judicial review of the issues raised in this matter, or of the resolution
9 reached herein. Accordingly, Respondent Beard, by his signature below, withdraws his appeal to the
10 Office of Administrative Hearings (OAH).

11 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
12 Statement of Charges and agree that Respondent Beard does not admit to any wrongdoing by its
13 entry.

14 **D. Fine (Partially Stayed).** It is AGREED that Respondent Beard shall pay a fine to the
15 Department in the amount of \$2,500. It is FURTHER AGREED that Respondent Beard shall pay
16 \$500 of the fine to the Department, in the form of a cashier's check made payable to the "Washington
17 State Treasurer," upon delivery of this Consent Order, properly dated and signed. It is FURTHER
18 AGREED that, contingent upon Respondent Beard's compliance with this Consent Order, \$2,000 of
19 the fine (the "stayed fine") shall be stayed for two years from the date of this Consent Order unless
20 lifted pursuant to Paragraph E. If the Department does not seek to lift the stay and impose the stayed
21 fine pursuant to Paragraph E, the stayed fine shall expire without further notice or action by the
22 Department. It is FURTHER AGREED that, if Respondent Beard fails to comply with this Consent
23 Order, the Department may lift the stay and impose the \$2,000 stayed fine pursuant to Paragraph E, at

1 which time Respondent Beard shall pay the remainder of the fine in the form of a cashier's check
2 made payable to the "Washington State Treasurer."

3 **E. Lifting of Stay and Imposition of Stayed Fine.** It is AGREED that:

- 4 1. If, during the two-year stay, the Department determines that Respondent Beard has not
5 complied with this Consent Order and the Department seeks to lift the stay and impose
6 the stayed fine, the Department will first serve Respondent Beard with a written notice
7 of alleged noncompliance.
- 8 2. The notice will include:
- 9 i. A description of the alleged noncompliance;
 - 10 ii. A statement that the Department seeks to lift the stay and impose the stayed
11 fine;
 - 12 iii. Notice that Respondent Beard can contest the notice of alleged noncompliance
13 by either requesting an adjudicative hearing before an ALJ from OAH or by
14 submitting a written response to the Department contesting the alleged
15 noncompliance; and
 - 16 iv. Notice that the process for lifting the stay applies only to this Consent Order.
- 17 3. Respondent Beard has 20 days from the date of service of the notice of alleged
18 noncompliance to submit a written request to the Department for an adjudicative
19 hearing.
- 20 4. The scope and issues of the adjudicative hearing are limited solely to whether or not
21 Respondent Beard is in violation of the terms of this Consent Order.
- 22 5. At the conclusion of the adjudicative hearing, the ALJ will issue an initial decision.
23 Any party may file a Petition for Review of that initial decision with the Director of

1 the Department.

2 6. **DEFAULT.** If Respondent Beard does not timely request an adjudicative hearing or
3 submit a written response contesting the notice of alleged noncompliance, the
4 Department may lift the stay and impose the stayed fine without further notice.

5 **F. Investigation Fee.** It is AGREED that Respondent Beard shall pay to the Department an
6 investigation fee of \$500, in the form of a cashier's check made payable to the "Washington State
7 Treasurer," upon delivery of this Consent Order to the Department, properly dated and signed. The
8 portion of the Fine that is not stayed and the Investigation Fee may be paid together in one \$1,000
9 cashier's check made payable to the "Washington State Treasurer."

10 **G. 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 Beard shall provide
12 the Department with a mailing address and telephone number at which Respondent Beard can be
13 contacted and Respondent Beard shall notify the Department in writing of any changes to his mailing
14 address or telephone number within fifteen days of any such change.

15 **H. Complete Cooperation with the Department.** It is AGREED that, upon written request
16 by the Department, Respondent Beard shall provide the Department truthful and complete sworn
17 statements outlining his activities with respect to Finance of America Mortgage, LLC (FAM) and any
18 and all persons involved or in any way associated with FAM, including but not limited to owners,
19 employees, independent contractors, agents, businesses and persons with whom FAM dealt,
20 communicated, or otherwise related. The "sworn statements" may take the form of affidavits,
21 declarations, or deposition testimony, at the Department's discretion. A failure to cooperate fully,
22 truthfully, and completely is a breach of this Consent Order. In addition to providing sworn
23 statements, it is AGREED that, upon written request by the Department, Respondent Beard shall

1 cooperate fully, truthfully, and completely with the Department and provide any and all information
2 known to him relating in any manner to FAM and any and all persons involved or in any way
3 associated with FAM, including but not limited to owners, employees, independent contractors,
4 agents, businesses and persons with whom FAM dealt, communicated, or otherwise related. It is
5 further AGREED that, upon written request by the Department, Respondent Beard shall provide any
6 and all documents, writings or materials, or objects or things of any kind in his possession or under
7 his care, custody, or control that he is authorized to possess, obtain, or distribute relating directly or
8 indirectly to all areas of inquiry and investigation. It is further AGREED that Respondent Beard shall
9 testify fully, truthfully, and completely at any and all proceedings related to any Department
10 investigation or enforcement action or both related to any and all persons involved or in any way
11 associated with FAM, and any respondents named therein. A failure to cooperate fully, truthfully, and
12 completely is a breach of this Consent Order.

13 **I. Authority to Execute Order.** It is AGREED that the undersigned have represented and
14 warranted that they have the full power and right to execute this Consent Order on behalf of the
15 parties represented.

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

20 **K. Voluntarily Entered.** It is AGREED that Respondent Beard has voluntarily entered into
21 this Consent Order, which is effective when signed by the Director's designee.

22 **L. Completely Read, Understood, and Agreed.** It is AGREED that Respondent Beard has
23 read this Consent Order in its entirety and fully understands and agrees to all of the same.

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **DIVISION OF CONSUMER SERVICES**

4 IN THE MATTER OF DETERMINING
5 Whether there has been a violation of the
6 Consumer Loan Act of Washington and the
7 Mortgage Lending and Homeownership Act of
8 Washington by:

9 FINANCE OF AMERICA MORTGAGE, LLC,
10 NMLS No. 1071;
11 DARRELL BEARD, Mortgage Loan Originator,
12 NMLS No. 78726; and
13 SHIRLEE BUECHE, Mortgage Loan Originator,
14 NMLS No. 131012;

15 Respondents.

No. C-17-2318-20-SC01

16 STATEMENT OF CHARGES and
17 NOTICE OF INTENT TO ENTER AN
18 ORDER TO CEASE AND DESIST, REVOKE
19 LICENSES, PROHIBIT FROM INDUSTRY,
20 IMPOSE FINES, COLLECT
21 INVESTIGATION FEE, and RECOVER
22 COSTS AND EXPENSES

23 **INTRODUCTION**

24 Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial
Institutions of the State of Washington (Director) is responsible for the administration of chapter
31.04 RCW, the Consumer Loan Act (Act). Pursuant to RCW 19.144.120 and RCW 31.04.168, the
Director may also investigate and take enforcement action under chapter 19.144 RCW, the Mortgage
Lending and Homeownership Act. After having conducted an investigation pursuant to RCW
19.144.120, RCW 31.04.168, and RCW 31.04.145, 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 Lucinda Fazio, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Finance of America Mortgage, LLC (Respondent FAM) was licensed by the
Department of Financial Institutions of the State of Washington (Department) to conduct business as
a consumer loan company on or about June 1, 2015, and continues to be licensed to date.

1 **B. Darrell Beard (Respondent Beard)** is a Mortgage Loan Originator (MLO) at
2 Respondent FAM. Respondent Beard was licensed by the Department to conduct business as an
3 MLO on or about January 23, 2007, and continues to be licensed to date.

4 **C. Shirlee Bueche (Respondent Bueche)** is an MLO at Respondent FAM. Respondent
5 Bueche was licensed by the Department to conduct business as an MLO on or about February 9,
6 2007, and continues to be licensed to date.

7 **1.2 False Loan Documents.** In 2017, Respondent FAM and Respondent Bueche encouraged
8 prospective borrowers in Washington to fabricate and submit false rental income information and
9 documentation. While in Respondents' control, the false rental income documentation was altered
10 without the consent of the prospective borrowers. Respondents caused the false and altered rental
11 income documentation to be maintained in Respondent FAM's records.

12 **1.3 False Statements.** In January 2020, in a letter and declarations, Respondent FAM and
13 Respondent Bueche made and submitted false statements to the Department in connection with an
14 investigation conducted by the Department.

15 **1.4 Failed to Maintain, Preserve, and Provide Records.** Between 2017 and the date of this
16 Statement of Charges, with regard to at least one set of prospective borrowers, Respondents failed to
17 maintain and preserve for at least three years all books, accounts, records, papers, documents, files,
18 and other information as will enable the Director to determine whether Respondents were complying
19 with the Act and related rules. Additionally, within the same period, Respondents withheld,
20 abstracted, removed, mutilated, destroyed, or secreted books, accounts, records, papers, documents,
21 files, or other information related to at least one set of prospective borrowers. Among the records that
22 Respondents failed to properly maintain and preserve were electronic communications between the
23 prospective borrowers and Respondents, as well as at least one copy of a rental agreement that was in
24 Respondent Beard's control and that he believes he shredded.

1 **1.5 Unauthorized Information Disclosure.** In 2017, Respondent FAM and Respondent Bueche
2 disclosed nonpublic personal information about a consumer to a nonaffiliated third party without
3 notifying the consumer or obtaining the consumer’s consent to disclose the information.

4 **1.6 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 Responsibility for Conduct of Employees.** Pursuant to RCW 31.04.027,¹ RCW 31.04.165,
8 and WAC 208-620-372, a consumer loan company is responsible for any conduct violating the Act or
9 related rules by any person employed, or engaged as an independent contractor, to work in the
10 business covered by its license.

11 **2.2 Prohibited Practices and Mortgage Fraud.** Based on the Factual Allegations set forth in
12 Section I above, Respondents are in apparent violation of RCW 31.04.027(1) and (2) (2015) for
13 directly or indirectly employing any scheme, device, or artifice to defraud or mislead any person; and
14 for directly or indirectly engaging in any unfair or deceptive practice toward any person.

15 Additionally, based on the Factual Allegations set forth in Section I above, Respondents are in
16 apparent violation of RCW 31.04 027(13) (2015) and RCW 19.144.080(1) for engaging in the
17 following: (a) defrauding or materially misleading any person, or engaging in any unfair or deceptive
18 practice toward any person related to the mortgage lending process; (b) knowingly making any
19 misstatement, misrepresentation, or omission related to the mortgage lending process knowing that it
20 may be relied on by a mortgage lender, borrower, or any other party related to the mortgage lending
21 process; (c) using or facilitating the use of any misstatement, misrepresentation, or omission,
22

23 ¹ The Act was amended effective June 7, 2018. Among the statutes cited herein, the only amendments relevant to this
24 Statement of Charges were numerical changes to provisions of RCW 31.04.027. When relevant, the former version of
RCW 31.04.027 is designated by the reference “(2015),” while the current version is designated by the reference
“(2018).”

1 knowing the same to contain a misstatement, misrepresentation, or omission, related to the mortgage
2 lending process with the intention that it be relied on by a mortgage lender, borrower, or any other
3 party related to the mortgage lending process; and (d) knowingly altering, destroying, shredding,
4 mutilating, or concealing a record, document, or other object, or attempting to do so, with the intent
5 to impair the investigation and prosecution of mortgage fraud.

6 **2.3 False Statements.** Based on the Factual Allegations set forth in Section I above, Respondent
7 FAM and Respondent Bueche are in apparent violation of RCW 31.04.027(1)(a), (b), and (h) (2018)
8 and WAC 208-620-550(6) for negligently making any false statement or knowingly and willfully
9 making any omission of material fact in connection with any reports filed with the Department or in
10 connection with any application, examination, or investigation conducted by the Department.

11 **2.4 Requirement to Maintain Adequate Records.** Based on the Factual Allegations set forth in
12 Section I above, Respondents are in apparent violation of RCW 31.04.155 and WAC 208-620-520 for
13 failing to maintain and preserve the books, accounts, records, papers, documents, files, and other
14 information relevant to a loan or loan application for a minimum of three years, or the period of time
15 required by federal law, whichever is longer, after making the final entry on that loan at a licensed
16 location. Additionally, based on the Factual Allegations set forth in Section I above, Respondents are
17 in apparent violation of RCW 31.04.155 and WAC 208-620-520 for withholding, abstracting,
18 removing, mutilating, destroying, or secreting books, accounts, records, papers, documents, files, or
19 other information.

20 **2.5 Requirement to Safeguard Nonpublic Personal Information.** Based on the Factual
21 Allegations set forth in Section I above, Respondent FAM and Respondent Bueche are in apparent
22 violation of RCW 31.04.027(2) and (13) (2015), RCW 31.04.102(2), and WAC 208-620-572(1) for
23 failing to comply with the Gramm-Leach-Bliley Act, 12 U.S.C. § 6801 *et seq.*, and Regulation P, 12.

1 C.F.R. § 1016.10, by disclosing nonpublic personal information about a consumer to a nonaffiliated
2 third party without providing proper notice or receiving proper consent.

3 **III. AUTHORITY TO IMPOSE SANCTIONS**

4 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.144.120, RCW
5 31.04.168, RCW 31.04.093(5)(a), the Director may issue orders directing a licensee, its employee,
6 loan originator, or other person subject to the Act to cease and desist from conducting business in a
7 manner that is injurious to the public or violates any provision of the Act.

8 **3.2 Authority to Revoke Licenses.** Pursuant to RCW 19.144.120, RCW 31.04.168, and RCW
9 31.04.093(3), the Director may revoke a license if: the licensee, knowingly or without the exercise of
10 due care, violates any provision of the Act or any rule adopted under the Act; a fact or condition
11 exists that, if it had existed at the time of the original application for the license, clearly would have
12 allowed the Director to deny the application for the original license; or the licensee failed to comply
13 with any directive, order, or subpoena issued by the Director under the Act.

14 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.144.120, RCW 31.04.168,
15 and RCW 31.04.093(6), the Director may issue an order prohibiting from participation in the affairs
16 of any licensee, any officer, principal, employee, mortgage loan originator, or any other person
17 subject to the Act for a violation of RCW 31.04.027, RCW 31.04.102, RCW 31.04.155, or RCW
18 31.04.221.

19 **3.4 Authority to Impose Fines.** Pursuant to RCW 19.144.120, RCW 31.04.168, and RCW
20 31.04.093(4), the Director may impose fines of up to one hundred dollars per day, per violation, upon
21 the licensee, its employee or loan originator, or any other person subject to the Act for any violation
22 of the Act.

23 **3.5 Authority to Charge Investigation Fee.** Pursuant to RCW 31.04.145(3), and WAC 208-620-
24 610(7), every licensee investigated by the Director or the Director's designee shall pay for the cost of

1 the investigation, calculated at the rate of \$69.01 per staff hour devoted to the investigation.

2 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
3 may recover the state's costs and expenses for prosecuting violations of the Act.

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

5 Respondents' violations of the provisions of chapter 19.144 RCW, chapter 31.04 RCW, and
6 chapter 208-620 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and
7 Authority to Impose Sanctions, constitute a basis for the entry of an Order under RCW 19.144.120,
8 RCW 31.04.168, RCW 31.04.093, RCW 31.04.165, RCW 34.04.202, and RCW 31.04.205.

9 Therefore, it is the Director's intent to ORDER that:

- 10 **4.1** Respondents Finance of America Mortgage, LLC, Darrell Beard, and Shirlee Bueche
11 cease and desist from engaging in activity in a manner that is injurious to the public or
12 that violates the Act.
- 13 **4.2** Respondent Finance of America Mortgage, LLC's license to conduct the business of a
14 consumer loan company be revoked.
- 15 **4.3** Respondent Darrell Beard's license to conduct the business of a mortgage loan
16 originator be revoked.
- 17 **4.4** Respondent Shirlee Bueche's license to conduct the business of a mortgage loan
18 originator be revoked.
- 19 **4.5** Respondents Finance of America Mortgage, LLC, Darrell Beard, and Shirlee Bueche
20 be prohibited from participation in the conduct of the affairs of any consumer loan
21 company subject to licensure by the Director, in any manner, for a period of seven
22 years.
- 23 **4.6** Respondents Finance of America Mortgage, LLC, Darrell Beard, and Shirlee Bueche
24 jointly and severally pay a fine. As of the date of this Statement of Charges, the fine
totals \$100,000.
- 4.7** Respondents Finance of America Mortgage, LLC, Darrell Beard, and Shirlee Bueche
jointly and severally pay an investigation fee. As of the date of this Statement of
Charges, the investigation fee totals at least \$4,000.
- 4.8** Respondents Finance of America Mortgage, LLC, Darrell Beard, and Shirlee Bueche
maintain records in compliance with the Act and provide the Department with the
location of the books, records and other information relating to Respondents'

