

Terms Completed

ORDER SUMMARY – Case Number: C-17-2318

Name(s): Finance of America Mortgage, LLC

Order Number: C-17-2318-20-CO02

Effective Date: 10/21/20

License Number: NMLS No. 1071

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$4,000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 10/15/20
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
Financial Literacy and Education	\$20,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 10/15/20
Cost of Prosecution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
No. of Victims:				

Comments:

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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
Consumer Loan Act of Washington and the
Mortgage Lending and Homeownership Act of
Washington by:

FINANCE OF AMERICA MORTGAGE, LLC,
NMLS No. 1071;
DARRELL BEARD, Mortgage Loan Originator,
NMLS No. 78726; and
SHIRLEE BUECHE, Mortgage Loan Originator,
NMLS No. 131012;

Respondents.

No.: C-17-2318-20-CO02

CONSENT ORDER AS TO FINANCE OF
AMERICA MORTGAGE, LLC

COMES NOW the Director of the Department of Financial Institutions (Director), through his
designee Lucinda Fazio, Division of Consumer Services Director, and Finance of America Mortgage,
LLC (Respondent FAM), 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 31.04 of the Revised Code of Washington (RCW), chapter 19.144 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
Respondent FAM have agreed upon a basis for resolution of the matters alleged in Statement of
Charges No. C-17-2318-20-SC01 (Statement of Charges), entered April 22, 2020, (copy attached
hereto), solely as to Respondent FAM. Pursuant to chapter 31.04 RCW, the Consumer Loan Act,
chapter 19.144, the Mortgage Lending and Homeownership Act, and RCW 34.05.060 of the
Administrative Procedure Act, Respondent FAM 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

1 economically and efficiently settled by entry of this Consent Order. The parties intend this Consent
2 Order to fully resolve the Statement of Charges solely as to Respondent FAM.

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 FAM has been informed of the right
7 to a hearing before an administrative law judge, and hereby waives its right to a hearing and any and
8 all administrative and judicial review of the issues raised in this matter, or of the resolution reached
9 herein. Accordingly, Respondent FAM, by the signatures of its representatives below, withdraws its
10 appeal to the Office of Administrative Hearings.

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

13 D. **Affirmative Action.** It is AGREED that Respondent FAM has represented that it has
14 implemented and will continue to maintain a system of controls designed to prevent future violations
15 of the Consumer Loan Act that were identified and alleged in the Statement of Charges. It is
16 FURTHER AGREED that the Department may review Respondent FAM's system of controls during
17 future examinations or investigations to ensure compliance with the Consumer Loan Act.

18 E. **Financial Literacy Payment.** Pursuant to RCW 31.04.093(7), the Director may accept
19 payments to the Department for purposes of financial literacy and education programs authorized
20 under RCW 43.320.150. Accordingly, in further compromise and in consideration of the additional
21 terms set forth herein, it is AGREED that upon entry of this Consent Order Respondent FAM shall
22 pay \$20,000 to the Department for purposes of financial literacy and education programs (the
23 "Financial Literacy Payment"). The Financial Literacy Payment shall be in the form of a cashier's

1 check made payable to the “Washington State Treasurer,” upon delivery of this Consent Order to the
2 Department, properly dated and signed. It is FURTHER AGREED that Respondent FAM shall not
3 advertise the Financial Literacy Payment.

4 **F. Investigation Fee.** It is AGREED that Respondent FAM shall pay to the Department an
5 investigation fee of \$4,000, in the form of a cashier’s check made payable to the “Washington State
6 Treasurer,” upon delivery of this Consent Order to the Department, properly dated and signed. The
7 Financial Literacy Payment and Investigation Fee may be paid together in one \$24,000 cashier’s
8 check made payable to the “Washington State Treasurer.”

9 **G. Authority to Execute Order.** It is AGREED that the undersigned have represented and
10 warranted that they have the full power and right to execute this Consent Order on behalf of the
11 parties represented.

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

16 **I. Voluntarily Entered.** It is AGREED that Respondent FAM has voluntarily entered into
17 this Consent Order, which is effective when signed by the Director’s designee.

18 **J. Completely Read, Understood, and Agreed.** It is AGREED that Respondent FAM has
19 read this Consent Order in its entirety and fully understands and agrees to all of the same.

20 **K. Counterparts.** This Consent Order may be executed by the parties in any number of
21 counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be deemed
22 to be an original, but all of which, taken together, shall constitute one and the same Consent Order.
23

1 **RESPONDENT:**

2 **Finance of America Mortgage, LLC**

3 By:

4 /s/
William D. Dallas
5 President

10/8/2020
Date

6 Approved for Entry:

7 /s/
8 Haydn J. Richards, Jr.
Attorney at Law
9 Bradley Arant Boult Cummings, LLP
Attorney for Respondent FAM
10

10-7-2020
Date

11 **DO NOT WRITE BELOW THIS LINE**

12 THIS ORDER ENTERED THIS 21st DAY OF October, 2020.

13
14 /s/
LUCINDA FAZIO, Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 /s/
19 DREW STILLMAN
Financial Legal Examiner

20 Approved by:

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

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

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
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FINANCE OF AMERICA MORTGAGE, LLC,
NMLS No. 1071;
DARRELL BEARD, Mortgage Loan Originator,
NMLS No. 78726; and
SHIRLEE BUECHE, Mortgage Loan Originator,
NMLS No. 131012;

Respondents.

No. C-17-2318-20-SC01

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

INTRODUCTION

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'

1 consumer loan business, and the name, address and telephone number of the
2 individual responsible for maintenance of such records in compliance with the Act.

3 **4.9** Respondents Finance of America Mortgage, LLC, Darrell Beard, and Shirlee Bueche
4 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 a Respondent.

5 V. AUTHORITY AND PROCEDURE

6 This Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist, Revoke
7 Licenses, Prohibit from Industry, Impose Fines, Collect Investigation Fee, and Recover Costs and
8 Expenses (Statement of Charges) is entered pursuant to the provisions of RCW 19.144.120, RCW
9 31.04.168, RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to
10 the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Each Respondent may
11 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
12 AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

13 Dated this 22nd day of April, 2020.

14
15 /s/
LUCINDA FAZIO, Director
16 Division of Consumer Services
Department of Financial
17 Institutions

18 Presented by:

19 /s/
20 DREW STILLMAN
Financial Legal Examiner

21 Approved by:

22 /s/
23 STEVEN C. SHERMAN
24 Enforcement Chief