

Terms Completed

ORDER SUMMARY – Case Number: C-18-2485

Name(s): Blue Brick Financial LLC
James Timothy Jarnagin; Dan A Richardson

Order Number: C-18-2485-19-CO01

Effective Date: September 30, 2019

License Number: NMLS Nos. 168812, 196407, 206408
Or NMLS Identifier:

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$ 3,626.47		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 9/24/2019
Fine	\$ 25,000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 9/24/2019
Assessment(s)	\$N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Financial Literacy and Education	\$N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Cost of Prosecution	\$N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
	No. of Victims:			

Comments:

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
Consumer Loan Act of Washington by:

No. C-18-2485-19-CO01

CONSENT ORDER

5 BLUE BRICK FINANCIAL, LLC,
NMLS No. 168812,

6 DAN RICHARDSON, Owner, Managing Member,
7 and Mortgage Loan Originator,
NMLS No. 196407, and

8 JAMES T. JARNAGIN, Owner and Mortgage Loan
9 Originator,
NMLS No. 206408,

10 Respondents.

11 COMES NOW the Director of the Department of Financial Institutions (Director), through his
12 designee, Richard St. Onge, Division of Consumer Services, Acting Division Director, and Blue Brick
13 Financial, LLC, (Respondent Blue Brick); Dan Richardson (Respondent Richardson); and James T.
14 Jarnagin (Respondent Jarnagin) (collectively, Respondents), and finding that the issues raised in the
15 above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent
16 Order. This Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington
17 (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

18 **AGREEMENT AND ORDER**

19 The Department of Financial Institutions, Division of Consumer Services (Department) and
20 Respondents have agreed upon a basis for resolution of the matters alleged in the attached Statement of
21 Charges No. C-18-2485-19-SC01 (Statement of Charges), entered July 1, 2019. Pursuant to chapter
22 31.04 RCW, the Consumer Loan Act (the Act), and RCW 34.05.060 of the Administrative Procedure
23 Act, Respondents hereby agree to the Department's entry of this Consent Order (Order).
24

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 Respondents have been informed of the right to a
5 hearing before an administrative law judge, and hereby waive their 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 herein.
7 Accordingly, Respondents, by their signatures below, withdraw any related appeal of the Charges to the
8 Office of Administrative Hearings.

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

11 **D. Cease and Desist.** It is AGREED that Respondents shall cease and desist from engaging in false,
12 misleading, unfair, or deceptive marketing and advertising practices, including all marketing and
13 advertising practices through the internet. The Department acknowledges Respondents' attempts to
14 ascertain the Department's interpretation of federal law in regards to advertising.

15 **E. Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
16 \$25,000 in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry
17 of this Consent Order.

18 **F. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation
19 fee of \$3,626.47 in the form of a cashier's check made payable to the "Washington State Treasurer,"
20 upon entry of this Consent Order. The Fine and Investigation Fee may be paid together in one cashier's
21 check in the amount of \$28,626.47 made payable to the "Washington State Treasurer."

22 **G. Authority to Execute Order.** It is AGREED that the undersigned have represented and
23 warranted that they have the full power, right, and authority to execute this Order on behalf of the parties.
24

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

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

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

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

12 **RESPONDENTS:**

13
14 /s/ _____ 9-19-19 _____
Dan Richardson, Individually Date

15
16 /s/ _____ 9-19-19 _____
Dan Richardson, Managing Member and Owner, Date
17 Blue Brick Financial, LLC

18
19 /s/ _____ 9-19-19 _____
James T. Jarnagin, Individually Date

20
21 /s/ _____ 9-19-19 _____
James T. Jarnagin, Owner, Date
22 Blue Brick Financial, LLC

23 **DO NOT WRITE BELOW THIS LINE**

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1 THIS ORDER IS ENTERED THIS 30th DAY OF September, 2019.

2
3 /s/ _____
4 RICHARD ST. ONGE
5 Acting Director
6 Division of Consumer Services
7 Department of Financial Institutions

8 Presented by:

8 Approved by:

9
10 /s/ _____
11 KENDALL H. FREED
12 Financial Legal Examiner
13 Consumer Services Enforcement Unit
14 Department of Financial Institutions

10 /s/ _____
11 STEVEN C. SHERMAN
12 Enforcement Chief
13 Consumer Services Enforcement Unit
14 Department of Financial Institutions

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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 BY:

BLUE BRICK FINANCIAL, LLC,
NMLS No. 168812,

DAN RICHARDSON, Owner, Managing
Member, and Mortgage Loan Originator,
NMLS No. 196407, and

JAMES T. JARNAGIN, Owner and Mortgage
Loan Originator,
NMLS No. 206408,

Respondents.

No. C-18-2485-19-SC01

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

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Washington State
Department of Financial Institutions (Director) is responsible for the administration of chapter 31.04
RCW, the Consumer Loan Act (Act).¹ Having conducted both an investigation and examination
pursuant to 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 Acting Director Richard
St. Onge, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Blue Brick Financial, LLC (Respondent Blue Brick) was licensed by the

¹ The Consumer Loan Act, chapter 31.04 RCW, was amended effective June 7, 2018. All citations are to the version of the act in effect at the time of the alleged conduct, or if the alleged conduct occurred both prior to and after the Act was amended, citations to the renumbered provision of the Act as amended have been provided by footnote.

1 Department of Financial Institutions (Department) to conduct business as a consumer loan company
2 on or about August 4, 2017, and continues to be licensed to date.

3 **B. Dan Richardson (Respondent Richardson)** is and has been an owner and the
4 Managing Member of Respondent Blue Brick during all times relevant to this matter. Respondent
5 Richardson was licensed by the Department as a mortgage loan originator sponsored by Respondent
6 Blue Brick on or about August 4, 2017, and continues to be licensed to date.

7 **C. James T. Jarnagin (Respondent Jarnagin)** is and has been an owner of Respondent
8 Blue Brick during all times relevant to this matter. Respondent Jarnagin was licensed by the
9 Department as a mortgage loan originator sponsored by Respondent Blue Brick on or about August
10 23, 2017, and continues to be licensed to date.

11 **1.2 Prior Complaints.** Between September 2017, and November 2018, the Department received
12 six consumer complaints regarding direct mail solicitations distributed in Washington by
13 Respondent Blue Brick, Respondent Richardson, and Respondent Jarnagin (Respondents), that
14 offered consumers residential mortgage loans. On or about November 8, 2017, the Department
15 notified Respondents that the direct mail solicitation appeared to violate the Act, and advised
16 Respondents to implement a system of controls designed to prevent future violations.

17 **1.3 Unfair, Deceptive, and Misleading Direct Mail Solicitations.** Respondent used at least
18 two different templates for direct mail solicitations in Washington between September 2017, and
19 November 2018.

20 **A. Template A.** Respondents distributed approximately 37,500 direct mail solicitations in
21 Washington using Template A during the week of February 19, 2018. These direct mail
22 solicitations:

- 23 1. Advertise “All closing costs paid By Blue Brick Financial LLC.”
- 24 2. Advertise “All closing costs, points, and fees will be paid by Blue Brick
Financial LLC.”

3. Advertise “You will pay ZERO closing costs. WE PAY them ALL, including appraisal, all title fees and every other fee associated with your loan. These fees are not added to your loan balance! We pay them for you. No catch! No hidden fees! Purchase, Refinance, or Need cash out? We still pay all your fees.”
4. Represent that “New programs may allow you to refinance regardless of the value of your home (HARP).”
5. Represent “FHA lowered mortgage insurance requirements. Call NOW for details!!”
6. Fail to clearly and conspicuously disclose whether the advertised mortgage payment included amounts for taxes, insurance, or other products.
7. Advertise monthly savings based on incorrect calculations that overstate a recipient’s possibly monthly savings.

B. Template B. Respondents distributed approximately 167,800 direct mail solicitations in

Washington using Template B between May 2018, and June 2018. These direct mail solicitations:

1. Advertise “All closing costs paid By Blue Brick Financial LLC”
2. Advertise “All closing costs, points, and fees will be paid by Blue Brick Financial LLC”
3. Advertise “You will pay ZERO closing costs. WE PAY them ALL, including appraisal, all title fees and every other fee associated with your loan. These fees are not added to your loan balance! We pay them for you. No catch! No hidden fees! Purchase, Refinance, or Need cash out? We still pay all your fees.”
4. Represent that the recipients can “Call Now and skip 2 payments!”
5. Represent that “New programs may allow you to refinance regardless of the value of your home (HARP).”
6. Represent “FHA lowered mortgage insurance requirements. Call NOW for details!!”
7. Fail to clearly and conspicuously disclose whether the advertised mortgage payment included amounts for taxes, insurance, or other products;
8. Advertise terms based on the borrower’s current loan information without disclosing the source used to obtain the borrower’s information.

1.4 Unfair, Deceptive, and Misleading Internet Advertising. Beginning at least as early as March 2018, Respondents advertised on the Internet at www.bluebrickfinancial.com. On or about March 19, 2018, Respondents website at www.bluebrickfinancial.com advertised:

- A. “Let our ‘No Closing Cost’ financing set you free!”
- B. “That’s right ‘NO CLOSING COST!’ Blue Brick Financial LLC pays for all the closing costs associated with the transaction including:

1 underwriting fees, processing fees, appraisal fee, title fees, and origination
2 fees. None of these fees are rolled onto the loan balance.”

3 C. “NO CLOSING COST does not mean higher interest rates.”

4 **1.5 Report of Examination.** In December 2018, the Department conducted an examination of
5 Respondent Blue Brick. Respondent Blue Brick was assigned a risk rating of “4” due to an
6 inordinate volume of operational control weaknesses. The Department’s examiners noted numerous
7 violations of the Act, including violations regarding advertising. The Department mailed
8 Respondent Blue Brick the Report of Examination on or about January 29, 2019.

9 **1.6 Continued Unfair, Deceptive, and Misleading Internet Advertising Following**
10 **Examination.** Following the Department’s Examination, Respondents made some changes to their
11 website. However, Respondent Blue Brick’s website continued to include unfair, deceptive, and
12 misleading statements that were identified in the Report of Examination. On or about May 8, 2019,
13 in some instances Respondent Blue Brick’s website advertised using the phrase “we pay closing
14 costs.” The phrase “no closing costs” also continued to appear in at least one instance.

15 **1.7 Failure to Develop Advertising Compliance Policies.** The Department’s Report of
16 Examination recommended that Respondents review and update all advertising to ensure compliance
17 with the Act, and implement controls and procedures designed to ensure future compliance with the
18 Act. To date, Respondents have not provided a plan to implement advertising compliance policies
19 designed to ensure future compliance with the Act.

20 **1.8 False Statements and Omissions of Material Fact.** In response to the Department’s
21 investigation, on or about June 25, 2018, Respondent Richardson informed the Department in a
22 written response that between May 7, 2018, and June 25, 2018, a template labelled with the letter
23 “D” was used for all direct mail solicitations distributed in Washington. The Department received a
24 complaint regarding a direct mail solicitation distributed to a Washington resident dated May 28,
2018, that did not match this template. When asked about the inconsistency, on or about October 18,

1 2018, Respondent Richardson informed the Department in a written response that the information
2 provided on or about June 25, 2018, was incorrect. As to two of the mail dates, Respondent
3 Richardson is unsure which template was used, and for 7 of the mail dates, a different template was
4 used than what was initially provided to the Department.

5 **1.9 Failure to Maintain Advertising Records.** Respondents do not have records as to which
6 direct mail solicitation template was used between approximately May 7, 2018, and May 14, 2018.
7 During this period, Respondents distributed approximately 61,000 direct mail solicitations to
8 consumers in Washington.

9 **1.10 On-Going Investigation.** The Department's investigation into the alleged violations of the
10 Act by Respondents continues to date.

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

12 **2.1 Unfair or Deceptive Practices.** Based on the Factual Allegations set forth in Section I
13 above, Respondents are in apparent violation of RCW 31.04.027(2)² for directly or indirectly
14 engaging in any unfair or deceptive practice toward any person, and by being in apparent violation
15 of WAC 208-620-550(5), WAC 208-620-622(5), WAC 208-620-630(7) and WAC 208-620-630(8).

16 **2.2 False or Deceptive Statements or Representations.** Based on the Factual Allegations in
17 Section I above, Respondents are in apparent violation of RCW 31.04.027(7)³ for making, in any
18 manner, any false or deceptive statement or representation with regard to rates, points, or other
19 financing terms for a residential mortgage loan, and by being in apparent violation of
20 WAC 208-620-550(5).

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23 ² RCW 31.04.027(2), effective July 24, 2015, to June 6, 2018. Effective June 7, 2018, this section was renumbered as
RCW 31.04.027(1)(b).

24 ³ RCW 31.04.027(7), effective July 24, 2015, to June 6, 2018. Effective June 7, 2018, this section was renumbered as
RCW 31.04.027(1)(g).

1 **2.3 False, Misleading, or Deceptive Advertisements.** Based on the Factual Allegations set
2 forth in Section I above, Respondents are in apparent violation of RCW 31.04.135 for advertising or
3 permitting to be advertised, in any manner whatsoever, any statement or representation with regard
4 to rates, terms, or conditions for the lending of money that is false, misleading, or deceptive, and by
5 being in apparent violation of WAC 208-620-550(5).

6 **2.4 Advertised Loan Programs that Were Not Available at the Advertised Interest Rates.**
7 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation
8 of RCW 31.04.027(5)⁴ for advertising specific interest rates, or other financing terms that were not
9 actually available at the time of advertising for the loan programs advertised, and by being in
10 apparent violation of WAC 208-620-630(3).

11 **2.5 Violations of Federal Law.** Based on the Factual Allegations in Section I, Respondents are
12 in apparent violation of RCW 31.04.027(13)⁵ and WAC 208-620-640 for violating applicable federal
13 law, including the Federal Trade Commission Act, 15 U.S.C. §45; the Truth in Lending Act, 15
14 U.S.C. §1601 *et seq.*, Regulation Z, 12 C.F.R. Part 1026; and the Mortgage Acts and Practices –
15 Advertising (MAP) rule, Regulation N, 12 C.F.R. Part 1014.

16 **2.6 False Statements and Omissions of Material Facts.** Based on the Factual Allegations set
17 forth in Section I, Respondent Richardson is in apparent violation of RCW 31.04.027(1)(h)⁶ and
18 WAC 208-620-550(6) by negligently making any false statement or knowingly and willfully making
19 any omission of material fact in connection with any investigation conducted by the Department.
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21 _____
22 ⁴ RCW 31.04.027(5), effective July 24, 2015, to June 6, 2018. Effective June 7, 2018, this section was renumbered as
RCW 31.04.027(1)(e).

23 ⁵ RCW 31.04.027(13), effective July 24, 2015, to June 6, 2018. Effective June 7, 2018, this section was renumbered as
RCW 31.04.027(1)(m).

24 ⁶ Effective June 7, 2018. Previously, this section was RCW 31.04.027(8), effective July 24, 2015, to June 6, 2018.

1 **2.7 Requirement to Maintain Adequate Records.** Based on the Factual Allegations set forth in
2 Section I above, Respondents are in apparent violation of RCW 31.04.155 and WAC 208-620-520(2)
3 for failing to maintain records.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

9 **3.2 Authority to Order Affirmative Action.** Pursuant to RCW 31.04.093(5)(b), the Director
10 may issue an order directing a licensee, its employee, loan originator, or other person subject to the
11 Act to take such affirmative action as is necessary to comply with the Act.

12 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
13 up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator,
14 or any other person subject to the Act for any violation of the Act.

15 **3.4 Authority to Charge Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-
16 620-590, WAC 208-620-610(7), every licensee examined or investigated by the Director or the
17 Director's designee shall pay for the cost of the examination or investigation, calculated at the rate of
18 \$69.01 per staff hour devoted to the examination or investigation.

19 **3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
20 may recover the state's costs and expenses for prosecuting violations of the Act.

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

2 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
3 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
4 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165,
5 RCW 34.04.202, and RCW 31.04.205. Therefore, it is the Director's intent to ORDER that:

6 **4.1** Respondents Blue Brick Financial, LLC, Dan Richardson, and James T.
7 Jarnagin, cease and desist directly or indirectly engaging in any unfair or
8 deceptive practice toward any person, and cease and desist distributing,
9 including through the internet, any false, deceptive, or misleading
10 advertising related to its business activities as a licensee in Washington
11 State.

12 **4.2** Respondents Blue Brick Financial, LLC, Dan Richardson, and James T.
13 Jarnagin, take affirmative action as necessary to comply with the Act,
14 including:

15 **a.** Within 30 days of entry of a Final Order in this matter, develop
16 and adopt written advertising compliance policies, procedures, and
17 testing systems reasonably designed to detect and prevent the
18 distribution of false, deceptive, or misleading advertising in
19 Washington, and

20 **b.** Within 60 days of the entry of a Final Order in this matter, provide
21 the Department with a copy of written advertising compliance
22 policies.

23 **4.3** Respondents Blue Brick Financial, LLC, Dan Richardson, and James T.
24 Jarnagin, jointly and severally pay a fine. As of the date of this Statement
of Charges, the fine totals \$244,000.

4.4 Respondents Blue Brick Financial, LLC, Dan Richardson, and James T.
Jarnagin, jointly and severally pay the costs of investigation. As of the
date of this Statement of Charges, the cost of the investigation totals
\$3,626.47.

4.5 Respondents Blue Brick Financial, LLC, Dan Richardson, and James T.
Jarnagin, jointly and severally pay the Department's costs and expenses
for prosecuting violations of the Act in an amount to be determined at
hearing, or in the event of default by Respondents, by declaration with
supporting documentation.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist, Take
3 Affirmative Action, Impose Fine, Collect Investigation Fee, and Recover Costs and Expenses of
4 Prosecution (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW
5 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05
6 RCW (the Administrative Procedure Act). Respondents may make a written request for a hearing as
7 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
8 HEARING accompanying this Statement of Charges.

9 Dated this 1st day of July, 2019.

10 /s/ _____
11 RICHARD ST. ONGE
12 Acting Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

16 /s/ _____
17 KENDALL H. FREED
18 Financial Legal Examiner

19 Approved by:

20 /s/ _____
21 STEVEN C. SHERMAN
22 Enforcement Chief