

ORDER SUMMARY
Consumer Services Division Case Number C-21-3079

Consent Orders resolve investigations. In these, companies and individuals work with us to agree to terms that resolve the alleged issues in the investigation.

Name(s)	United Processing Services Inc. NMLS #382734 Alan S. Hurd NMLS #80956
Order Number	C-21-3079-23-CO01
Date issued	10/9/2023

What does this Consent Order require?

- **All terms of this order are complete.**
- Must pay a fine of \$22,500.00.
- Must pay an investigation fee of \$12,052.80. (Investigation fees cover the cost of DFI staff time working on the investigation.)

Need more information?

You can contact the Consumer Services Division, Enforcement unit at (360) 902-9703 or cseforcecomplaints@dfi.wa.gov. Please remember that we cannot provide financial or legal advice to members of the public. We also cannot release confidential information.

**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-21-3079-23-CO01

CONSENT ORDER

UNITED PROCESSING SERVICES, INC.,
NMLS #382734, and
ALAN S. HURD, President and Designated
Broker, NMLS #80956,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Ali Higgs, Acting Director, Division of Consumer Services, and United Processing Services, Inc., and Alan S. Hurd, President and Designated Broker of United Processing Services, Inc. (collectively Respondents), 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:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-21-3079-22-SC01 (Statement of Charges), entered December 19, 2022, (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, Respondents hereby agree to the Department's entry of this Consent Order and further agree 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. Respondents are agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

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

B. Waiver of Hearing. It is AGREED that Respondents have been informed of the right to a hearing before an administrative law judge, and hereby waive their right to a hearing and any and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondents, by their signature, or the signatures of their representatives below, withdraw their appeals to the Office of Administrative Hearings.

C. No Admission of Liability. It is AGREED that Respondents neither admit nor deny any wrongdoing by the entry of this Consent Order.

D. Fine. It is AGREED that Respondents shall pay a fine to the Department in the amount of \$22,500.00 pursuant to Paragraph F.

E. Investigation Fee. It is AGREED that Respondents shall pay to the Department an investigation fee of \$12,052.80 pursuant to Paragraph F.

F. Payments. It is AGREED that Respondents shall pay the fine and investigation fee together in one \$34,552.80 cashier's check made payable to the "Washington State Treasurer" upon delivery of this signed Consent Order to the Department.

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

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


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

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


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

RESPONDENTS:

United Processing Services, Inc.
By:



Alan S. Hurd
President and Designated Broker

9-20-2023
Date


Alan S. Hurd
Individually

9-20-2023
Date

Approved for Entry:


Kevin W. Roberts, WSBA No. 29473
Roberts Freebourn, PLLC
Attorney for Respondents

09.20.2023
Date

DO NOT WRITE BELOW THIS LINE


CONSENT ORDER
C-21-3079-23-CO01
UNITED PROCESSING SERVICES, INC. and ALAN S.
HURD

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

THIS ORDER ENTERED THIS 9th DAY OF October, 2023.





ALI HIGGS, Acting Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


RACHELLE VILLALOBOS
Financial Legal Examiner

Approved by:


JAMES R. BRUSSELBACK
Acting Enforcement Chief

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

UNITED PROCESSING SERVICES, INC.,
NMLS #382734, and
ALAN S. HURD, President and Designated
Broker, NMLS #80956,

Respondents.

No. C-21-3079-22-SC01

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

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). After 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 Lucinda Fazio, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. United Processing Services, Inc. (Respondent UPS) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about December 16, 2010, and continues to be licensed to date.

B. Alan S. Hurd (Respondent Hurd) is President and Designated Broker of Respondent UPS. Respondent Hurd was licensed by the Department to conduct business as a mortgage loan originator (MLO) on or about June 8, 2007, and continues to be licensed to date. Respondent Hurd has been sponsored by Respondent UPS since on or about December 16, 2010. Respondent Hurd

1 was named Designated Broker of Respondent UPS on or about December 16, 2010, and continues to
2 be Designated Broker to date.

3 **1.2 Examination.** From on or about April 27, 2020, to May 1, 2020, the Department conducted
4 an examination of Respondent UPS's mortgage broker business practices for the period of September
5 1, 2017, through March 31, 2020. The Department issued a report of examination on or about July
6 28, 2020. The Department's examiners noted violations of the Act which included some of those set
7 forth below.

8 **1.3 False Attestations.** Upon license application, a mortgage loan originator (MLO) must submit
9 answers to disclosure questions to the Department through the Nationwide Multistate Licensing
10 System (NMLS). If an MLO's answer to any disclosure question changes, the MLO must update his
11 or her answers in NMLS within 10 days of the change. Disclosure Question (K) states, "Has any
12 State or federal regulatory agency or foreign financial regulatory authority or self-regulatory
13 organization (SRO) ever:..."

14 (1) found you to have made a false statement or omission or been dishonest, unfair or
15 unethical?

16 (4) entered an order against you in connection with a financial services-related activity?

17 (6) denied or suspended your registration or license or application for licensure, disciplined
18 you, or otherwise by order, prevented you from associating with a financial services-related
19 business or restricted your activities?

20 Disclosure Question (M) states, "Based upon activities that occurred while you exercised control over
21 an organization, has any State or federal regulatory agency or foreign financial regulatory authority or
22 self-regulatory organization (SRO) ever taken any of the actions listed in (K) through (L) above
23 against any organization?"

Respondent Hurd has attested at least sixteen times¹ from December 11, 2014, through December 27, 2021, under penalty of perjury, that the information and statements contained within the MU4 Form were “current, true, accurate, and complete[.]”

A. Washington Temporary Order to Cease and Desist. On or about May 27, 2014, the Department entered Temporary Order to Cease and Desist No. C-13-1342-14-TD01 against Respondents based upon Respondents’ continuing failure to comply with the Department’s investigation authority. Respondents were ordered to immediately cease and desist from participating in the conduct of the affairs of any mortgage broker or loan originator.

1. At least sixteen times,¹ Respondent Hurd answered “No” to Disclosure Questions K(4), (6), and (M). These responses were false, as on or about May 27, 2014, the Department entered an order against Respondents in connection with a financial services-related activity and restricted Respondents’ activities.

B. Washington Order Withdrawing Temporary Order to Cease and Desist. On or about June 10, 2014, the Department entered Order Withdrawing Temporary Order to Cease and Desist No. C-13-1342-14-FO01.

1. At least sixteen times,¹ Respondent Hurd answered “No” to Disclosure Questions K(4) and (M). These responses were false, as on or about June 10, 2014, the Department entered an order against Respondents in connection with a financial services-related activity.

C. Washington Statement of Charges and Consent Order. On or about January 16, 2015, the Department filed Statement of Charges No. C-13-1342-14-SC01, which alleged Respondents engaged in unlicensed loan modification activity, collected advance fees, and failed to

¹ December 11, 2014, March 19, 2018 (twice), March 20, 2018 (twice), December 4, 2018, December 12, 2018, December 27, 2018, December 31, 2018, October 7, 2019, October 8, 2019, November 14, 2019, November 25, 2019 (twice), December 3, 2019, and December 27, 2021.

1 comply with the Department's investigation authority. On or about August 10, 2015, Respondents
2 entered into Consent Order No. C-13-1342-15-CO01 with the Department to resolve the Statement of
3 Charges.

4 1. At least fifteen times,² Respondent Hurd answered "No" to Disclosure
5 Questions K(4) and (M). These responses were false, as on or about August 10, 2015, Respondents
6 entered into an order with the Department in connection with a financial services-related activity.

7 **D. Montana Notice of Violation and Final Order.** On or about December 10, 2018, the
8 Montana Department of Administration filed a Notice of Violation, Proposed Agency Action, and
9 Opportunity for Administrative Hearing (Notice of Violation) as to Respondent UPS under case no.
10 M2018-24. The Notice of Violation alleged that Respondent UPS failed to timely file an MCR-
11 Standard Financial Condition 2018 Report. On or about January 7, 2019, the Montana Department of
12 Administration entered a Final Order against Respondent UPS.

13 1. At least seven times,³ Respondent Hurd answered "No" to Disclosure Question
14 M. This response was false, as on or about January 7, 2019, the Montana Department of
15 Administration entered an order in connection with a financial services-related activity against
16 Respondent UPS.

17 **E. Montana Amended Final Order.** On or about March 13, 2019, the Montana
18 Department of Administration entered an Amended Final Order against Respondent UPS.

19 1. At least seven times,³ Respondent Hurd answered "No" to Disclosure Question
20 M. This response was false, as on or about March 13, 2019, the Montana Department of
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23 ² March 19, 2018 (twice), March 20, 2018 (twice), December 4, 2018, December 12, 2018, December 27, 2018,
December 31, 2018, October 7, 2019, October 8, 2019, November 14, 2019, November 25, 2019 (twice), December 3,
2019, and December 27, 2021.

24 ³ October 7, 2019, October 8, 2019, November 14, 2019, November 25, 2019 (twice), December 3, 2019, and December
27, 2021.

Administration entered an order in connection with a financial services-related activity against Respondent UPS.

F. Idaho Notice of Intent to Issue Order of Denial and Final Order. On or about November 5, 2019, the Idaho Department of Finance entered a Notice of Intent to Issue Order of Denial of Mortgage Loan Originator License Application and Notice of the Opportunity to Request a Hearing (Notice of Intent) against Respondent Hurd under docket no. 2019-16-49. The Notice of Intent alleged Respondent Hurd made material misstatements of fact on his license application, demonstrating that he lacked the appropriate character and fitness when he failed to disclose on NMLS the Department's Temporary Order to Cease and Desist, Order Withdrawing Temporary Order to Cease and Desist, Consent Order, and two foreclosure actions. On or about November 25, 2019, the Idaho Department of Finance entered a Final Order Denying Mortgage Loan Originator License Application against Respondent Hurd.

1. At least three times,⁴ Respondent Hurd answered "No" to Disclosure Questions K(1), (4), and (6). These responses were false, as on or about November 25, 2019, the Idaho Department of Finance found Respondent Hurd made material misstatements of fact on his application for licensure, entered an order in connection with a financial services-related activity as to Respondent Hurd, and denied Respondent Hurd's application for licensure.

1.4 Failed to Include Required Information in an Electronic Advertisement. In at least one advertisement, Respondent Hurd's mortgage loan originator license number did not closely follow after his name.

1.5 Advertised Using Disallowed and Misleading Phrases. Respondents advertised using at least three disallowed and misleading phrases in its advertisements.

⁴ November 25, 2019, December 3, 2019, and December 27, 2021.

1.6 Unlicensed Activity. Respondents conducted the business of a mortgage loan originator for at least five loans for Washington borrowers from two unlicensed locations. From at least on or around July 2019 through on or around October 2019, mortgage loan originator Karmell Clark, NMLS #5566 conducted the business of a mortgage loan originator for least three loans for Washington borrowers under Respondent UPS's mortgage broker license at a location in Anderson, South Carolina.

From at least on or around May 2018 through on or around September 2018, mortgage loan originator Rebecca Mapston (a/k/a Rebecca Phillips), NMLS #1517052 conducted the business of a mortgage loan originator for least two loans under Respondent UPS's mortgage broker license at a location in Missoula, Montana. Respondent UPS did not hold a license to conduct the business of a mortgage broker for Washington borrowers from these locations during these periods.

1.7 Failed to Provide a Rate Lock Agreement. Respondents failed to provide at least one borrower a rate lock agreement.

1.8 Failed to Include Main Office Name or License Number with a Trade Name. In at least five files and one advertisement, Respondents identified the company by its trade name without also including its main office name or license number.

1.9 Failed to Provide Written Notice on Borrower Paid Services. In at least two files, Respondents failed to provide borrowers with a written disclosure required for borrower paid services.

1.10 Failed to Adhere to Tolerance Limits. In at least two files, Respondents failed to adhere to Regulation Z fee tolerance limits by increasing charges from the amount initially disclosed on the Loan Estimate without a valid change of circumstance.

1.11 Failed to Timely Provide a Loan Estimate. Respondents failed to timely provide at least one borrower with a Loan Estimate.

1 **1.12 Failed to Provide a Privacy Policy Disclosure.** Respondents failed to provide at least
2 twelve borrowers a privacy policy disclosure during their loan transaction.

3 **1.13 On-Going Investigation.** The Department's investigation into the alleged violations of the
4 Act by Respondents continues to date.

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

6 **2.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245, a licensed
7 mortgage broker is liable for any conduct violating the Act by the designated broker, a loan
8 originator, or other licensed mortgage broker while employed or engaged by the licensed mortgage
9 broker.

10 **2.2 Responsibility of Designated Broker.** Pursuant to RCW 19.146.200(3), every licensed
11 mortgage broker must at all times have a designated broker responsible for all activities of the
12 mortgage broker in conducting the business of a mortgage broker. A designated broker, principal, or
13 owner who has supervisory authority over a mortgage broker is responsible for a licensee's,
14 employee's, or independent contractor's violations of the Act if the designated broker, principal, or
15 owner directs or instructs the conduct or, with knowledge of the specific conduct, approves or allows
16 the conduct; or the designated broker, principal, or owner who has supervisory authority over the
17 licensed mortgage broker knows or by the exercise of reasonable care and inquiry should have known
18 of the conduct, at a time when its consequences can be avoided or mitigated and fails to take
19 reasonable remedial action.

20 **2.3 False Statements and Omissions of Material Facts.** Based on the Factual Allegations set
21 forth in Section I above, Respondent Hurd is in apparent violation of RCW 19.146.0201(8) and WAC
22 208-660-500(3)(h).

23 **2.4 Requirement for Mortgage Broker and Designated Broker to Demonstrate Character**
24 **and General Fitness.** Based on the Factual Allegations set forth in Section I above, Respondents fail

to meet the requirements of RCW 19.146.210(1)(f), WAC 208-660-163(2), and WAC 208-660-163(4)(a) and (e).

2.5 Requirement for Loan Originator to Demonstrate Character and General Fitness.

Based on the Factual Allegations set forth in Section I above, Respondent Hurd fails to meet the requirements of RCW 19.146.310(1)(g) and WAC 208-660-350(2)(a).

2.6 Requirement to Include Information in Electronic Advertisements. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and WAC 208-660-446(2).

2.7 Disallowed and Misleading Phrases. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (7), and WAC 208-660-440(1) and (7).

2.8 Requirement to Conduct Business Loans from a Licensed Location. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(16)⁵ and WAC 208-660-300(4).

2.9 Requirement to Provide a Rate Lock Agreement. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and WAC 208-660-430(6).

2.10 Requirement to Include Main Office Name or License Number with a Trade Name. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and WAC 208-660-180(9).

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⁵ RCW 19.146.0201(16) was amended effective July 25, 2021.

2.11 Requirement to Provide Written Notice on Borrower Paid Services. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1) and (2)(d).

2.12 Requirement to Adhere to Tolerance Limits. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (11), and Regulation Z, 12 CFR Part 1026.

2.13 Requirement to Timely Provide a Loan Estimate. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (11), and Regulation Z, 12 CFR Part 1026.

2.14 Requirement to Provide a Privacy Policy Disclosure. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (11), and Regulation P, 12 CFR Part 1016.

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Revoke License. Pursuant to RCW 19.146.220(2)(e), the Director may revoke licenses for any violation of the Act.

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

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

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

1 **3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director
2 may recover the state's costs and expenses for prosecuting violations of the Act.

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

4 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC,
5 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
6 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and
7 RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

8 **4.1** Respondent United Processing Services, Inc.'s license to conduct the business of a
9 mortgage broker be revoked.

10 **4.2** Respondent Alan S. Hurd's license to conduct the business of a loan originator be
11 revoked.

12 **4.3** Respondents United Processing Services, Inc. and Alan S. Hurd be prohibited from
13 participation in the conduct of the affairs of any mortgage broker subject to licensure
14 by the Director, in any manner, for a period of five years.

15 **4.4** Respondents United Processing Services, Inc. and Alan S. Hurd jointly and severally
16 pay a fine. As of the date of this Statement of Charges, the fine totals \$45,000.

17 **4.5** Respondents United Processing Services, Inc. and Alan S. Hurd jointly and severally
18 pay an investigation fee. As of the date of this Statement of Charges, the investigation
19 fee totals \$12,052.80.

20 **4.6** Respondents United Processing Services, Inc. and Alan S. Hurd jointly and severally
21 pay the Department's costs and expenses for prosecuting violations of the Act in an
22 amount to be determined at hearing or by declaration with supporting documentation
23 in event of default by Respondents.
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1 **V. AUTHORITY AND PROCEDURE**

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

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8 Dated this 19th day of December, 2022.



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LUCINDA FAZIO, Director
Division of Consumer Services
Department of Financial Institutions

17 Presented by:

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RACHELLE VILLALOBOS
Financial Legal Examiner

Approved by:

JACK McCLELLAN
Enforcement Chief