

Terms Completed

ORDER SUMMARY – Case Number: C-21-3100

Name(s):	Clear Choice Mortgage, LLC (This is a Consent Order (CO) where no Statement of Charges was ever issued. Instead, the CO has Findings of Fact and Conclusions of Law incorporated into the CO.)
Order Number:	C-21-3100-21-CO01
Effective Date:	April 30, 2021
NMLS Number:	986780
License Effect:	None.
Not Apply Until:	N/A
Not Eligible Until:	N/A
Prohibition/Ban Until:	N/A

Investigation Costs	\$ 1,000	Due upon delivery of CO.	Paid: Yes	Date: 4/21/2020
Fine	\$ 5,000	Due upon delivery of CO.	Paid: Yes	Date: 4/21/2020

Clear Choice Mortgage, LLC (Clear Choice) was the subject of a 2016 Examination by the Department, which noted numerous violations of the Mortgage Broker Practices Act (Act). During 2018, a follow-up exam revealed similar violations of the Act, and the matter was referred to the Enforcement Unit.

During 2019, the Department investigated the matter, and on February 22, 2019, both Clear Choice and Jessica J. Wells, the Designated Broker for Clear Choice, were charged with violating the Act.

On May 28, 2019, those charges were resolved by the entry of a Consent Order whereby Respondents Clear Choice and Ms. Wells agreed to, and were ordered to, increase compliance with the Act, pay \$26,000 in fines and costs, and to henceforth comply with the Act and applicable federal laws and regulations.

During 2020, the Department conducted another exam of Clear Choice and found violations of the prior exam and Consent Order. The matter was again referred to the Enforcement Unit. This action followed.

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

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

No: C-21-3100-21-CO01

CONSENT ORDER

CLEAR CHOICE MORTGAGE, LLC,
NMLS No. 986780,

Respondent.

8 COMES NOW the Director of the Department of Financial Institutions (Director), through his
9 designee Lucinda Fazio, Director, Division of Consumer Services, and Clear Choice Mortgage, LLC
10 (Respondent) by and through its attorney, Nelson A. Locke of Locke Law US, LLC, and finding that the
11 issues raised in this matter may be economically and efficiently settled, agree to the entry of this Consent
12 Order pursuant to 19.146, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the
13 Administrative Procedure Act (APA), based upon the following:

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I. FINDINGS OF FACT

1.1 Respondent Clear Choice Mortgage, LLC. The Washington State Department of Financial
Institutions (Department) licensed Respondent to conduct the business of a mortgage broker on or about
October 31, 2012, and Respondent remains licensed as a mortgage broker in Washington to date.

1.2 Prior Examinations: 2016 Examination. In 2016, the Department conducted a limited
examination of Respondent as of March 30, 2016. The examination focused on the timeliness and
accuracy of quarterly Mortgage Call Reports (MCRs) and annual Financial Condition Reports (FCRs)
filed with the Department. Among other violations, the 2016 Report of Examination (2016 ROE)
identified Respondent failed to timely file six MCRs and two FCRs, and failed to accurately file one
MCR. On or about April 6, 2016, the Department notified Respondent that the conduct violated the Act.

1 **1.3 2018 Examination.** In 2018, the Department conducted follow-up examination of Respondent. The
2 2018 Report of Examination (2018 ROE) identified new and repeat violations of the Act, gave
3 Respondent a risk rating of “4,” the worst rating a licensee can receive, and referred Respondent to the
4 Enforcement Unit.

5 **1.4 Investigation and 2019 Statement of Charges.** Based on that referral, on or about December 17,
6 2018, the Department opened an investigation into Respondent. On or about February 22, 2019, the
7 Department issued a Statement of Charges (2019 Charges) against Respondent, alleging, among other
8 things, that Respondent had violated the Act by filing inaccurate and untimely MCR and FCR reports and
9 by making incomplete loan disclosures to borrowers in violation of applicable federal laws.

10 **1.5 2019 Consent Order.** On or about May 28, 2019, the Department entered into a Consent Order
11 (2019 Order) with Respondent resolving the 2019 Charges. Respondent was ordered to take certain
12 affirmative actions designed to increase future compliance with Act; to pay \$26,000 in fines and costs;
13 and to henceforth comply with the Act and applicable federal laws and regulations.

14 **1.6 2020 Examination.** During 2020, the Department conducted a full-scope off-site examination of
15 Respondent, reviewing 36 loan files to ascertain compliance with 2019 Order, and the Act, Rules, and
16 applicable federal laws and regulations. The resulting 2020 ROE noted eleven violations, five of which
17 were repeat violations of the 2019 Order or the 2018 ROE. As a result, the ROE gave Respondent a risk
18 rating of “3,” and the Examination Unit again referred Respondent to the Enforcement Unit.

19 **1.7 Violation of the 2019 Order.** The 2020 ROE concluded that Respondent violated the 2019 Order
20 by failing to monitor the services of the compliance consultant Respondent retained to assist the company
21 in complying with the Act and applicable federal laws and regulations. From the 2019 Order:

22 It is FURTHER AGREED and ORDERED that Respondents shall maintain the relationship with
23 their existing compliance consultant, or retain a replacement not objectionable to the Department,
24 for (2) two years from the entry of the Order.

1 The referral to the Enforcement Unit noted that during the examination, the Department asked an
2 authorized representative of Respondent to provide evidence that:

- 3 A. Respondent had hired a compliance consultant;
- 4 B. Respondent had filed the consultant's reports with the Department; and
- 5 C. Respondent had submitted Respondent's new policies or procedures to the
6 Department on the specified dates.

7 While Respondent provided evidence that it had hired a compliance consultant, Respondent could
8 not provide evidence either it or the consultant had submitted the required reports to the Department, and
9 neither Respondent nor the consultant had submitted any new policies or procedures to the Department.

10 **1.8 Repeat Violations of the Act.** The 2020 ROE concluded that Respondent engaged in five repeat
11 violations of the Act, including by:

- 12 A. Failing in at least five instances to display required information in advertisements in
13 violation of WAC 208-660-446(1), (2), (4), and (5);
- 14 B. Failing to provide rate lock agreements to at least two borrowers;
- 15 C. Failing to adhere to TILA/Reg. Z tolerance limits for at least one borrower;
- 16 D. Failing to provide accurate Loan Estimates to at least five borrowers; and
- 17 E. Failing to develop a compliant AML program.

18 **II. CONCLUSIONS OF LAW**

19 **2.1** Based on the above Findings of Fact, Respondent violated the 2019 Order and the Act by directly or
20 indirectly engaging in any unfair or deceptive practice toward any person in violation of RCW
21 19.146.0201(4); violated the advertising provisions of WAC 208-660-446(1), (2), (4), and (5), all of
22 which are violations of RCW 19.146.0201(4); violated RCW 19.146.030(2)(c) by failing to provide rate
23 lock agreements; and violated RCW 19.146.0201(11) by fail to comply with federal laws applicable to
24 the activities governed by the Act.

25 **III. AGREEMENT AND ORDER**

26 The Department and Respondent have agreed upon a basis for resolution of the Findings of Fact
27 and Conclusions of Law identified in this Consent Order. Pursuant to Act and APA, Respondent hereby

1 agrees to the entry of this Consent Order. The parties intend this Consent Order to fully and completely
2 resolve all violations of the 2019 Order, all findings previously addressed by Respondent in the 2020
3 ROE, and all matters of which the Department has knowledge or notice as of the date of this Consent
4 Order.

5 **Based upon the foregoing:**

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

8 **B. Waiver of Hearing.** It is AGREED that Respondent hereby waives any right it has to a hearing and
9 any and all administrative and judicial review of the issues raised in this matter or the resolution reached
10 herein.

11 **C. No Admission of Liability.** It is AGREED that Respondent neither admits nor denies any
12 wrongdoing by the entry of this Consent Order.

13 **D. Cease and Desist and Future Compliance.** It is AGREED that Respondent Clear Choice has
14 represented and warranted to the Department that it has ceased and desisted the violations of the Act, the
15 Rules, and applicable federal laws and regulations noted in the 2020 ROE Charges. It is FURTHER
16 AGREED and ORDERED that Respondent Clear Choice shall henceforth comply with the Act and Rules,
17 both now existing and as hereafter amended or enacted.

18 **E. Fine.** It is AGREED that Respondent shall pay a fine to the Department in the amount of \$5,000
19 pursuant to Section F, Payment.

20 **F. Investigation Fee.** It is AGREED that Respondent shall pay an investigation fee to the Department
21 in the amount of \$1,000 pursuant to Section F, Payment.

22 **G. Payment.** The \$5,000 fine and \$1,000 investigation fee shall be paid to the Department in the form
23 of a \$6,000 cashier's check made payable to the "Washington State Treasurer," due upon delivery to the
24 Department of this fully executed and dated Consent Order.

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

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

7 **J. Completely Read, Understood, and Agreed.** It is AGREED that an authorized agent of
8 Respondent has read this Consent Order in its entirety and fully understands and agrees to all of the same.

9 **K. Authority to Execute Order.** It is AGREED that the undersigned authorized representative has
10 represented and warranted that she or he has the full power and right to execute this Consent Order on
11 behalf of Respondent.

12 **L. Counterparts.** This Consent Order may be executed by the Respondent(s) in any number of
13 counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be deemed to
14 be an original, but all of which, taken together, shall constitute one and the same Consent Order.

15 **BY RESPONDENT:**
16 Clear Choice Mortgage, LLC

17 /s/
18 Jessica J. Wells
19 Managing Member and Designated Broker

03/10/2021
Date

20 APPROVED FOR ENTRY:

21 /s/
22 Nelson A. Locke CALBAR License No. 293842
Locke Law US, LLC
Attorneys for Respondent

3/15/2021
Date

23 **DO NOT WRITE BELOW THIS LINE**

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1 THIS ORDER ENTERED THIS 30th DAY OF APRIL 2021.

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4 /s/
LUCINDA FAZIO, Director
5 Division of Consumer Services
6 Department of Financial Institutions
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8 Presented by:

Approved by:

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10 /s/
ANTHONY W. CARTER
11 Senior Legal Examiner
12 Division of Consumer Services
13 Department of Financial Institutions
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/s/
15 STEVEN C. SHERMAN
16 Enforcement Chief
17 Division of Consumer Services
18 Department of Financial Institutions
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