

ORDER SUMMARY
Consumer Services Division Case Number C-22-3274

Consent Orders resolve investigations. Companies and individuals work with DFI to agree to terms that resolve the alleged issues in the investigation.

Names	Cake Mortgage Corp, dba Millennial Home Lending, Inc., NMLS #1734623 David Abelyan, NMLS #1406523
Order Number	C-22-3274-23-CO01
Date issued	June 6, 2023

What does this Consent Order require?

- Respondents must pay a fine of \$75,000. *\$25,000 of this fine is stayed (doesn't have to be paid) until June 6, 2025, as long as Respondents comply with the order. The remaining fine goes away on that date if Respondents have complied.*
- Must pay an investigation fee of \$500 (Investigation fees cover the cost of DFI staff time working on the investigation).
- Respondents must cease and desist from engaging in conduct that violates the Consumer Loan Act of Washington.

Need more information?

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

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-22-3274-23-CO01

CONSENT ORDER

5 CAKE MORTGAGE CORP., D/B/A
6 MILLENNIAL HOME LENDING INC., NMLS
No. 1734623, and
7 DAVID ABELYAN, President, NMLS No.
1406523,

8 Respondents.

9 COMES NOW the Director of the Department of Financial Institutions (Director), through
10 his designee Lucinda Fazio, Division of Consumer Services Director, and Cake Mortgage Corp., dba
11 Millennial Home Lending, Inc. and David Abelyan, President (collectively Respondents), and finding
12 that the issues raised in the above-captioned matter only as to those Respondents identified by name
13 herein may be economically and efficiently settled, agree to the entry of this Consent Order. This
14 Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and
15 RCW 34.05.060 of the Administrative Procedure Act, based on the following:

16 **AGREEMENT AND ORDER**

17 The Department of Financial Institutions, Division of Consumer Services (Department) and
18 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges
19 No. C-22-3274-22-SC01 (Statement of Charges), entered January 31, 2023, (copy attached hereto).
20 Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the
21 Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent
22 Order and further agree that the issues raised in the above-captioned matter may be economically and
23 efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully

1 resolve the Statement of Charges and agree that the Respondents do not admit any wrongdoing by its
2 entry. Respondents are agreeing not to contest the Statement of Charges in consideration of the terms
3 of this Consent Order.

4 Based upon the foregoing:

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

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

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

14 **D. Cease and Desist.** It is AGREED that Respondents shall cease and desist from engaging
15 in conduct that violates the Act, including, but not limited to, directly or indirectly engaging in any
16 unfair or deceptive practices toward any person, and distributing any false, deceptive, or misleading
17 advertising. Respondents shall cease and desist from advertising using all of the alleged false,
18 deceptive, and misleading representations, described in the Statement of Charges Paragraph 1.5.

19 **E. Fine (Partially Stayed).** It is AGREED that Respondents shall pay a fine to the
20 Department in the amount of \$75,000, with \$50,000 paid (Paid Fine), and \$25,000 stayed (Stayed
21 Fine). The Paid Fine shall be paid pursuant to Paragraph G, below. The Stayed Fine shall be stayed
22 for a period of two (2) years from the date of entry of this Consent Order contingent on Respondents'
23 compliance with the Act and related rules, and this Consent Order, unless lifted pursuant to Paragraph

1 H, below (Stayed Fine Period). Absent any action by the Department to lift the Stayed Fine pursuant
2 to Paragraph H, Respondents' obligation to pay the Stayed Fine shall expire two years from the date
3 of entry of this Consent Order without further action or notice by the Department.

4 **F. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
5 investigation fee of \$500.00.

6 **G. Payments.** It is AGREED that the Paid Fine and the Investigation Fee shall be paid
7 together in one \$50,500.00 cashier's check that is made payable to the "Washington State Treasurer."
8 The payments shall be delivered to the Department with this Consent Order fully executed by
9 Respondents.

10 **H. Lifting of Stayed Fine Period and Imposition of Stayed Sanctions.** It is AGREED
11 that:

- 12 1. If during the Stayed Fine Period, the Department determines that Respondents have
13 not complied with the Act, related rules, or this Consent Order, and the Department
14 seeks to lift the Stayed Fine Period and impose the Stayed Fine, the Department will
15 first serve Respondents with a written notice of alleged noncompliance.
- 16 2. The notice will include:
 - 17 a. A description of the alleged noncompliance;
 - 18 b. A statement that the Department seeks to lift the Stayed Fine Period and
19 impose the Stayed Fine;
 - 20 c. Notice that Respondents can contest the Department's determination of
21 noncompliance in an adjudicative hearing before an Administrative Law Judge
22 (ALJ) of the Office of Administrative Hearings (OAH); and
 - 23 d. Notice that the notification and adjudicative hearing process provided in this
24 Paragraph applies only to this Consent Order solely in the event any
Respondent chooses to contest the Department's determination of
noncompliance.
3. Any Respondent who wishes to contest the Department's determination of
noncompliance will have twenty (20) days from the date of receipt of the

1 Department's notice to submit a written request to the Department for an adjudicative
2 hearing.

3 4. The scope and issues of the adjudicative hearing are limited solely to whether or not
4 Respondents are in violation of the terms of this Consent Order.

5 5. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party
6 may file a Petition for Review of that initial decision with the Director of the
7 Department.

8 6. **DEFAULT:** If any Respondent does not timely request an adjudicative hearing, the
9 Department will impose the Stayed Fine without further notice.

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

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

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

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

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

//

//

1 //

2 **RESPONDENTS:**

3 Cake Mortgage Corp, Inc.

4 By

[Redacted Signature]

5 David Abelyan
6 President and CEO

04/05/2023
Date

7 Approved for Entry:

8 [Redacted Signature]

04/10/2023

9 John S. Devlin WSBA No. 23988
10 Attorney at Law
11 Attorney for Respondents

Date

12 DO NOT WRITE BELOW THIS LINE

13
14 THIS ORDER ENTERED THIS 6th DAY OF June, 2023.



15 [Redacted Signature]

16 Lucinda Fazio, Director
17 Division of Consumer Services
18 Department of Financial Institutions

19 Approved by:

20 [Redacted Signature]

21 JACK McCLELLAN
22 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
Consumer Loan Act of Washington by:

CAKE MORTGAGE CORP., D/B/A
MILLENNIAL HOME LENDING INC., NMLS
No. 1734623, and
DAVID ABELYAN, President, NMLS No.
1406523,

Respondents.

No. C-22-3274-22-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST, REVOKE
LICENSES, PROHIBIT FROM INDUSTRY,
IMPOSE FINE, 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). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges (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. Cake Mortgage Corp., d/b/a Millennial Home Lending, Inc., (Respondent CMC)
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 August 29, 2018, and continues to be licensed to date.

B. David Abelyan (Respondent Abelyan) has been the President of Respondent CMC since on or about May of 2018. Respondent Abelyan is responsible for compliance for Respondent

1 CMC. Respondent Abelyan was approved for a mortgage loan originator license by the Department
2 on or about December 9, 2015, and continues to be licensed to date.

3 **1.2 Prior Complaints.** Between August 31, 2020, and August 13, 2021, the Department received
4 three consumer complaints against Respondent CMC regarding direct mail solicitations that appeared
5 to violate the Act.

6 **1.3 Resolution and Request for Action.** On or about September 24, 2021, the Department sent
7 CMC a Resolution and Request for Action (R&R). The R&R notified Respondent CMC that its
8 direct mail solicitations appeared to violate the Act and that Respondent CMC appeared to have
9 violated the Act by failing to completely respond to the Department’s investigative directive. The
10 Department further informed Respondent CMC it was expected to cease sending the solicitations
11 discussed, revise its advertising policies and procedures, and to implement a system designed to
12 prevent future violations.

13 **1.4 CMC Response to R&R.** On November 9, 2021, CMC provided a response to the
14 Department’s R&R and stated that the solicitations discussed in the R&R were no longer used by
15 CMC.

16 **1.5 Continued False, Deceptive, and Misleading Direct Mail Solicitations.** Between January
17 18, 2022, and April 26, 2022, the Department received three complaints against CMC for
18 advertising. After reviewing the solicitations, the Department observed that they were virtually the
19 same solicitations that CMC had reported were no longer in use and that the Department had
20 previously informed Respondent CMC appeared to violate the Act. Between November 18, 2021,
21 and February 23, 2022, Respondents distributed 129,848 direct mail solicitations that:

22 **A.** Failed to include a return address identifying Respondent as the sender, and instead
23 stated “PROCESSING CENTER.”

24 **B.** Directed the recipient in bold, capital letters to, “**PLEASE OPEN
IMMEDIATELY.**”

- C. Identified on the first page that it is a “Statement” when the solicitation is not a statement, it is a direct mail solicitation for a mortgage refinance sent by Respondent.
- D. Falsely advertised loan options for a 10 year, 15 year, or 30 year loan, all available at the same interest rate with a corresponding APR. Respondent failed to specify that rates are different for each term.
- E. Advertised using loan terms that are credit disclosure triggering terms requiring additional clear and conspicuous credit disclosures, without providing the additional required credit disclosures.
- F. Advertised an interest rate and APR that included “up to 3 discount points” without clearly and conspicuously disclosing the cost of the discount to the borrower, and that the rate is discounted.

1.6 On-Going Investigation. The Department’s investigation into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 False Statements and Omissions of Material Facts. Based on the Factual Allegations set forth in Section I, Respondents are in apparent violation of RCW 31.04.027(1)(b) and (h), and WAC 208-620-550(6) for negligently making any false statement or knowingly and willfully making any omission of material fact in connection with any investigation conducted by the Department.

2.2 False, Deceptive, or Misleading Advertising. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.027(1)(b) for directly or indirectly engaging in any unfair or deceptive practice toward any person; RCW 31.04.027(1)(g) for making in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms of conditions for a residential mortgage loan, or for engaging in bait and switch advertising; RCW 31.04.135 for advertising in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money that is false, misleading, or deceptive; and by being in apparent violation of the rules related to the above referenced statutes, including WAC 208-620-550(5) and WAC 208-620-630.

2.3 Violations of Federal Law. Based on the Factual Allegations in Section I, Respondents are in apparent violation of RCW 31.04.027(1)(m) and WAC 208-620-640 for violating applicable

1 federal law, including the Federal Trade Commission Act, 15 U.S.C. §45; the Truth in Lending Act,
2 15 U.S.C. §1601 *et seq.*, Regulation Z, 12 C.F.R. Part 1026; and the Mortgage Acts and Practices –
3 Advertising Rules, Regulation N, 12 C.F.R. Part 1014.

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 Revoke License.** Pursuant to RCW 31.04.093(3)(b), the Director may revoke a
10 license when the licensee, either knowingly or without the exercise of due care, has violated any
11 provision of the Act or rules adopted under the Act..

12 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), the Director
13 may issue an order prohibiting from participation in the affairs of any licensee, any officer, principal,
14 employee, mortgage loan originator, or any other person subject to the Act for a violation of RCW
15 31.04.027.

16 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
17 up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator,
18 or any other person subject to the Act for any violation of the Act.

19 **3.5 Authority to Charge Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-
20 620-610(7), every licensee investigated by the Director or the Director’s designee shall pay for the
21 cost of the investigation, calculated at the rate of \$69.01 per staff hour devoted to the investigation.

22 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
23 may recover the state’s costs and expenses for prosecuting violations of the Act.

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

1 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
2 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
3 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165,
4 RCW 31.04.202, and RCW 31.04.205. Therefore, it is the Director's intent to ORDER that:

5 **4.1** Respondents Cake Mortgage Corp. and David Abelyan cease and desist
6 distributing, including through the internet, any false, deceptive, or
7 misleading advertising related to its business activities as a licensee in
8 Washington State.

9 **4.2** Respondent Cake Mortgage Corp.'s license to conduct the business of a
10 consumer loan company be revoked.

11 **4.3** Respondent David Abelyan's license to conduct the business of a
12 mortgage loan originator be revoked.

13 **4.4** Respondent Cake Mortgage Corp. be prohibited from participation in the
14 conduct of the affairs of any consumer loan company subject to licensure by the
15 Director, in any manner, for a period of five years.

16 **4.5** Respondents Cake Mortgage Corp. and David Abelyan jointly and
17 severally pay a fine. As of the date of this Statement of Charges, the fine
18 totals \$150,000.

19 **4.6** Respondents Cake Mortgage Corp. and David Abelyan jointly and
20 severally pay the costs of investigation. As of the date of this Statement of
21 Charges, the cost of the investigation totals \$500.00.

22 **4.7** Respondents Cake Mortgage Corp. and David Abelyan jointly and
23 severally pay the Department's costs and expenses for prosecuting
24 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.

V. AUTHORITY AND PROCEDURE

This Statement of Charges is entered pursuant to the provisions of RCW 31.04.093, RCW
31.04.165, RCW 31.04.202, and RCW 31.04.205, and are subject to the provisions of chapter 34.05
RCW (the Administrative Procedure Act). Respondents may make a written request for a hearing as

1 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
2 HEARING accompanying this Statement of Charges.

3 Dated this 30th day of January, 2023.



4
5 
6 Lucinda Fazio, Director
7 Division of Consumer Services
8 Department of Financial Institutions

9 Presented by:

10 
11 ANDRES E. BATISTA
12 Financial Legal Examiner

13 Approved by:

14 
15 JACK McCLELLAN
16 Enforcement Chief