

Terms Completed

ORDER SUMMARY – Case Number: C-17-2145

Name(s): Caliber Home Loans Inc;

Order Number: C-17-2145-21-CO06

Effective Date: 12/21/2021

License Number: 15622

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation and Prosecution Costs	\$80,000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12/20/2021
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 12/20/2021
Cost of Prosecution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
No. of Victims:				

Comments: Respondent agrees to take certain actions to prevent consumers seeking residential mortgage loans from being referred to lenders not licensed to make residential mortgage loan, including: (1) Agreeing not to make such referrals or permit such referrals and (2) Implementing enhanced policies and training.

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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:

No.: C-17-2145-21-CO06

CONSENT ORDER

CALIBER HOME LOANS, INC.,
NMLS # 15622,

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his
designee Lucinda Fazio, Division of Consumer Services Director, and Caliber Home Loans, Inc.
(Respondent), 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 (Order). This Order is entered
pursuant to chapter 31.04 of the Revised Code of Washington (RCW), the Consumer Loan Act, 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 have agreed upon a basis for resolution of the matters alleged in Amended Statement of
Charges No. C-17-2145-21-SC07 (Amended Statement of Charges), entered March 3, 2021 (copy
attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW
34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry
of this Order and further agrees that the issues raised in the above-captioned matter may be
economically and efficiently settled by entry of this Order. The parties intend this Order to fully
resolve the Amended Statement of Charges.

1 Based on the foregoing:

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

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

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

9 D. **Referrals.** It is AGREED that Respondent shall not knowingly refer or permit to be
10 referred consumers seeking residential mortgage loans to lenders not licensed to make such loans as
11 required by the Act and shall not otherwise knowingly facilitate the making of residential mortgage
12 loans by lenders not licensed to make such loans as required by the Act.

13 E. **Enhanced Policies and Training.** It is AGREED that Respondent shall develop and
14 implement policies that prohibit loan originators sponsored by Respondent (LOs) from: (1) referring
15 consumers seeking residential mortgage loans to lenders that are not licensed to make such loans as
16 required by the Act and (2) facilitating the making of residential mortgage loans by lenders that are
17 not licensed to make such loans as required by the Act. It is FURTHER AGREED that Respondent
18 shall obtain attestations from LOs indicating that they understand such policies and agree to abide by
19 them. It is FURTHER AGREED that Respondent shall develop and implement training for LOs
20 regarding how to determine whether lenders are licensed as required by the Act.

21 F. **Financial Literacy and Education.** It is AGREED that Respondent shall make a
22 payment of \$20,000 to the Department for purposes of financial literacy and education programs
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1 authorized by RCW 43.320.150 (Payment) upon delivery of this Order to the Department, properly
2 signed and dated. It is further AGREED that Respondent shall not publicize the Payment.

3 **G. Investigation Fee and Costs of Prosecution.** It is AGREED that Respondent shall pay
4 to the Department an investigation fee and costs of prosecution of \$80,000 (Fees and Costs) upon
5 delivery of this Order to the Department, properly dated and signed. The Payment and Fees and
6 Costs shall be paid together in one \$100,000 cashier's check made payable to the "Washington State
7 Treasurer."

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

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

15 **J. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this
16 ORDER, which is effective when signed by the Director's designee.

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

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

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1 **RESPONDENT:**

Caliber Home Loans, Inc.

2 By:

3 _____
4 /s/ Sanjiv Das
CEO, Director

_____ 12/10/2021
Date

5 Approved for Entry:

6
7 _____
8 /s/ Andrew R. Louis
Buckley LLP
Attorneys for Respondent

_____ 9/30/2021
Date

10 **DO NOT WRITE BELOW THIS LINE**

11
12 THIS ORDER ENTERED THIS 21st DAY OF December, 2021.

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

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19 Presented by:

Approved by:

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21 _____
22 /s/ AMANDA J. HERNDON
Financial Legal Examiner

_____ /s/
JACK MCCLELLAN
Enforcement Chief

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:

5 CALIBER HOME LOANS, INC.,
6 NMLS No. 15622,

7 Respondent.

No. C-17-2145-21-SC07

AMENDED 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

8 **INTRODUCTION**

9 Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial
10 Institutions of the State of Washington (Director) is responsible for the administration of chapter
11 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to
12 RCW 31.04.145, and based upon the facts available as of the date of this Amended Statement of
13 Charges, the Director, through his designee, Division of Consumer Services Director Lucinda Fazio,
14 institutes this proceeding and finds as follows:

15 **I. FACTUAL ALLEGATIONS**

16 **1.1 Respondent Caliber Home Loans, Inc. (Respondent)** was licensed by the Department of
17 Financial Institutions of the State of Washington (Department) to conduct business as a consumer
18 loan company on or about December 18, 2008, and continues to be licensed to date. As of the date of
19 this Amended Statement of Charges, Respondent is also licensed in a similar capacity in 49 other
20 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Respondent
21 employed Kristine M. Moreland (MLO Moreland) as a mortgage loan originator between
22 approximately November 5, 2014, and September 29, 2016. Respondent has employed Lysa M.
23 Catlin (MLO Catlin) as an MLO since at least August 31, 2015, and continues to employ MLO Catlin
24 to date.

1 **1.2 Prohibited Lending Practices.** On at least seven occasions and while working on
2 Respondent’s behalf, MLOs Moreland and Catlin facilitated the making of residential mortgage loans
3 by at least one lender that was not licensed in Washington to make residential mortgage loans.
4 MLOs Moreland and Catlin engaged in this conduct with the expectation that consumers would
5 refinance the unlicensed loans with Caliber and that MLOs Moreland and Catlin would receive a
6 commission for originating the refinance loans. During the transactions, MLOs Moreland and Catlin
7 knew that the consumers were seeking residential mortgage loans, but did not disclose to the
8 consumers that the unlicensed lender was not licensed to make residential mortgage loans.

9 **A. MLO Moreland.** On at least four occasions, MLO Moreland provided an unlicensed
10 lender with information about a consumer that helped the consumer qualify for loans from the
11 unlicensed lender when Moreland knew the unlicensed lender was not licensed to make residential
12 mortgage loans. Each consumer went on to obtain a residential mortgage loan from the unlicensed
13 lender and at least two of those consumers refinanced with a loan originated by MLO Moreland and
14 made by Respondent.

15 **B. MLO Catlin.** On at least two occasions, MLO Catlin applied for and negotiated the terms
16 of a residential mortgage loan from an unlicensed lender on behalf of a consumer. On one of those
17 occasions, MLO Catlin engaged in such conduct without the knowledge or approval of the consumer.
18 On at least one other such occasion, MLO Catlin’s conduct resulted in the consumer obtaining a
19 residential mortgage loan from the unlicensed lender, which was refinanced with a loan originated by
20 MLO Catlin and made by Respondent. In at least one transaction, MLO Catlin told a consumer “We
21 offer a private money same as cash loan” when Respondent did not offer such a loan product, but
22 such a loan product was offered by an unlicensed lender to which MLO Catlin referred business. In
23 the same transaction, the consumer went on to obtain a residential mortgage loan from the unlicensed
24

1 lender and then refinanced with a loan originated by MLO Catlin and made by Respondent.
2 Respondent and MLO Catlin received compensation for the refinance loan.

3 **1.3 Nationwide Multistate Licensing System (NMLS) Disclosures and Attestations.**

4 **A. Pending Regulatory Action.** On or about August 4, 2020, the Department issued a
5 Statement of Charges against Respondent. The Statement of Charges was served on Respondent on
6 or about August 11, 2020. The Statement of Charges included facts alleged in paragraphs 1.1 and 1.2
7 above and the violations alleged in paragraphs 2.1 through 2.4 below.

8 **B. Failure to Update Disclosure Questions.** Upon license application, a consumer loan
9 company must submit answers to disclosure questions to the Department through NMLS. If a
10 consumer loan company's answer to any disclosure question changes, the consumer loan company
11 must update its answer in NMLS within 10 days of the change. Disclosure Question (E) states, "Is
12 there a pending regulatory action proceeding against the entity or a control affiliate for any alleged
13 violation described in (C) . . . ?" Disclosure question (C) includes the following questions:

14 In the past 10 years, has any State or federal regulatory agency or foreign financial
15 regulatory authority or self-regulatory organization (SRO) ever:

- 16 (1) found the entity or a control affiliate to have made a false statement or
17 omission or been dishonest, unfair or unethical?
18 (2) found the entity or a control affiliate to have been involved in a violation of a
19 financial services-related regulation(s) or statute(s)?

18 The Statement of Charges was a pending regulatory action alleging violations described in
19 Disclosures Questions (C)(1) and (C)(2). As of the date of this Statement of Charges, Respondent
20 has not updated its answer to Disclosure Question (E) from "No" to "Yes." Additionally, in order for
21 a consumer loan company to submit Form MU1, the consumer loan company must attest under
22 penalty of perjury that the information submitted is current, true, and complete and that any
23 information that was previously submitted and not amended remains accurate and complete. The
24 consumer loan company must also attest to keep the form current and to submit supplementary

1 information on a timely basis. Since August 21, 2020, Respondent has filed over 50 Form MU1s in
2 which it provided a negative response or, alternatively, failed to update the answer to an affirmative
3 response to Disclosure Question (E) and swore to the attestation referenced above. These Form
4 MU1s, which include Respondent's answer Disclosure Question (E), are available to each state
5 regulator that licenses Respondent and uses NMLS as its system of record for Respondent.

6 **C. License Renewal Attestation.** Each consumer loan company must apply to renew its
7 license annually in order to maintain the license. During the renewal process, the company must
8 submit an attestation in support of the renewal application. On or about November 1, 2020,
9 Respondent filed an attestation in connection with its annual license renewal. In that attestation,
10 Respondent's authorized representative swore,

11 to the best of my knowledge and belief the information contained in the
12 Licensee/Registrant's online record, as well as any applicable jurisdiction specific
13 requirements, is true, accurate and complete in accordance with the appropriate
jurisdiction's law. Additionally, I acknowledge that I have a duty and agree expediently
to update and correct the information as it changes.

14 At the time Respondent submitted this attestation, its record did not include an accurate and true
15 response to Disclosure Question (E).

16 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
17 Act by Respondent continues to date.

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

19 **2.1 Responsibility for Conduct of Employees.** Pursuant to RCW 31.04.027(1)(b),¹ RCW
20 31.04.165, and WAC 208-620-372, a consumer loan company is responsible for any conduct
21 violating the Act or chapter 208-620 WAC by any person employed, or engaged as an independent
22 contractor, to work in the business covered by your license.

23
24 ¹ RCW 31.04.027 was amended effective of June 7, 2018. Prior to that, RCW 31.04.027(1)(b) was codified as RCW
31.04.027(2).

1 **2.2 Unfair or Deceptive Practice.** Based on the Factual Allegations set forth in Section I above,
2 Respondent is in apparent violation of RCW 31.04.027(1)(b) for directly or indirectly engaging in
3 any unfair or deceptive practice toward any person.

4 **2.3 Obtaining Property by Fraud or Misrepresentation.** Based on the Factual Allegations set
5 forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(1)(c)² for directly or
6 indirectly obtaining property by fraud or misrepresentation.

7 **2.4 False, Misleading, or Deceptive Advertisements.** Based on the Factual Allegations set forth
8 in Section I above, Respondent is in apparent violation of RCW 31.04.027(1)(g)³ for making, in any
9 manner, any false or deceptive statement or representation with regard to the rates, points, or other
10 financing terms or conditions for a residential mortgage loan, or engaging in bait and switch
11 advertising.

12 **2.5 Failing to Timely Report Significant Events.** Based on the Factual Allegations set forth in
13 Section I above, Respondent is in apparent violation of RCW 31.04.027(1)(b) and WAC 208-620-
14 490(2)(f) for failing to amend the NMLS report and upload supporting documents within ten days
15 after an occurrence of a change in response to a disclosure questions within NMLS.

16 **2.6 False Statements and Omissions of Fact in Reporting.** Based on the Factual Allegations
17 set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(1)(h) for
18 negligently making any false statement or knowingly and willfully making any omission of material
19 fact in connection with any reports filed with the Department by a licensee.

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23 ² RCW 31.04.027 was amended effective of June 7, 2018. Prior to that, RCW 31.04.027(1)(c) was codified as RCW
31.04.027(3).

24 ³ RCW 31.04.027 was amended effective June 7, 2018. Prior to that, RCW 31.04.027(1)(g) was codified as RCW
31.04.027(7).

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 31.04.093(5)(a), the
3 Director may issue orders directing a licensee to cease and desist from conducting business in a
4 manner that is injurious to the public or violates any provision of the Act.

5 **3.2 Authority to Order Affirmative Action.** Pursuant to RCW 31.04.093(5)(b), the Director
6 may issue an order directing a licensee to take such affirmative action as is necessary to comply with
7 the Act.

8 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
9 up to one hundred dollars per day, per violation, upon the licensee for any violation of the Act or
10 failure to comply with any order or subpoena issued by the Director under the Act.

11 **3.4 Authority to Charge Examination Fee and Investigation Fee.** Pursuant to RCW
12 31.04.145(3) and WAC 208-620-590, WAC 208-620-610(7), every licensee investigated by the
13 Director or the Director’s designee shall pay for the cost of the investigation, calculated at the rate of
14 \$69.01 per staff hour devoted to the investigation.

15 **3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
16 may recover the state’s costs and expenses for prosecuting violations of the Act.

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

18 Respondent’s violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
19 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
20 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, RCW
21 34.04.202, and RCW 31.04.205. Therefore, it is the Director’s intent to ORDER that:

22 **4.1** Respondent Caliber Home Loans, Inc. cease and desist from referring consumers
23 seeking residential mortgage loans to lenders not licensed to make residential
24 mortgage loans and from otherwise facilitating residential mortgage loans made by
lenders not licensed to make residential mortgage loans.

1 **4.2** Respondent Caliber Home Loans, Inc. develop and implement training for MLOs,
2 policies, and procedures designed to prevent Respondent from referring consumers
3 seeking residential mortgage loans to lenders not licensed to make residential
 mortgage loans or otherwise facilitating residential mortgage loans made by lenders
 not licensed to make residential mortgage loans.

4 **4.3** Respondent Caliber Home Loans, Inc. pay a fine. As of the date of this Statement of
5 Charges, the fine totals \$98,000.00.

6 **4.4** Respondent Caliber Home Loans, Inc. pay an investigation fee. As of the date of this
7 Statement of Charges, the investigation fee totals \$20,000.

8 **4.5** Respondent Caliber Home Loans, Inc. pay the Department’s costs and expenses
9 for prosecuting violations of the Act in an amount to be determined at hearing or by
10 declaration with supporting documentation in event of default by Respondent.

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1 **V. AUTHORITY AND PROCEDURE**

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

9
10 Dated this 3rd day of March, 2021.

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12 /s/
13 Lucinda Fazio, Director
14 Division of Consumer Services
15 Department of Financial Institutions

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17 Presented by:

18
19 /s/
20 AMANDA J. HERNDON
21 Financial Legal Examiner

22 Approved by:

23 /s/
24 STEVEN C. SHERMAN
Enforcement Chief