



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

COLLEAGUES IN LAW, LC and
DEVIN D. BENTER, Principal,

Respondents.

No.: C-14-1577-22-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington ("Director"), pursuant to RCW 34.05.464. On December 9, 2020, the Director, through his designee, Consumer Services Division Director Lucinda Fazio, issued a Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist Business, Prohibit from Industry, Order Restitution, Impose Fine, Collect Investigation Fee, and Recover Costs and Expenses ("Statement of Charges") against Colleagues In Law, LC and Devin D. Benter ("Respondents"). On January 19, 2021, Respondents filed an Application for Adjudicative Hearing. On February 5, 2021, Respondents filed an Answer to Statement of Charges. On April 20, 2021, the Department made a request to the Office of Administrative Hearings ("OAH") to assign an Administrative Law Judge ("ALJ") to schedule and conduct a hearing on the Statement of Charges. On April 30, 2021, OAH issued a Notice of Prehearing Conference scheduling prehearing conference on May 27, 2021, at 3:00 p.m. The Notice of Prehearing Conference also assigned ALJ Joni Derifield ("ALJ Derifield") to preside over the proceedings and issue an Initial Decision.

1 On May 27, 2021, counsel for the Department and Respondents attended a telephonic
2 prehearing conference. On May 28, 2021, ALJ Derifield issued a Prehearing Conference Order,
3 Notice of Motion Hearing, which stated, “If you do not participate in any stage of the proceedings or
4 if you fail to appear at your hearing, you may be in default. This means you lose the right to a
5 hearing and your appeal will be dismissed.” On May 28, 2021, ALJ Derifield also issued a Notice of
6 Hearing scheduling a motion hearing for September 30, 2021, a Notice of Status Conference, and a
7 Notice of Hearing.

8 On September 3, 2021, the Department filed a Motion for Summary Judgment and supporting
9 declarations. On September 17, 2021, Respondents filed a Response to Motion for Summary
10 Judgment and a supporting declaration. On September 24, 2021, the Department filed a Reply in
11 Support of Motion for Summary Judgment.

12 On September 30, 2021, the motion hearing was convened by ALJ Derifield at 11:00 a.m.
13 Respondents failed to appear and the Department moved for an order of default or, in the alternative,
14 an order on the Department’s Motion for Summary Judgment. On October 1, 2021, ALJ Derifield
15 issued an Order Dismissing Appeal – Default.

16 On October 4, 2021, Respondents filed a Motion to Vacate Order Dismissing Appeal –
17 Default. The same day, ALJ Derifield issued a Notice of Motion Hearing for October 18, 2021. On
18 October 18, 2021, the motion hearing was convened and counsel for the Department and
19 Respondents attended the hearing. On October 22, 2021, ALJ Derifield issued an Order Granting
20 Motion to Vacate Default Order, and Granting Motion for a Ruling on Motion for Summary
21 Judgment.

22 On November 29, 2021, ALJ Derifield issued an Initial Order on Summary Judgment (“Initial
23 Order”) and mailed the Initial Order to Respondents and their counsel. This Initial Order made
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1 findings of fact and conclusions of law, which granted the Department’s Motion for Summary
2 Judgment and affirmed the Department’s Statement of Charges.

3 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty (20) days from
4 the date of service of the Initial Order to file a Petition for Review of the Initial Order. Respondents
5 did not file a Petition for Review during the statutory period.

6 A. Record Presented. The record presented to the Director for his review and for entry of
7 a final decision included the following:

- 8 1. Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist
9 Business, Prohibit From Industry, Order Restitution, Impose Fine, Collect
Investigation Fee, and Recover Costs and Expenses, December 9, 2020.
- 10 2. Applications for Adjudicative Hearing.
- 11 3. Answer to Statement of Charges.
- 12 4. Request to OAH for Assignment of Administrative Law Judge.
- 13 5. Notice of Prehearing Conference dated April 30, 2021, with documentation of
14 service.
- 15 6. Prehearing Conference Order dated May 28, 2021, with documentation of service.
- 16 7. Notice of Motion Hearing dated May 28, 2021, with documentation of service.
- 17 8. Notice of Status Conference dated May 28, 2021, with documentation of service.
- 18 9. Notice of Hearing dated May 28, 2021, with documentation of service.
- 19 10. Department’s Motion for Summary Judgment dated September 3, 2021, with
documentation of service.
- 20 11. Respondents’ Response to Motion for Summary Judgment dated September 17,
21 2021, with documentation of service.
- 22 12. Department’s Reply in Support of Motion for Summary Judgment dated
September 24, 2021, with documentation of service.
- 23 13. Order Dismissing Appeal – Default dated October 1, 2021, with documentation of
24 service.

1 14. Respondents Motion to Vacate Order Dismissing Appeal – Default dated October
2 4, 2021, with documentation of service.

3 15. Notice of Motion Hearing dated October 6, 2021, with documentation of service.

4 16. Order Granting Motion to Vacate Default Order, and Granting Motion for a Ruling
5 on Motion for Summary Judgment dated October 22, 2021, with documentation of
6 service.

7 17. Initial Order on Summary Judgment dated November 29, 2021, with
8 documentation of service.

9 B. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.461, the Director
10 hereby adopts the Proposed Findings of Fact, Conclusions of Law, and Order, which is attached
11 hereto.

12 II. FINAL ORDER

13 Based upon the foregoing, and the Director having considered the record and being otherwise
14 fully advised, NOW, THEREFORE:

15 A. IT IS HEREBY ORDERED, That:

- 16 1. Respondents Colleagues In Law, LC and Devin D. Benter cease and desist
17 engaging in the business of a mortgage broker and loan originator.
- 18 2. Respondents Colleagues In Law, LC and Devin D. Benter are prohibited from
19 participation, in any manner, in the conduct of the affairs of any mortgage broker
20 subject to licensure by the director.
- 21 3. Respondents Colleagues In Law, LC and Devin D. Benter shall provide to the
22 Washington State Department of Financial Institutions, within thirty (30) days of
23 receipt of this order, a complete list of all Washington consumers with whom
24 Respondents entered into a contract for residential mortgage loan modification
services related to real property or consumers located in the state of Washington,
and the amount Respondents collected from each Washington consumer for those
services.
4. Respondents Colleagues In Law, LC and Devin D. Benter shall jointly and
severally pay, within thirty (30) days of receipt of this order, restitution in the
amount of \$27,445 as detailed in the attached appendix.

- 1 5. Respondents Colleagues In Law, LC and Devin D. Benter shall jointly and
2 severally pay, within thirty (30) days of receipt of this order, a fine of \$50,000 to
3 the Washington State Department of Financial Institutions.
- 4 6. Respondents Colleagues In Law, LC and Devin D. Benter shall jointly and
5 severally pay, within thirty (30) days of receipt of this order, an investigation fee
6 of \$18,727.20 to the Washington State Department of Financial Institutions.
- 7 7. Respondents Colleagues In Law, LC and Devin D. Benter shall maintain records
8 in compliance with the Act and, within thirty (30) days of receipt of this order,
9 provide the Department with the location of the books, records and other
10 information relating to Respondents' provision of residential mortgage loan
11 modification services in Washington, and the name, address and telephone number
12 of the individual responsible for maintenance of such records in compliance with
13 the Act.
- 14 8. Respondents Colleagues In Law, LC and Devin D. Benter shall jointly and
15 severally pay, within thirty (30) days of receipt of this order, the costs and
16 expenses for prosecuting violations of the Act totaling \$34,571.86 to the
17 Department of Financial Institutions.

18 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
19 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
20 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
21 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
22 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
23 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
24 Reconsideration a prerequisite for seeking judicial review in this matter.

 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the
date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
written notice specifying the date by which it will act on a petition.

 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
effectiveness of this order. Any such requests should be made in connection with a Petition for
Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

1 D. Judicial Review. Respondents have the right to petition the superior court for judicial
2 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
3 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

4 E. Non-compliance with Order. If Respondents do not comply with the terms of this
5 order, including payment of any amounts owed within thirty (30) days of receipt of this order, the
6 Department may seek its enforcement by the Office of the Attorney General to include the collection
7 of the fines, fees, and costs imposed herein. The Department also may assign the amounts owed to a
8 collection agency for collection.

9 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
10 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
11 attached hereto.

12 DATED this 24th day of February, 2022.



14 STATE OF WASHINGTON
15 DEPARTMENT OF FINANCIAL INSTITUTIONS

16 _____
/s/

17 CHARLES E. CLARK
18 Director

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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:

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COLLEAGUES IN LAW, LC, and
DEVIN D. BENTER, Principal,

Respondents.

No. C-14-1577-20-SC02

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, PROHIBIT FROM
INDUSTRY, ORDER RESTITUTION,
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. Colleagues In Law, LC (Respondent Colleagues) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker.

B. Devin D. Benter (Respondent Benter) was a principal of Respondent Colleagues. During the relevant time period, Respondent Benter was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1 **1.2 Unlicensed Activity.** Between at least July 1, 2013, and May 21, 2015, Respondents
2 Colleagues and Benter (hereafter Respondents) were offering residential mortgage loan modification
3 services to Washington consumers on real property located in Washington State. Respondents
4 agreed to provide residential mortgage loan modification services to at least seventeen Washington
5 consumers and collected an advance fee for the provision of those services.¹ A table of Washington
6 consumers with whom Respondents conducted business as a mortgage broker or loan originator and
7 the amount paid by each is appended hereto and incorporated herein by reference.

8 **1.3 Misrepresentations and Omissions.** Respondents represented to consumers that they were
9 licensed to provide the residential mortgage loan modification services or omitted disclosing that
10 they were not licensed to provide those services.

11 **1.4 False Statements to the Department.** On or about September 19, 2014, Respondents
12 responded to a subpoena issued by the Department. In the response, Respondents indicated they had
13 provided loan modification services to eleven Washington consumers and swore under penalty of
14 perjury under the laws of the state of Washington that the response was true and correct. One
15 additional consumer was later discovered, and Consent Order C-14-1577-16-CO01 (CO01) was
16 issued to resolve the unlicensed activity related to those twelve consumers. Subsequently, however,
17 the Department became aware of at least five additional consumers to whom Respondents provided
18 unlicensed loan modification services. Respondents never disclosed the additional five consumers to
19 the Department.

20 **1.5 Failure to Comply with Consent Order.** On or about November 8, 2018, Respondents
21 entered Consent Order No. C-14-1577-18-CO02 (CO02) to restructure restitution to four
22 Washington consumers that Respondents agreed to pay in CO01. In CO02, Respondents agreed to
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24 ¹ The Department issued Statement of Charges No. C-14-1577-15-SC01 alleging violations related to twelve of these consumers on or about September 27, 2015, and entered Consent Order Nos. C-14-1577-16-CO01 and C-14-1577-08-CO02 to resolve those violations.

1 pay restitution to the four consumers on or before April 15, 2020. As of the date of this Statement of
2 Charges, Respondents have not paid restitution to two of the four consumers.

3 **1.6 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 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14), "Mortgage broker" means
7 any person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
8 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
9 loan or performs residential mortgage loan modification services or (b) holds himself or herself out
10 as being able to assist a person in obtaining or applying to obtain a residential mortgage loan or
11 provide residential mortgage loan modification services.

12 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11)(b), "Loan originator" means a
13 natural person who for direct or indirect compensation or gain or in the expectation of direct or
14 indirect compensation or gain performs residential mortgage loan modification services or holds
15 himself or herself out as being able to perform residential mortgage loan modification services.

16 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
17 are in apparent violation of RCW 19.146.0201(2) and (3) for engaging in an unfair or deceptive
18 practice toward any person and obtaining property by fraud or misrepresentation.

19 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
20 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
21 for engaging in the business of a mortgage broker for Washington residents or property without first
22 obtaining a license to do so.

23 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
24 Allegations set forth in Section I above, Respondent Benter is in apparent violation of RCW

1 19.146.200(1) for engaging in the business of a loan originator without first obtaining and
2 maintaining a license.

3 **2.6 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in
4 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 12 C.F.R. Part
5 1015 (Regulation O) for taking advance fees for loan modification services.

6 **2.7 False Statements.** Based on the Factual Allegations set forth in Section I above, Respondents
7 are in apparent violation of RCW 19.146.0201(8) for making a false statement in connection with an
8 investigation conducted by the Department.

9 **2.8 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
10 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
11 location that is on file with and readily available to the Department until at least three years have
12 elapsed following the effective period to which the books and records relate.

13 III. AUTHORITY TO IMPOSE SANCTIONS

14 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(3), the
15 Director may issue orders directing any person subject to the Act to cease and desist from
16 conducting business.

17 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(4), the Director may
18 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
19 any person subject to licensing under the Act for any violation of the Act and failure to comply with
20 any order of the director.

21 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
22 restitution against any person subject to the Act for any violation of the Act and failure to comply
23 with any order of the director.

1 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
2 against any person subject to the Act for any violation of the Act and failure to comply with any
3 order of the director.

4 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-
5 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time
6 devoted to an investigation of any person subject to the Act.

7 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director
8 may recover the state's costs and expenses for prosecuting violations of the Act.

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

10 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
11 set forth above constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221,
12 and RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

13 **4.1** Respondents Colleagues In Law, LC and Devin D. Benter cease and desist engaging in the
14 business of a mortgage broker and loan originator.

15 **4.2** Respondents Colleagues In Law, LC and Devin D. Benter be prohibited from participation,
16 in any manner, in the conduct of the affairs of any mortgage broker subject to licensure by
17 the director.

18 **4.3** Respondents Colleagues In Law, LC and Devin D. Benter provide a complete list of all
19 Washington consumers with whom Respondents entered into a contract for residential
20 mortgage loan modification services related to real property or consumers located in the state
21 of Washington, and the amount Respondents collected from each Washington consumer for
22 those services.

23 **4.4** Respondents Colleagues In Law, LC and Devin D. Benter jointly and severally pay
24 restitution as detailed the appendix to this Statement of Charges in the amount set forth
therein, and that Respondents jointly and severally pay restitution to each Washington
consumer with whom they entered into a contract for residential mortgage loan modification
services related to real property or consumers located in the state of Washington equal to the
amount collected from that Washington consumer for those services in an amount to be
determined at hearing.

4.5 Respondents Colleagues In Law, LC and Devin D. Benter jointly and severally pay a
\$50,000 fine.

