

**ORDER SUMMARY – Case Number: C-20-2883**

**Name(s):** Thomas McAvity

**Order Number:** C-20-2883-21-CO02

**Effective Date:** 9/29/2021

**NMLS Identifier [U/L]** \_\_\_\_\_

**License Effect:** 2268799

**Not Apply Until:** \_\_\_\_\_

**Not Eligible Until:** \_\_\_\_\_

**Prohibition/Ban Until:** 5 years from entry of Order

<b>Investigation Costs</b>	\$ 1000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 9/27/2021
<b>Fine</b>	\$15000	Stayed for 2 years	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Financial Literacy and Education</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Cost of Prosecution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
	No. of Victims:			

**Comments:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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  
Mortgage Broker Practices Act of Washington by:

No.: C-20-2883-21-CO02

5 CONSENT ORDER RE:

6 DAVID VISSER HOUTSMA LAW GROUP,  
LLC D/B/A DVH LAW GROUP,  
7 DAVID VISSER HOUTSMA, Owner and  
President, and  
THOMAS MCAVITY,

THOMAS MCAVITY

Respondents.

8 COMES NOW the Director of the Department of Financial Institutions (Director), through  
9 his designee Lucinda Fazio, Division of Consumer Services Director, and Thomas McAvity  
10 (Respondent McAvity), and finding that the issues raised in the above-captioned matter may be  
11 economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is  
12 entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060  
13 of the Administrative Procedure Act, based upon the following:

14 **AGREEMENT AND ORDER**

15 The Department of Financial Institutions, Division of Consumer Services (Department) and  
16 Respondent McAvity have agreed upon a basis for resolution of the matters alleged in Statement of  
17 Charges No. C-20-2883-20-SC01 (Statement of Charges), entered December 18, 2020, (copy  
18 attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and  
19 RCW 34.05.060 of the Administrative Procedure Act, Respondent McAvity hereby agrees to the  
20 Department's entry of this Consent Order and further agrees that the issues raised in the above-  
21 captioned matter may be economically and efficiently settled by entry of this Consent Order. The  
22 parties intend this Consent Order to fully resolve the Statement of Charges. Respondent McAvity is  
23 agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

24 Based upon the foregoing:

CONSENT ORDER  
C-20-2883-21-CO02  
THOMAS MCAVITY

1

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

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

3           **B. Waiver of Hearing.** It is AGREED that Respondent McAvity has been informed of the  
4 right to a hearing before an administrative law judge, and hereby waives his right to a hearing and  
5 any and all administrative and judicial review of the issues raised in this matter, or of the resolution  
6 reached herein. Accordingly, Respondent McAvity, by his signature below, withdraws his appeal to  
7 the Office of Administrative Hearings.

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

11           **D. Prohibition from Industry.** It is AGREED that, for a period of five (5) years from the  
12 date of entry of this Consent Order, Respondent McAvity is prohibited from participating, in any  
13 capacity, in the conduct of the affairs of any mortgage broker licensed by the Department or subject  
14 to licensure or regulation by the Department.

15           **E. Fine.** It is AGREED and ORDERED that Respondent McAvity shall pay a fine to the  
16 Department in the amount of \$15,000.00. It is FURTHER AGREED \$15,000.00 of the fine shall be  
17 stayed (Stayed Fine) for two years following entry of this Consent Order contingent upon Respondent  
18 McAvity's compliance with this Consent Order. It is FURTHER AGREED that the stay may be  
19 lifted and the Stayed Fine imposed in accordance with the terms stated in Paragraph F.

20           **F. Lifting of Stay and Imposing Stayed Fine.** It is AGREED that:

- 21           1.     If the Department determines that Respondent McAvity has not complied  
22                   with the terms of this Consent Order, and the Department accordingly  
23                   seeks to lift the stay and impose the Stayed Fine set forth in Paragraph F  
                      above, the Department will first notify Respondent McAvity in writing of  
                      its determination.

- 1                   2.     The Department’s notification will include:
- 2                   a)     A description of the alleged noncompliance;
- 3                   b)     A statement that because of the noncompliance, the Department
- 4                                 seeks to lift the stay and impose the Stayed Fine;
- 5                   c)     The opportunity for Respondent McAvity to contest the
- 6                                 Department’s determination of noncompliance in an
- 7                                 administrative hearing before an Administrative Law Judge (ALJ)
- 8                                 of the Office of Administrative Hearings (OAH); and
- 9                   d)     A copy of this Consent Order. The notification and hearing
- process provided in this Consent Order applies only to this
- Consent Order. It is solely provided in the event Respondent
- McAvity chooses to contest the Department’s determination of
- noncompliance.
- 10                  3.     Respondent McAvity will be afforded twenty (20) business days from the
- 11                                 date of receipt of the Department’s notification to submit a written
- 12                                 request to the Department for an administrative hearing to be held before
- an ALJ from the OAH.
- 13                  4.     Respondent McAvity, in addition to a request for hearing, may provide a
- written response to include any information pertaining to the alleged
- 14                                 noncompliance.
- 15                  5.     The scope and issues of the hearing are limited solely to whether or not
- Respondent McAvity is in violation of the terms of this Consent Order.
- 16                  6.     At the conclusion of the hearing, the ALJ will issue an initial decision.
- 17                                 Either party may file a Petition for Review with the Director of the
- Department.
- 18                  7.     If Respondent McAvity does not request the hearing within the stated
- 19                                 time, the Department will impose the Stayed Fine and pursue whatever
- action it deems necessary to enforce the Stayed Fine.

20                   **G. Costs.** It is AGREED and ORDERED that Respondent McAvity shall pay the

21 Department’s costs and expenses of \$1,000.00, in the form of a cashier’s check made payable to the

22 “Washington State Treasurer,” upon delivery of this Consent Order to the Department, properly dated

23 and signed.



**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:

DAVID VISSER HOUTSMA LAW GROUP, LLC  
D/B/A DVH LAW GROUP,  
DAVID VISSER HOUTSMA, Owner and  
President, and  
THOMAS MCAVITY,

Respondents.

No. C-20-2883-20-SC01

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. Respondent David Visser Houtsma Law Group, LLC d/b/a DVH Law Group (DVH)** has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator.

**B. Respondent David Visser Houtsma (Respondent Houtsma)** was the Owner and President of DVH. During the relevant time period, Respondent Houtsma was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1           **C.     Respondent Thomas McAvity (Respondent McAvity)** was an employee or contractor  
2 for DVH in Washington State. During the relevant time period, Respondent McAvity was not licensed  
3 by the Department to conduct business as a mortgage broker or loan originator.

4           **1.2     Unlicensed Activity.** Between at least November 29, 2017, and August 8, 2018, Respondents  
5 were offering residential mortgage loan modification services to Washington consumers on real  
6 property located in Washington State. Respondents entered into a contractual relationship with at least  
7 four Washington consumers to provide those services and collected an advance fee for the provision of  
8 those services from at least one Washington consumer. The Department received documentation  
9 showing Respondents provided or offered to provide residential mortgage loan modification services  
10 while not licensed by the Department to provide those services. A list of Washington consumers with  
11 whom Respondents conducted business as a mortgage broker or loan originator, and the amount paid  
12 by each is appended hereto and incorporated herein by reference.

13           **1.3     Misrepresentations and Omissions.** Respondents represented that they were licensed to  
14 provide the residential mortgage loan modification services or omitted disclosing that they were not  
15 licensed to provide those services.

16           **1.4     False Statements to the Department.** On or about November 8, 2019, Respondents provided  
17 a partial subpoena response to the Department whereby they indicated they had provided loan  
18 modification services to three Washington consumers. However, Respondents entered into a  
19 contractual relationship to provide loan modification services with at least one additional consumer on  
20 or about December 12, 2017.

21           **1.5     On-Going Investigation.** The Department’s investigation into the alleged violations of the  
22 Act by Respondents continues to date.

23 //  
24 //

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

2 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14), "Mortgage broker" means any  
3 person who for direct or indirect compensation or gain, or in the expectation of direct or indirect  
4 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan  
5 or performs residential mortgage loan modification services or (b) holds himself or herself out as being  
6 able to assist a person in obtaining or applying to obtain a residential mortgage loan or provide  
7 residential mortgage loan modification services.

8 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11)(b), "Loan originator" means an  
9 individual who for direct or indirect compensation or gain or in the expectation of direct or indirect  
10 compensation or gain performs residential mortgage loan modification services or holds himself or  
11 herself out as being able to perform residential mortgage loan modification services.

12 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents  
13 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice  
14 toward any person and obtaining property by fraud or misrepresentation.

15 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual  
16 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)  
17 for engaging in the business of a mortgage broker for Washington residents or property without first  
18 obtaining a license to do so.

19 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual  
20 Allegations set forth in Section I above, Respondents Houtsma and McAvity are in apparent violation  
21 of RCW 19.146.200(1) for engaging in the business of a loan originator without first obtaining and  
22 maintaining a license.



1 **2.6 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in  
2 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 12 CFR 1015  
3 (Regulation O) for taking advance fees for loan modification services.

4 **2.7 False Statements.** Based upon the Factual Allegations set forth in Section I above,  
5 Respondents are in apparent violation of RCW 19.146.0201(8) for making a false statement in  
6 connection with an investigation conducted by the Department.

7 **2.8 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW  
8 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a  
9 location that is on file with and readily available to the Department until at least three years have  
10 elapsed following the effective period to which the books and records relate.

### 11 III. AUTHORITY TO IMPOSE SANCTIONS

12 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(3), the  
13 Director may issue orders directing any person subject to the Act to cease and desist from conducting  
14 business.

15 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(4), the Director may  
16 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker  
17 any person subject to licensing under the Act for any violation of the Act.

18 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order  
19 restitution against any person subject to the Act for any violation of the Act.

20 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines  
21 against any person subject to the Act for any violation of the Act.

22 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-  
23 550(4)(a), the Department will charge \$48 per hour for an examiner's time devoted to an investigation  
24 of any person subject to the Act.

1 **3.6 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, as  
5 set forth above constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221,  
6 and RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

- 7 **4.1** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
8 Visser Houtsma, and Thomas McAvity cease and desist engaging in the business of a  
9 mortgage broker or loan originator.
- 10 **4.2** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
11 Visser Houtsma, and Thomas McAvity be prohibited from participation, in any manner,  
12 in the conduct of the affairs of any mortgage broker or subject to licensure by the  
13 Director for a period of five (5) years.
- 14 **4.3** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
15 Visser Houtsma, and Thomas McAvity provide a complete list of all Washington  
16 consumers with whom Respondents entered into a contract for residential mortgage  
17 loan modification services related to real property or consumers located in the state of  
18 Washington, and the amount Respondents collected from each Washington consumer  
19 for those services.
- 20 **4.4** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
21 Visser Houtsma, and Thomas McAvity jointly and severally pay restitution to the  
22 consumers identified in Appendix A to this Statement of Charges in the amount set  
23 forth therein, and that Respondents jointly and severally pay restitution to each  
24 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 David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
Visser Houtsma, and Thomas McAvity jointly and severally pay a fine, which as of the  
date of this Statement of Charges totals \$16,500.00.
- 4.6** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
Visser Houtsma, and Thomas McAvity jointly and severally pay an investigation fee,  
which as of the date of this Statement of Charges totals \$1,377.60.
- 4.7** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
Visser Houtsma, and Thomas McAvity maintain records in compliance with the Act

1 and provide the Department with the location of the books, records and other  
2 information relating to Respondents' provision of residential mortgage loan  
3 modification services in Washington, and the name, address and telephone number of  
4 the individual responsible for maintenance of such records in compliance with the Act.

5 **4.8** Respondents David Visser Houtsma Law Group, LLC d/b/a DVH Law Group, David  
6 Visser Houtsma, and Thomas McAvity pay the Department's costs and expenses for  
7 prosecuting violations of the Act in an amount to be determined at hearing or by  
8 Declaration with supporting documentation in event of default by Respondents.

9 **V. AUTHORITY AND PROCEDURE**

10 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW  
11 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05  
12 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as  
13 set forth in the NOTICE OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND TO DEFEND  
14 accompanying this Statement of Charges.

15 Dated this 18th day of DECEMBER, 2020.

16 /s/  
17 LUCINDA FAZIO, Director  
18 Division of Consumer Services  
19 Department of Financial Institutions

20 Presented by:

21 /s/  
22 AMANDA B. STARNES  
23 Financial Legal Examiner

24 Approved by:

/s/  
STEVEN C. SHERMAN  
Enforcement Chief