

Terms Complete
Order Summary – Case Number: C-22-3404

Name(s): Mortgage Cafe NW LLC; Adrian Hinckley;

Order Number: C-22-3404-22-CO01

Effective Date: 1/12/23

License Number: Mortgage Café # 1482278, Hinckley # 264845
Or NMLS Identifier [U/L]

License Effect:

Not Apply Until:

Not Eligible Until:

Prohibition/Ban Until:

Investigation Costs	\$ 600		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$ 5,500		Paid <input checked="" 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	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Cost of Prosecution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
	No. of Victims:			

Comments:

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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-22-3404-22-CO01

CONSENT ORDER

MORTGAGE CAFE NW, LLC,
NMLS # 1482278, and
ADRIAN HINCKLEY, NMLS # 264845,
Owner,

Respondents.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Lucinda Fazio, Division of Consumer Services Director, and Mortgage Cafe NW, LLC (Respondent Mortgage Cafe), and Adrian Hinckley, Owner of Respondent Mortgage Cafe, 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. This Consent Order is entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), 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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-22-3404-22-SC01 (Statement of Charges), entered August 24, 2022, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges and agree that Respondents do not admit any

1 wrongdoing by its entry. Respondents are agreeing not to contest the Statement of Charges in
2 consideration of the terms of this Consent Order.

3 Based upon the foregoing:

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

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

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

13 **D. Application for License.** It is AGREED that this Consent Order shall not serve as the
14 basis to prohibit Respondents from being approved for a license by the Department in the event that
15 either Respondent applies for a license in the future. It is further AGREED that should Respondents
16 apply to the Department for any license, they shall be required to meet any and all application
17 requirements in effect at that time.

18 **E. Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
19 \$5,500.

20 **F. Investigation Fee.** It is AGREED that Respondents shall pay an investigation fee to the
21 Department in the amount of \$600. The Fine and Investigation Fee shall be paid together by
22 cashier's check in three installments (\$2100 initial payment, \$2000 by March 15, 2023 and \$2000 by
23 April 15 2023) for the total amount of \$6,100 made payable to the "Washington State Treasurer."

1 **G. Records Retention.** It is AGREED that Respondent Mortgage Cafe, its officers,
2 employees, and agents shall maintain records in compliance with the Act and provide the Director
3 with the location of the books, records and other information relating to Respondent Mortgage Cafe’s
4 mortgage broker business, and the name, address and telephone number of the individual responsible
5 for maintenance of such records in compliance with the Act.

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

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

13 **J. Voluntarily Entered.** It is AGREED that Respondents have voluntarily entered into this
14 Consent Order, which is effective when signed by the Director’s designee.

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

17 **RESPONDENTS:**

18 **Mortgage Cafe NW, LLC**

19 By:

20 /s/ _____

21 ADRIAN HINCKLEY

22 Owner

12/30/2022

Date

23 /s/ _____

ADRIAN HINCKLEY

Individually

12/30/2022

Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 12th DAY OF January, 2023.



/s/

Lucinda Fazio, Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

/s/

KENNETH J. SUGIMOTO
Financial Legal Examiner Supervisor

Approved by:

/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
Mortgage Broker Practices Act of Washington by:

5 MORTGAGE CAFE NW, LLC,
6 NMLS # 1482278, and
ADRIAN HINCKLEY, NMLS # 264845,
7 Owner,

Respondents.

No. C-22-3404-22-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST, IMPOSE
FINE, COLLECT INVESTIGATION FEE,
and RECOVER COSTS AND EXPENSES

8 **INTRODUCTION**

9 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of
10 Financial Institutions of the State of Washington (Director) is responsible for the administration of
11 chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). After having conducted an
12 investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this
13 Statement of Charges, the Director, through his designee, Division of Consumer Services Director
14 Lucinda Fazio, institutes this proceeding and finds as follows:

15 **I. FACTUAL ALLEGATIONS**

16 **1.1 Respondents.**

17 A. **Mortgage Cafe NW, LLC (Respondent Mortgage Cafe)** was licensed by the
18 Department of Financial Institutions of the State of Washington (Department) to conduct business as
19 a mortgage broker on or about July 19, 2016, and continues to be licensed to date.

20 B. **Adrian Hinckley (Respondent Hinckley)** is an owner of Respondent Mortgage Cafe.
21 Respondent Hinckley has not been licensed by the Department to conduct business as a loan
22 originator since at least January 1, 2008.

1 **1.2 Examination.** Between March 9, 2022, and March 17, 2022, the Department conducted an
2 examination of Respondent Mortgage Cafe’s business practices for the period of September 1, 2019,
3 to February 28, 2022 (examination period).

4 **1.3 Unlicensed Loan Originator Activity.** During the examination period Respondent Hinckley
5 assisted at least two borrowers in obtaining residential mortgage loans while employed by
6 Respondent Mortgage Cafe.

7 **1.4 Unfair or Deceptive Practice.** During the examination period a loan originator employed by
8 Respondent Mortgage Cafe advised at least one borrower that the borrower was preapproved for a
9 residential mortgage loan when Respondent Mortgage Cafe was unable to provide any evidence that
10 it had submitted the borrower’s information to a lender or automated underwriting system prior to
11 advising the borrower of preapproval.

12 **1.5 On-Going Investigation.** The Department’s investigation into the alleged violations of the
13 Act by Respondents continues to date.

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

15 **2.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245, a licensed
16 mortgage broker is liable for any conduct violating the Act by the designated broker, a loan
17 originator, or other licensed mortgage broker while employed or engaged by the licensed mortgage
18 broker.

19 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11), “Loan originator” means
20 a natural person who for direct or indirect compensation or gain, or in the expectation of direct or
21 indirect compensation or gain: takes a residential mortgage loan application; offers or negotiates
22 terms of a mortgage loan; performs residential mortgage loan modification services; or holds
23 themselves out to the public as able to perform any of these activities.

1 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(2), “Borrower” means any person
2 who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice
3 or information on obtaining or applying to obtain a residential mortgage loan, or residential mortgage
4 loan modification, for himself, herself, or persons including himself or herself, regardless of whether
5 the person actually obtains such a loan.

6 **2.4 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
7 Allegations set forth in Section I above, Respondent Hinckley is in apparent violation of RCW
8 19.146.200 for engaging in the business of a loan originator without first obtaining and maintaining a
9 license under the Act. Based on the Factual Allegations set forth in Section I above, Respondent
10 Mortgage Cafe is in apparent violation of RCW 19.146.200 and WAC 208-660-155 for utilizing the
11 services of an unlicensed loan originator to assist borrowers with applying for and obtaining
12 residential mortgage loans.

13 **2.5 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
14 are in apparent violation of RCW 19.146.0201(2) and (7) for engaging in an unfair or deceptive
15 practice toward any person, and making in any manner, any false or deceptive statement or
16 representation with regard to the rates, points, or other financing terms or conditions for a residential
17 mortgage loan or engaging in bait and switch advertising.

18 III. AUTHORITY TO IMPOSE SANCTIONS

19 **3.1 Authority to Issue an Order to Cease and Desist or Take Affirmative Action.** Pursuant to
20 RCW 19.146.220(3), the Director may issue orders directing a licensee, its employee, loan originator,
21 independent contractor, agent, or other person subject to the Act to cease and desist from conducting
22 business or take such other affirmative action as is necessary to comply with this chapter.

1 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
2 against a licensee, employees, independent contractors, agents of licensees, or other persons subject
3 to the Act for any violation of the Act.

4 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
5 520(9) and (11), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per
6 hour for an examiner's time devoted to an investigation.

7 **3.4 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,
11 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
12 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and
13 RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

- 14 **4.1** Respondents Mortgage Cafe NW, LLC and Adrian Hinckley cease and desist from
15 engaging in unlicensed activity.
- 16 **4.2** Respondents Mortgage Cafe NW, LLC and Adrian Hinckley jointly and severally pay
17 a fine. As of the date of this Statement of Charges, the fine totals \$10,000.
- 18 **4.3** Respondents Mortgage Cafe NW, LLC and Adrian Hinckley jointly and severally pay
19 an investigation fee. As of the date of this Statement of Charges, the investigation fee
20 totals \$600.
- 21 **4.4** Respondents Mortgage Cafe NW, LLC and Adrian Hinckley pay the Department's
22 costs and expenses for prosecuting violations of the Act in an amount to be determined
23 at hearing or by declaration with supporting documentation in the event of default by
24 Respondents.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
3 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter
4 34.05 RCW (the Administrative Procedure Act). Respondents may make a written request for a
5 hearing as set forth in the NOTICE OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND
6 TO DEFEND accompanying this Statement of Charges.

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8 Dated this 24th day of August, 2022.



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

16 Presented by:

17 /s/ _____
18 KENNETH J. SUGIMOTO
19 Financial Legal Examiner Supervisor

20 Approved by:

21 /s/ _____
22 JACK McCLELLAN
23 Enforcement Chief