

Terms Completed

ORDER SUMMARY – Case Number: C-07-557

Name(s): WMC Mortgage Corp

Order Number: C-07-557-09-CO02

Effective Date: July 21, 2009

License Number: DFI: 18415
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.

License Effect: Not apply for 18 mths.

Not Apply Until: January 18, 2011

Not Eligible Until: _____

Prohibition/Ban Until: January 18, 2011

Investigation Costs	\$22,966.22	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 7.21.09
Fine	\$31,336.50	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 7.21.09
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
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Restitution of \$5,163.50 has already been paid by the Respondent to borrowers.

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2 **STATE OF WASHINGTON**
3 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
4 **DIVISION OF CONSUMER SERVICES**

5 **IN THE MATTER OF DETERMINING**
6 Whether there has been a violation of the
7 Consumer Loan Act of Washington by:

NO. C-07-557-09-CO02

8 **WMC MORTGAGE CORP.,**
9 **AMY C. BRANDT, Principal Owner, President and**
10 **CEO,**
11 **MARK E. WALTER, Principal Owner and**
12 **Executive Vice President, and**
13 **MARC E. BECKER, Principal Owner and Director,**

CONSENT ORDER

WMC MORTGAGE CORP.

Respondents.

14 COMES NOW the Director of the Department of Financial Institutions (Director), through his designee
15 Deborah Bortner, Division Director, Division of Consumer Services, and WMC Mortgage, LLC, successor to
16 WMC Mortgage Corp. (hereinafter Respondent WMC), and finding that the issues raised in the captioned matter
17 may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered
18 pursuant to chapter 31.04 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative
19 Procedure Act, based on the following:

20 **AGREEMENT AND ORDER**

21 The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent
22 WMC have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-557-08-
23 SC01 (Statement of Charges), entered June 4, 2008 (copy attached hereto). Pursuant to chapter 31.04 RCW, the
24 Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent WMC hereby
25 agrees to the Department's entry of this Consent Order and further agrees 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 Respondent WMC does not admit any

1 wrongdoing by its entry. Respondent WMC is agreeing not to contest the Statement of Charges in consideration of
2 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 of the
5 activities discussed herein.

6 **B. Waiver of Hearing.** It is AGREED that Respondent WMC has been informed of the right to a hearing
7 before an administrative law judge, and that it has waived its right to a hearing and any and all administrative and
8 judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent
9 WMC agrees to withdraw its appeal and to inform the Office of Administrative Hearings in writing of its
10 withdrawal.

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

13 **D. Fine.** It is AGREED that Respondent WMC shall pay to the Department a fine of \$31,336.50, in the
14 form of a check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

15 **E. Application for License.** It is AGREED that Respondent WMC will not apply for a license to
16 conduct business as a mortgage broker or consumer lender in the State of Washington for eighteen (18) months
17 from the date of entry of this Consent Order.

18 **F. Restitution.** It is AGREED that Respondent WMC paid \$5,163.50 in restitution to the following
19 borrowers:

	\$81
	\$945
	\$2,600
	<u>\$1,537.50</u>

22 Total Restitution **\$5,163.50**

23
24 Payment was made to each individual borrower in the form of a check and mailed to the borrower. Each check has
25 been cashed. Respondent provided the Department with a copy of each payment check.

1 **G. Investigation Fee.** It is AGREED that Respondent WMC shall pay to the Department an investigation
2 fee of \$22,966.22, in the form of a check made payable to the "Washington State Treasurer," upon entry of this
3 Consent Order.

4 **H. Authority to Execute Order.** It is AGREED that the undersigned Respondent WMC has represented
5 and warranted it has the full power and right to execute this Consent Order on behalf of the parties represented.

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

10 **J. Voluntarily Entered.** It is AGREED that the undersigned Respondent WMC has voluntarily entered
11 into this Consent Order, which is effective when signed by the Director's designee.

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

14 **RESPONDENT:**

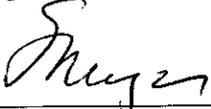
15 **WMC Mortgage, LLC.**

16 By:

17 
18 _____
19 WMC Mortgage, LLC

20 7/10/09
21 Date

22 Approved as to form:

23 
24 _____
25 Stephen M. Rummage, WSBA No. 11168
26 Davis Wright Tremaine LLP
27 Attorney for Respondents

28 7/15/09
29 Date

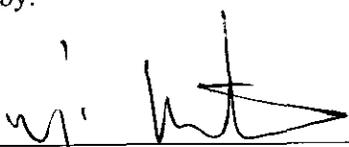
30 **DO NOT WRITE BELOW THIS LINE**

1 THIS ORDER ENTERED THIS 21st DAY OF July, 2009.

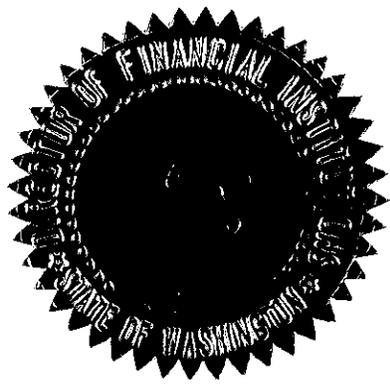
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4 DEBORAH BORTNER
5 Director
6 Division of Consumer Services
7 Department of Financial Institutions

8 Presented by:

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10 WILLIAM HALSTEAD
11 Financial Legal Examiner



12 Approved by:

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14 JAMES R. BRUSSELBACK
15 Enforcement Chief

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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
Consumer Loan Act of Washington by:

WMC MORTGAGE CORP.,
AMY C. BRANDT, Principal Owner, President
and CEO,
MARK E. WALTER, Principal Owner and
Executive Vice President, and
MARC E. BECKER, Principal Owner and
Director,

Respondents.

NO. C-07-557-08-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO ENTER AN ORDER TO
REVOKE LICENSE, PROHIBIT FROM
INDUSTRY, IMPOSE FINE, ORDER
RESTITUTION AND COLLECT
INVESTIGATION FEE

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, the Director, through his designee Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Respondent WMC Mortgage Corp. (WMC) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a consumer lender on March 20, 2001, under license # 520-CL-18415. On October 6, 2006, Respondent WMC voluntarily surrendered its consumer loan license to the Department and started lending as a wholly owned subsidiary of GE Bank.

B. Respondent Amy C. Brandt (Brandt) is President, CEO and a Principal Owner of Respondent WMC Mortgage Corp.

C. Respondent Mark E. Walter (Walter) is Executive Vice President and a Principal Owner of

1 Respondent WMC Mortgage Corp.

2 **D. Respondent Marc E. Becker (Becker)** is Director and a Principal Owner of Respondent
3 WMC Mortgage Corp.

4 **1.2 Investigation.** In November, 2007, the Department conducted an on-site examination of another
5 licensee who had purchased loans from Respondent WMC. The Department inspected loan documents
6 covering the time prior and up to October 6, 2006. There were 86 files reviewed by the Department for the
7 purposes of this investigation. As a result of the investigation, the Department discovered violations of the Act.

8 **1.3 Disclosures to Borrowers.** The Department discovered 76 loan files in which Respondent WMC did
9 not provide the borrowers the initial Good Faith Estimate or the Annual Percentage Rate (APR) and the
10 existence of a prepayment penalty within three days receipt of the borrowers' applications.

11 **1.4 Deceptive and Unfair Practices.**

12 **A.** Respondent WMC originated loans that were closed without providing the borrowers a copy
13 of the Final HUD1/HUD1A Settlement Statement at the time of settlement. The Department
14 discovered 74 loan files in which the borrowers were requested, by Respondent WMC, to sign
15 a "Waiver of Borrower(s) Right to Receive Hud1-1 at Settlement" form at closing. All of the
16 borrowers signed the waivers. Without the HUD1/HUD1A, borrowers did not have the
17 charges and fees information and would not be able to make a rescission determination.

18 **B.** In addition, in 28 of the 74 loans previously mentioned, Respondent WMC printed out and
19 disclosed to borrowers the Notice of the Right to Cancel on the day after their right to cancel
20 the loan had expired. This practice did not allow the borrowers to exercise their right of
21 rescission.

22 **C. Loan # [REDACTED] - Inaccurate dates.** Respondent WMC originated loan # [REDACTED] with
23 incorrect dates on the Note, Notice of Right to Cancel, Final Truth-in-Lending Statement and
24 RESPA servicing disclosure. All of the documents indicate the transaction occurred in
25 January 2005, but all of the other documents affiliated with the loan indicate the transaction

1 occurred in January 2006.

2 **D. Loan # [REDACTED] – Inaccurate Settlement Statement.** Respondent WMC did not provide
3 the borrower in loan # [REDACTED] an accurate final HUD1 Settlement Statement. The error on
4 loan # [REDACTED] occurred when a courier fee was deleted from the dollar amount line of 1304
5 of the final HUD1 Settlement Statement, and the Total Settlement Charges on line 1400 was
6 not recalculated. The total on line 1400 states \$7,902.24, but should state \$7,821.24. The
7 borrower was shorted the difference of \$81.00.

8 **1.5 Use of Unlicensed or Unregistered Mortgage Broker.** Respondent WMC originated a loan brokered
9 by EMT Consulting d/b/a MTM Mortgage at 1595 Northwest Gilman Boulevard, Suite 6, Issaquah,
10 Washington, an unregistered and unlicensed entity under the Mortgage Broker Practices Act.

11 **1.6 Non-Disclosure of Yield Spread Premium (YSP).** The Department discovered ten loans in which
12 Respondent WMC received payments to the mortgage broker from the lender (YSP) that had not been
13 previously disclosed to the borrowers on their GFE by Respondent WMC.

14 **1.7 Incorrect Finance Charges.** Respondent WMC did not disclose the correct amount of the finance
15 charges on loans [REDACTED] and [REDACTED]. Respondent WMC had understated amounts relating to payments
16 made to the escrow company for document preparation fees and settlement fees. As a result, the Truth-in-
17 Lending statement for the two loans was understated by more than \$100.

18 **1.8 Inaccurate Annual Percentage Rate (APR) Disclosure.** Respondent WMC did not correctly disclose
19 the amount of finance charges to the borrower of loan # [REDACTED]. Respondent WMC disclosed an APR of
20 11.0960% to the borrower when the actual APR was 11.4141%. The difference between the two rates is
21 beyond the allowed 1/8 of 1 percent deviation rate pursuant to Regulation Z, 12 C.F.R., Section 226.22(a)(2)
22 (2004) of the Truth in Lending Act.

23 **1.9 Servicing Disclosure Statements.** Respondent WMC did not provide servicing disclosure statements
24 to 40 different borrowers at the time they submitted an application or within 3 business days after submitting an
25 application.

1 **1.10 No Adjustable Rate Disclosures.** Respondent WMC did not provide adjustable rate disclosures at the
2 time of application or within 3 business days of an application for an adjustable rate loan on 39 different loans.

3 **1.11 Broker Fees Incorrectly Disclosed on GFE and HUD1/1A Settlement Statements.** Respondent
4 WMC used line 801 of the GFE and HUD1/1A Settlement Statement to record mortgage broker fees on eight
5 loans. Line 801 is to be used to record the fees a Lender may charge for processing or originating a loan.

6 **1.12 Ongoing Investigation.** The Department's investigation into the alleged violations of the Act by
7 Respondents continues to date.

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

9 **2.1 Deceptive and Unfair Practices.** Based upon the Factual Allegations set forth in Section I above, the
10 Respondents are in apparent violation of RCW 31.04.027(1),(2), and (3) for directly or indirectly employing
11 any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to
12 defraud or mislead any person, for directly or indirectly engaging in any unfair or deceptive practice toward any
13 person, and for directly or indirectly obtaining property by fraud or misrepresentation.

14 **2.2 Disclosures.** Based on the Factual Allegations set for in Section I above, Respondents are in apparent
15 violation of RCW 31.04.027(6) and (1), RCW 31.04.102(2) and (3), WAC 208-620-505, WAC 208-620-510,
16 Regulation X, 24 C.F.R. Sec. 3500.7(a)(b), 3500.10, and 3500.21(b)(1) (2005), Regulation Z, 12 C.F.R. Sec.
17 226.5b and 226.19(b) (2005), for understating finance charges, failing to provide initial variable rate disclosures
18 for adjustable rate mortgage loans, for listing broker fees as origination fees in the Good Faith Estimate and
19 HUD-1, for failing to timely disclose the Good Faith Estimate, Annual Percentage Rate (APR) and prepayment
20 penalty, and for failing to timely disclose the Yield Spread Premium.

21 **2.3 Unlicensed Activity.** Based upon the Factual Allegations set forth in Section I above, Respondents are
22 in apparent violation of WAC 208-620-170 for failing to ensure that persons or companies making loans on
23 behalf of Respondent WMC were authorized to do business in the State of Washington.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(a) and (b) and WAC 208-620-570, the
3 Director may revoke a license if a licensee violates any provision of the Act or any rule adopted under the Act.

4 **3.2 Authority to Prohibit from Industry:** Pursuant to RCW 31.04.093(6)(d), the Director may issue an
5 order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer,
6 principal, employee, or loan originator, or any person subject to the Act, for any violation of RCW 31.04.027.

7 **3.3 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4) and (8), the Director may impose fines of up
8 to one hundred dollars per day upon the licensee, its employee, or any other person subject to the Act for any
9 violation of the Act or failure to comply with any order under the Act.

10 **3.4 Authority to Order Restitution:** Pursuant to RCW 31.04.093(5)(c), the Director may issue orders
11 directing a licensee, its employee or loan originator, or other person subject to the Act to make restitution to a
12 borrower or other person who is damaged as a result of a violation of this chapter.

13 **3.5 Authority to Collect Investigation Fee:** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
14 every licensee investigated by the Director or the Director's designee shall pay for the cost of the investigation,
15 calculated at the rate of sixty-nine dollars and once cent (\$69.01) per staff hour devoted to the investigation.

16 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

- 21 a. Respondent WMC's license to conduct the business of a Consumer Loan Company be revoked;
- 22 b. Respondents WMC, Mark E. Walter, Marc E. Becker and Amy C. Brandt, be prohibited from
23 participation in the conduct of the affairs of any licensed consumer loan company, in any manner,
24 for a period of five years;
- 25 c. Respondents WMC, Mark E. Walter, Marc E. Becker and Amy C. Brandt, jointly and severally
pay a fine which as of the date of these charges totals \$36,500;

- d. Respondents WMC, Mark E. Walter, Marc E. Becker and Amy C. Brandt, jointly and severally refund all monetary fees paid or incurred by the borrowers affiliated with the violations outlined herein;
- e. Respondents WMC, Mark E. Walter, Marc E. Becker and Amy C. Brandt, jointly and severally pay an investigation fee which as of the date of these charges totals \$19,322.80 calculated at \$69.01 per hour for 280 staff hours devoted to the investigation;
- f. Respondent WMC maintain records in compliance with the Act and provide the Director with the location of the books, records, and other information relating to Respondent WMC's consumer loan company business, and the name, address, and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (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 is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 4th day of June, 2008.


 DEBORAH BORTNER
 Director
 Division of Consumer Services
 Department of Financial Institutions

Presented by:


 WILLIAM HALSTEAD
 Financial Legal Examiner

Approved by:


 JAMES R. BRUSSELBACK
 Enforcement Chief

