

Terms Completed

ORDER SUMMARY – Case Number: C-08-086

Name(s): Pacific International Mortgage Inc;
 Nils Michael Gerhold

Order Number: C-08-086-09-CO01

Effective Date: March 24, 2009

License Number: DFI: 25770 [NMLS: 2912] -Pacific
 DFI: 45973, 37221 [NMLS: 86176] -Gerhold

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: n/a

Not Apply Until: n/a

Not Eligible Until:

Prohibition/Ban Until: n/a

Investigation Costs	\$1,008	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 3.13.09
Fine	\$8,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 3.13.09
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$11,752.23	Due	Paid <input checked="" 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 paid to consumers per restitution schedule (completed prior to entry of CO)

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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
Mortgage Broker Practices Act of Washington by:

NO. C-08-086-09-CO01

PACIFIC INTERNATIONAL MORTGAGE INC,
and NILS GERHOLD, Designated Broker, and
PAUL FRANKLIN, Loan Originator,

CONSENT ORDER
PACIFIC INTERNATIONAL MORTGAGE INC
and NILS GERHOLD

Respondents.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Pacific International Mortgage Inc, (Respondent Pacific), and Nils Gerhold, Designated Broker (Respondent Gerhold), and finding that the issues raised in the 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 Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

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AGREEMENT AND ORDER

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The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents Pacific and Gerhold (hereinafter collectively referred to as Respondents) have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-086-08-SC01 (Statement of Charges), entered January 26, 2009, (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.

CONSENT ORDER
C-08-086-09-CO01
PACIFIC INTERNATIONAL MORTGAGE INC,
NILS GERHOLD

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

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Based upon the foregoing:

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

B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing before an administrative law judge, and that they hereby waive their right to a hearing and any and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

Accordingly, Respondents agree to withdraw their appeal and to inform the Office of Administrative Hearings in writing of their withdrawal.

C. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$8,000, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

D. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee of \$1,008, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

E. **Restitution.** It is AGREED that prior to the entry of this Consent Order, Respondent Pacific paid restitution to the consumers identified in the attached Restitution Schedule. Such payments were made in the form of a check and were sent to borrowers' last known address via the United States mail. Respondent Pacific included a letter with each check notifying the borrower that the check was a refund and that the borrower had 30 days to cash the check or the refund amount would be provided to the State Department of Revenue as unclaimed property. Respondent Pacific provided the Department with a signed affidavit attesting to mailing the checks, and a copy of the checks mailed (each with the accompanying explanatory cover letter). All checks that were not returned as undeliverable, but were not cashed within 30 days of mailing, were immediately turned over to the State Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property. A list of such checks was provided to the Department. Further, Respondent Pacific notified the

1 Department of all checks that were returned as undeliverable and the Department attempted to locate a current
2 address. Upon notification by the Department that no new address was available, Respondent Pacific
3 immediately sent the refund amounts to the State Department of Revenue, pursuant to Department of Revenue
4 procedures, as unclaimed property.

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

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

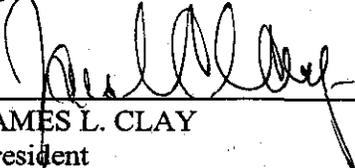
12 **H. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered
13 into this Consent Order, which is effective when signed by the Director's designee.

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

16 **RESPONDENTS:**

17 **Pacific International Mortgage Inc.**

18 By:

19 
20 _____
21 JAMES L. CLAY
22 President

2/18/09
Date

21 
22 _____
23 NILS GERHOLD
24 Individually

2/18/09
Date

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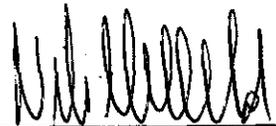
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18 By:

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20 JAMES L. CLAY
21 President

Date

21 
22 _____
23 NILS GERHOLD
24 Individually

Date

2/18/09

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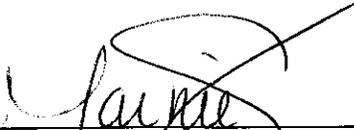
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THIS ORDER ENTERED THIS 27th DAY OF March, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



MARNIE SHEERAN
Financial Legal Examiner



Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief

Restitution Schedule- Pacific International Mortgage et all.

Name	Closing Date (on or about)	Refund Amount
G.B.	12/28/2007	\$5,480.55
E.H.	11/28/2007	\$3,240
J.L.	12/4/2007	\$3,031.68

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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
Mortgage Broker Practices Act of Washington by:

PACIFIC INTERNATIONAL MORTGAGE
INC, and NILS GERHOLD, Designated Broker,
and PAUL FRANKLIN, Loan Originator,

Respondents.

NO. C-08-086-08-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO SUSPEND MORTGAGE BROKER
LICENSE and LOAN ORIGINATOR LICENSE,
PROHIBIT FROM INDUSTRY, IMPOSE FINE,
ORDER RESTITUTION, AND COLLECT
INVESTIGATION FEE

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)¹. After having conducted an investigation pursuant to RCW 19.146.210 and 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 Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Pacific International Mortgage (Respondent Pacific) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on December 29, 2003, and continues to be licensed to date. Respondent Pacific is licensed to conduct the business of a mortgage broker at 5808 Lake Washington Blvd, Suite 101, Kirkland, Washington. Respondent Pacific closed its branch office at 4700 42nd SW, Seattle, Washington on or about June 26, 2007.

¹ RCW 19.146 (2007)

1 B. Nils Gerhold (Respondent Gerhold) became the Designated Broker of Respondent Pacific on or
2 about September 24, 2007 and continues as the Designated Broker to date.

3 C. Paul Franklin (Respondent Franklin) acted as a loan originator for Respondent Pacific between at
4 least January 2007 and December 2007.

5 **1.2 Unlicensed Activity.** Respondent Franklin conducted the business of a loan originator at Respondent
6 Pacific's office located in Kirkland, Washington, from at least January 2007 through December 2007. To date,
7 the Department has not issued a license to Respondent Franklin to conduct the business of a loan originator
8 from any location.

9 **1.3** Between January 2007 and December 2007, Respondent Franklin assisted at least three (3) borrowers in
10 applying to obtain or obtaining residential mortgage loans on property located in the State of Washington from
11 Respondent Pacific's office.

12 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
13 Respondents continues to date.

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

15 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
16 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
17 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
18 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
19 person in obtaining or applying to obtain a residential mortgage loan.

20 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006, "Loan
21 Originator" means a natural person who (a) takes a residential mortgage loan application for a mortgage broker,
22 or (b) offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in
23 expectation of direct or indirect compensation or gain. "Loan Originator" also includes a person who holds
24 themselves out to the public as able to perform any of these activities.

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

5 **2.4 Requirement to Obtain or Maintain Loan Originator License.** Based on the Factual Allegations set
6 forth in Section I above, Respondent Franklin is in apparent violation of RCW 19.146.0201(2) and (3), RCW
7 19.146.200(1), and WAC 208-660-350(3) for engaging in the business of a loan originator without first
8 obtaining and maintaining a license under the Act.

9 **2.5 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC 208-660-
10 155(3), a licensed mortgage broker is liable for any conduct violating the Act by the designated broker or loan
11 originator employed or engaged by the licensed mortgage broker. Pursuant to RCW 19.146.200(4)(a) and (b), a
12 designated broker or principal of a licensed mortgage broker is liable for an employee's violations of the act if
13 the designated broker or principal directs or instructs the conduct or with knowledge of the specific conduct
14 approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry should have known
15 of the conduct at the time when its consequences can be avoided or mitigated and fails to take reasonable
16 remedial action.

17 **2.6 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
18 apparent violation of RCW 19.146.0201(1) and (2) for directly or indirectly employing a scheme, device or
19 artifice to defraud or mislead borrowers or lenders or any person or engaging in an unfair or deceptive practice
20 toward any person.

21 III. AUTHORITY TO IMPOSE SANCTIONS

22 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2)(b),(d), and (e), the Director may
23 suspend a license for any violation of chapter 19.146 RCW.

24 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a),(b) and (d), the Director
25 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a

1 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
2 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
3 (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,
4 false statements or omission of material information on the application that, if known, would have allowed the
5 Director to deny the application for the original license, or failure to comply with a directive or order of the
6 Director.

7 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(b),(d) and (e) and RCW 19.146.220(3) (a)
8 and (b), the Director may impose fines on a licensee, employee or loan originator of the licensee, or other
9 person subject to the Act for any violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030
10 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), RCW 19.146.265, failure to comply with a
11 directive or order of the Director or any violation of Chapter 19.146 RCW..

12 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(b),(d) and (e), the Director may issue
13 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution.

14 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(5),
15 upon completion of any investigation of the books and records of a licensee or other person subject to the Act,
16 the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the
17 investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per hour that
18 each staff person devoted to the investigation.

19 IV. NOTICE OF INTENTION TO ENTER ORDER

20 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
21 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
22 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223.

23 Therefore, it is the Director's intention to ORDER that:

24 **4.1** Respondent Pacific International Mortgage's license to conduct the business of a mortgage broker be
25 suspended; and

- 1 4.2 Respondent Nils Gerhold's license to conduct the business of a loan originator and designated broker be
2 suspended; and
- 3 4.3 Respondent Paul Franklin be prohibited from participation in the conduct of the affairs of any mortgage
4 broker subject to licensure by the Director, in any manner, for a period of (5) years; and
- 5 4.4 Respondent Pacific International Mortgage, Respondent Nils Gerhold, Respondent Paul Franklin jointly
6 and severally pay a fine, which as of the date of these charges totals \$11,250; and
- 7 4.5 Respondent Pacific International Mortgage, Respondent Nils Gerhold, Respondent Paul Franklin jointly
8 and severally refund all fees that inured to Respondents' benefit to the borrowers referenced in paragraphs
9 1.2 through 1.3; and
- 10 4.6 Respondent Pacific International Mortgage, Respondent Nils Gerhold, Respondent Paul Franklin jointly
11 and severally pay an investigation fee in the amount of \$1,008 calculated at \$48 per hour for the twenty-
12 one (21) staff hours, as of the date of this Statement of Charges, devoted to the investigation; and
- 13 4.7 Respondents maintain records in compliance with the Act and provide the Department with the location of
14 the books, records and other information relating to Respondent Pacific's mortgage broker business, and
15 the name, address and telephone number of the individual responsible for maintenance of such records in
16 compliance with the Act.
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V. AUTHORITY AND PROCEDURE

This Statement of Charges is rendered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, 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 20th day of January, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



MARNIE SHEFRAN
Financial Legal Examiner



Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief