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OCT 20 2010

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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-09-192-10-CO01

US ADVOCATE LAW GROUP, P.C., and
JEFFREY ALAN NEMEROFSKY, President,

CONSENT ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, US Advocate Law Group, P.C. (hereinafter Respondent US Advocate Law Group), and Jeffrey Alan Nemerofsky, President, (hereinafter Respondent Nemerofsky), 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 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-09-192-09-SC01 (Statement of Charges), entered September 8, 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 and agree that Respondents neither admit nor deny any wrongdoing by its entry.

CONSENT ORDER
C-09-192-10-CO01
US Advocate Law Group, P.C. and Jeffrey Alan
Nemerofsky

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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

1 Based upon the foregoing:

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

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

9 C. **No Admission of Liability.** The parties intend this Consent Order to fully resolve the Statement of
10 Charges and Temporary Order to Cease and Desist and agree that Respondents neither admit nor deny any
11 wrongdoing by its entry.

12 D. **Cease and Desist.** It is AGREED that Respondents cease and desist offering loan modification
13 services or otherwise conducting the business of a mortgage broker or loan originator in the State of Washington
14 until such time as Respondents obtain the appropriate license from the Department of Financial Institutions.

15 E. **Prohibition from Industry.** It is AGREED that Respondent US Advocate Law Group is prohibited
16 from participating in the conduct of the affairs of any person subject to licensure or regulation by the Department
17 under the Mortgage Broker Practices Act (chapter 19.146 RCW), Consumer Loan Act (chapter 31.04 RCW),
18 Check Cashers and Sellers Act (chapter 31.45 RCW), Escrow Agent Registration Act (chapter 18.44 RCW), or
19 Uniform Money Services Act (chapter 19.230 RCW) for five (5) years from the date of entry of this Consent
20 Order.

21 F. **Agreement Not to Apply.** It is AGREED that Respondent Nemerofsky shall not apply under any
22 name for any license issued by the Department under the Mortgage Broker Practices Act (chapter 19.146 RCW),
23 Consumer Loan Act (chapter 31.04 RCW), Check Cashers and Sellers Act (chapter 31.45 RCW), Escrow Agent
24

25

1 Registration Act (chapter 18.44 RCW), or Uniform Money Services Act (chapter 19.230 RCW) for a period of ten
2 (10) years from the date of entry of this Consent Order.

3 G. **Restitution.** It is AGREED that Respondents have paid restitution to eighteen (18) borrowers.

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

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

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

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

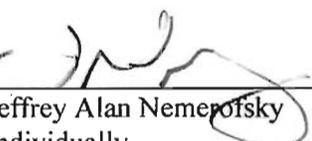
15 **RESPONDENTS:**

16 **U.S. Advocate Law Group, P.C.**

17 By:

18 
19 Jeffrey Alan Nemerofsky
President

Date

20 
21 Jeffrey Alan Nemerofsky
22 Individually

Date

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Robert Hatem

9/28/10

Robert Hatem, WSBA No.
Attorney at Law CA BAK 185554
Attorney for Respondents

Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 2 DAY OF November, 2010.



Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Robert E. Jones

ROBERT E. JONES
Financial Legal Examiner

Approved by:

James R. Brusselback

JAMES R. BRUSSELBACK
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
Mortgage Broker Practices Act of Washington by:

U.S. ADVOCATE LAW GROUP, P.C., and
JEFFREY ALAN NEMEROFSKY, President,

Respondents.

NO. C-09-192-09-SC01

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

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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 19.146.235, 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. **U.S. Advocate Law Group, P.C. (U.S. Advocate Law Group)** is a California corporation located at 28202 Cabot Rd. Ste. 650, Laguna Niguel, California 92677. Respondent U.S. Advocate Law Group has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions.

B. **Jeffrey Alan Nemerofsky (Nemerofsky)** is President of U.S. Advocate Law Group. Respondent Nemerofsky has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions.

¹ RCW 19.146 (2006)

1 **1.2 Unlicensed Activity.** Between at least January 13, 2009, and June 11, 2009, Respondent U.S.
2 Advocate Law Group assisted at least eighteen (18) borrowers in applying to obtain a loan modification on
3 property located in the State of Washington from the unlicensed location discussed in paragraph 1.1.
4 Respondent U.S. Advocate Law Group assisted at least three (3) of these borrowers in obtaining loan
5 modifications. The borrowers involved in these residential mortgage loans paid fees to Respondent U.S.
6 Advocate Law Group totaling at least \$9,185.00 as follows:

7	Borrower 1	\$ 2,995.00
8	Borrower 2	\$ 2,500.00
	Borrower 3	<u>\$ 3,690.00</u>
	Total	\$ 9,185.00

9 Additionally, other borrowers may have paid fees to Respondent U.S. Advocate Law Group.

10 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
11 Respondents continues to date.

12 II. GROUNDS FOR ENTRY OF ORDER

13 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
14 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
15 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
16 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
17 person in obtaining or applying to obtain a residential mortgage loan.

18 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006, means a
19 natural person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or
20 negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct
21 or indirect compensation or gain. "Loan originator" also includes a person who holds themselves out to the
22 public as able to perform any of these activities. "Loan originator" does not mean persons performing purely
23 administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or
24 clerical tasks" means the receipt, collection, and distribution of information common for the processing of a
25 loan in the mortgage industry and communication with a borrower to obtain information necessary for the

1 processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not
2 performing administrative or clerical tasks.

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

7 **2.4 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
8 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
9 broker without first obtaining and maintaining a license under the Act. Individuals negotiating residential
10 mortgage loan terms act as mortgage brokers or loan originators and must be licensed under the Act unless
11 specifically exempt from the Act.

12 **III. AUTHORITY TO IMPOSE SANCTIONS**

13 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the Director may
14 issue orders directing a licensee, its employee or loan originator, independent contractor, agent, or other person
15 subject to the Act to cease and desist from conducting business.

16 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2) and (3) and WAC 208-660-530, the
17 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to
18 the Act for any violations of RCW 19.146.200.

19 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may issue orders directing
20 a licensee or other person subject to the Act to pay restitution.

21 **3.4 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
22 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
23 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
24 or any person subject to licensing under the Act for any violation of RCW 19.146.200.

25

1 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(4) and
2 WAC 208-660-520(9), upon completion of any investigation of the books and records of a licensee or other person
3 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
4 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
5 hour that each staff person devoted to the investigation.

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

7 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
8 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
9 for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the
10 Director's intention to ORDER that:

- 11 **4.1** Respondents U.S. Advocate Law Group, P.C. and Jeffrey Alan Nemerofsky cease and desist offering loan
12 modification services or otherwise conducting the business of a mortgage broker or loan originator in the
13 **4.2** Respondents U.S. Advocate Law Group, P.C. and Jeffrey Alan Nemerofsky jointly and severally pay a fine
14 of \$12,000;
15 **4.3** Respondents U.S. Advocate Law Group, P.C. and Jeffrey Alan Nemerofsky jointly and severally pay
16 restitution as shown at hearing;
17 **4.4** Respondent U.S. Advocate Law Group, P.C. be prohibited from participation in the conduct of the affairs
18 of any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;
19 and
20 **4.5** Respondent Jeffrey Alan Nemerofsky be prohibited from participation in the conduct of the affairs of any
21 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years; and
22 **4.6** Respondents U.S. Advocate Law Group, P.C. and Jeffrey Alan Nemerofsky jointly and severally pay an
23 investigation fee in the amount of \$676.80 calculated at \$48.00 per hour for the fourteen point one (14.1)
24 staff hours devoted to the investigation; and
25 **4.7** Respondents maintain records in compliance with the Act and provide the Department with the location of
the books, records and other information relating to Respondent U.S. Advocate Law Group, P.C.'s
mortgage broker business, and the name, address and telephone number of the individual responsible for
maintenance of such records in compliance with the Act.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Impose Fine, Order Restitution, Prohibit from Industry and Collect Investigation Fee (Statement of Charges) is entered 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.

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Dated this 8th day of September, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



ROBERT E. JONES
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief