

Terms Completed

ORDER SUMMARY – Case Number: C-09-452

Name(s): Arboretum Mortgage Corp
Mark Edwin Simpson
Raymond Thomas Biggers
Gregory Steven Tontini

Order Number: C-09-452-11-CO01

Effective Date: August 18, 2011

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Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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

Not Eligible Until:

Prohibition/Ban Until:

Investigation Costs	\$3,744	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$7,500	Due	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
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:

RECEIVED

AUG 03 2011

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING:
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

No.: C-09-452-11-CO01

ARBORETUM MORTGAGE CORP, MARK
EDWIN SIMPSON, Co-Owner, President,
Designated Broker and Loan Originator,
RAYMOND THOMAS BIGGERS, Co-Owner,
Vice President, and Loan Originator, and
GREGORY STEVEN TONTINI, Loan
Originator,

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, and Arboretum
Mortgage Corp (Respondent Arboretum), Mark Edwin Simpson (Respondent Simpson), Raymond
Thomas Biggers (Respondent Biggers), and Gregory Steven Tontini (Respondent Tontini)
(collectively, Respondents), 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-09-452-10-SC01 (Statement of Charges), entered November 30, 2010, (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
C-09-452-11-FO01
ARBORETUM MORTGAGE CORP, MARK EDWIN
SIMPSON, RAYMOND THOMAS BIGGERS, and
GREGORY STEVEN TONTINI

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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 Consent Order and further agree that the issues raised in the above-captioned matter may be
2 economically and efficiently settled by entry of this Consent Order. The parties intend this Consent
3 Order to fully resolve the Statement of Charges.

4 Based upon the foregoing:

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

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

12 C. **Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
13 \$7,500, in the form of a cashier's check made payable to the "Washington State Treasurer," upon
14 entry of this Consent Order.

15 D. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
16 investigation fee of \$3,744, in the form of a cashier's check made payable to the "Washington State
17 Treasurer," upon entry of this Consent Order. The fine and investigation fee may be paid together in
18 one cashier's check made payable to the "Washington State Treasurer."

19 E. **Records Retention.** It is AGREED that Respondent Arboretum, its officers, employees,
20 and agents shall maintain records in compliance with the Act and provide the Director with the
21 location of the books, records and other information relating to Respondents' mortgage broker
22 business, and the name, address and telephone number of the individual responsible for maintenance
23 of such records in compliance with the Act.

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

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

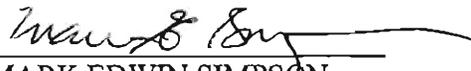
8 H. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
9 entered into this Consent Order, which is effective when signed by the Director's designee.

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

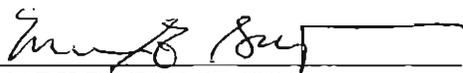
12 **RESPONDENTS:**

13 **Arboretum Mortgage Corp**

14 By:

15 
16 MARK EDWIN SIMPSON
Co-owner, President, Designated Broker

7/28/11
Date

17 
18 MARK EDWIN SIMPSON
Individually

7/28/11
Date

19 
20 RAYMOND THOMAS BIGGERS
21 Co-Owner, Vice President

7/28/11
Date

22 
23 RAYMOND THOMAS BIGGERS
Individually

7/28/11
Date

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Gregory Steven Tontini
GREGORY STEVEN TONTINI
Individually

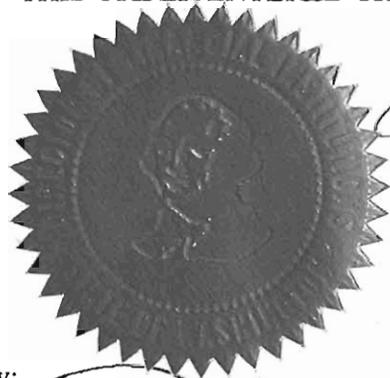
7/28/2011
Date

John Long
JOHN A. LONG, WSBA No.15119
John Long Law PLLC
Attorney for Respondents

7/29/2011
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 18th DAY OF August, 2011



Deborah Bortner
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:
Marnie Sheeran
MARNIE SHEERAN
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**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of
Washington by:

NO. C-09-452-10-SC01

ARBORETUM MORTGAGE CORP, MARK
EDWIN SIMPSON, Co-Owner, President,
Designated Broker, and Loan Originator,
RAYMOND THOMAS BIGGERS, Co-
Owner, Vice President and Loan Originator,
and GREGORY STEVEN TONTINI, Loan
Originator,

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

Respondents.

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. Arboretum Mortgage Corp (Respondent Arboretum) was licensed by the Department of
Financial Institutions of the State of Washington (Department) to conduct business as a mortgage
broker on or about January 4, 1995, and continues to be licensed to date. Respondent Arboretum was

¹ RCW 19.146 (2007)

1 licensed to conduct the business of a mortgage broker at its main office location of 601 Union Street,
2 Suite 610, Seattle, Washington².

3 B. Mark Edwin Simpson (Respondent Simpson) is co-owner, President, and Designated
4 Broker of Respondent Arbortem. Respondent Simpson has been the Designated Broker of
5 Respondent Arboretum since at least January 1, 1995. Respondent Simpson was licensed by the
6 Department as a loan originator on or about January 1, 2007, and continues to be licensed to date.

7 C. Raymond Thomas Biggers (Respondent Biggers) is co-owner and Vice President of
8 Respondent Arboretum. Respondent Biggers was licensed by the Department as a loan originator on
9 or about December 8, 2006, and continues to be licensed to date.

10 D. Gregory Steven Tontini (Respondent Tontini) is a loan originator for Respondent
11 Arboretum. Respondent Tontini was licensed by the Department as a loan originator on or about April
12 11, 2007, and continues to be licensed to date.

13
14 **1.2 Examination.** In or around July 2009, the Department conducted an examination of the books
15 and records of Respondents for transactions occurring during the period of June 30, 2007, through July
16 31, 2009. For purposes of this Statement of Charges, the Department found violations of the Act as
17 outlined below.

18 **1.3 Occupancy Fraud.** Between at least September 15, 2007, and November 16, 2007, Respondent
19 Biggers submitted residential mortgage loan or HELOC applications for at least one consumer for
20 primary residences on two different properties to two different lenders. The transaction on one of the
21 properties closed on or about October 31, 2007. The other transaction closed on or about November
22 13, 2007. Respondent Biggers submitted documents or made representations to the lenders in the
23

24
25 ² Respondent Arboretum also has a branch office in Kennewick, but the conduct alleged in this Statement of Charges occurred through the main office.

1 transactions that the properties were intended as owner-occupied or primary residences, when only one
2 of the properties was actually intended as the primary residence.

3 **1.4** Between at least June 22, 2007, and August 5, 2007, Respondent Simpson submitted residential
4 mortgage loan or HELOC applications for at least one consumer for primary residences on two
5 different properties to two different lenders. The transaction on one of the properties closed on or
6 about July 19, 2007. The other transaction closed on or about August 2, 2007. Respondent Simpson
7 submitted documents or made representations to the lenders in the transactions that the properties were
8 intended as owner-occupied or primary residences, when only one of the properties was actually
9 intended as the primary residence.

10 **1.5** Between at least January 1, 2008, and March 1, 2008, Respondent Simpson submitted residential
11 mortgage loan or HELOC applications for at least one consumer for primary residences on two
12 different properties for two different lenders. The transaction on one of the properties closed on or
13 about February 5, 2008. The other transaction closed on or about February 15, 2008. Respondent
14 Simpson submitted documents or made representations to the lenders in the transactions that the
15 properties were intended as owner-occupied or primary residences, when only one of the properties
16 was actually intended as the primary residence.

17 **1.6** Between at least January 28, 2008, and March 3, 2008, Respondent Tontini submitted residential
18 mortgage loan or Home Equity Line of Credit (HELOC) applications for at least one consumer for
19 primary residences on two different properties to two different lenders. The transaction on one of the
20 properties closed on or about February 22, 2008. The other transaction closed on or about February
21 27, 2008. Respondent Tontini submitted documents or made representations to the lenders in the
22 transactions that the properties were intended as owner-occupied or primary residences, when only one
23 of the properties was actually intended as the primary residence.
24
25

1 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the Act
2 by Respondents continues to date.

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

4 **2.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC
5 208-660-155(3), a licensed mortgage broker is liable for any conduct violating the Act by the
6 designated broker or loan originator employed or engaged by the licensed mortgage broker. Pursuant
7 to RCW 19.146.200(4)(a) and (b), a designated broker or principal of a licensed mortgage broker is
8 liable for an employee's violations of the act if the designated broker or principal directs or instructs
9 the conduct or with knowledge of the specific conduct approves or allows the conduct, or knows or by
10 the exercise of reasonable care and inquiry should have known of the conduct at the time when its
11 consequences can be avoided or mitigated and fails to take reasonable remedial action.

13 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,
14 Respondents are in apparent violation of RCW 19.146.0201(1), (2), (3), and (7) for providing false,
15 deceptive, or misleading information in application materials provided to a residential mortgage
16 lender.

17 **2.3 Record Keeping.** Based on the Factual Allegations set forth in Section I above, Respondents
18 are in apparent violation of RCW 19.146.060(2) for failing to maintain sufficient records to enable the
19 Director to determine whether the licensee is complying with the Mortgage Broker Practices Act. In
20 the alternative, Respondents are in apparent violation of RCW 19.146.235 for failing to comply with
21 the Director's investigatory authority by not fully and completely complying with the Department's
22 directives.
23

24 //

25 //

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License or Suspend.** Pursuant to RCW 19.146.220(2)(e), the Director
3 may revoke or suspend a license for failure to pay a fee required by the director, failure to comply with
4 any directive or order of the Director, or any violation of chapter 19.146 RCW.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director
6 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of
7 a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any
8 licensed mortgage broker or any person subject to licensing under the Act for any violation of RCW
9 19.146.0201(1) through (9) or (13), or failure to comply with a directive or order of the Director.

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

14 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e), the Director may issue
15 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay
16 restitution.
17

18 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
19 550(5), upon completion of any investigation of the books and records of a licensee or other person
20 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a
21 billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of
22 forty-eight dollars per hour that each staff person devoted to the investigation.
23

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

2 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
3 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
4 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW
5 19.146.221 and RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:
6

- 7 **4.1** Respondent Arboretum Mortgage Corp's license to conduct the business of a mortgage broker
8 be revoked or suspended; and
- 9 **4.2** Respondents Mark Edwin Simpson, Raymond Thomas Biggers, and Greg Steven Tontini's
10 license to conduct the business of a loan originator be revoked or suspended; and
- 11 **4.3** Respondents Arboretum Mortgage Corp, Mark Edwin Simpson, Raymond Thomas Biggers, and
12 Greg Steven Tontini be prohibited from participation in the conduct of the affairs of any
13 mortgage broker subject to licensure by the Director, in any manner, for a period of five years;
14 and
- 15 **4.4** Respondents Arboretum Mortgage Corp, Mark Edwin Simpson, Raymond Thomas Biggers, and
16 Greg Steven Tontini jointly and severally pay a fine, which as of the date of these charges totals
17 \$12,000; and
- 18 **4.5** Respondents Arboretum Mortgage Corp, Mark Edwin Simpson, Raymond Thomas Biggers, and
19 Greg Steven Tontini jointly and severally refund all fees that inured to Respondents' benefit to
20 the borrowers referenced in paragraphs 1.3 through 1.6 and
- 21 **4.6** Respondents Arboretum Mortgage Corp, Mark Edwin Simpson, Raymond Thomas Biggers, and
22 Greg Steven Tontini jointly and severally pay an investigation fee in the amount of \$2,496
23 calculated at \$48 per hour for the fifty-two staff hours, as of the date of these charges, devoted to
24 the investigation; and
- 25 **4.7** Respondents Arboretum Mortgage Corp, Mark Edwin Simpson, Raymond Thomas Biggers, and
Greg Steven Tontini maintain records in compliance with the Act and provide the Department
with the location of the books, records and other information relating to Respondent Arboretum
Mortgage Corp'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.

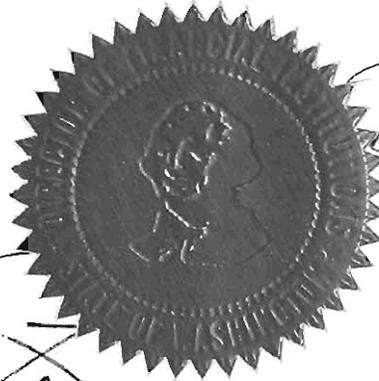
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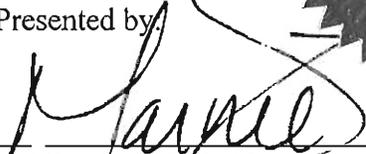
1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220,
3 RCW 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 TO DEFEND AND OPPORTUNITY FOR
6 HEARING accompanying this Statement of Charges.

7 Dated this 30th day of November, 2010.



9 
10 _____
11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by
16 
17 _____
18 MARNIE SHEERAN
19 Financial Legal Examiner

20 Approved by:
21 
22 _____
23 JAMES R. BRUSSELBACK
24 Enforcement Chief
25