

Terms Completed

CONSENT ORDER SUMMARY – Case Number: C-10-097

Name(s): Bank Modification Experts
Brian W. Pascal

Order Number: C-10-097-11-CO01

Effective Date: March 16, 2011

License Number: _____

License Effect: N/A

Not Apply Until: March 16, 2019

Prohibition/Ban Until: March 16, 2019

Investigation Costs	\$864	Due	Paid: Yes	Date: 3/14/11
Fine	\$	Due	Paid Y N	Date
Assessment(s)	\$	Due	Paid Y N	Date
Restitution	\$	Due	Paid Y N	Date
	No. of Victims:			

Other: _____

Special Instructions: _____

RECEIVED

MAR 14 2011

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-10-097-11-CO01

CONSENT ORDER

BANK MODIFICATION EXPERTS AND
BRIAN W PASCAL, Owner,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Bank Modification Experts and Brian W. Pascal, Owner (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-10-097-10-SC01 (Statement of Charges), entered May 27, 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 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-10-097-11-CO01
BANK MODIFICATION EXPERTS and BRIAN W PASCAL

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902.8703

1 Based on the Foregoing:

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

4 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
5 hearing before an administrative law judge, and 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
7 herein. Accordingly, Respondents, by their signatures below, withdraw their appeal to the Office of
8 Administrative Hearings.

9 C. **Cease and Desist.** It is AGREED that Respondents have ceased offering loan
10 modification services or otherwise conducting the business of a mortgage broker or loan originator in
11 the state of Washington or in regards to property located in the state of Washington.

12 D. **Prohibition from Industry.** It is AGREED that Respondents are prohibited from
13 participating, in any manner or capacity, in the conduct of the affairs of any mortgage broker or
14 consumer lender licensed by the Department or any person subject to licensure or regulation by the
15 Department under chapter 19.146 RCW and chapter 31.04 RCW, under any name for a period of
16 eight (8) years from the date of entry of this Consent Order.

17 E. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
18 investigation fee of \$864, in the form of a cashier's check made payable to the "Washington State
19 Treasurer," prior to entry of this Consent Order.

20 F. **Records Retention.** It is AGREED that Respondents shall maintain all records in
21 compliance with the Act and provide the Department with the location of the books, records, and
22 other information relating to Respondents' business, and the name, address, and telephone number of
23 the individual responsible for maintenance of such records in compliance with the Act.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 16th DAY OF March, 2011



[Redacted signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted signature]

MARNIE SHEERAN
Financial Legal Examiner

Approved by:

[Redacted signature]

JAMES R. BRUSSELBACK
Enforcement Chief

1
2
3
4
5
6
7
8
9

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

NO. C-10-097-10-SC01

BANK MODIFICATION EXPERTS, and
BRIAN W. PASCAL, Owner,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST, 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). 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. **Bank Modification Experts (Respondent Bank Modification Experts)** is located at 24005 Ventura Blvd, Suite 100, Calabasas, California, 91302. Respondent Bank Modification Experts has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions (Department).

B. **Brian W. Pascal (Respondent Pascal)** is an owner of Respondent Bank Modification Experts. Respondent Pascal has never been licensed to conduct the business of a Mortgage Broker or Loan Originator by the Department.

1 **1.2 Unlicensed Activity.** Between at least April 2009 and the date of this Statement of Charges,
2 Respondents held themselves out as able to assist at least two consumers in applying to obtain a loan
3 modification on property located in the state of Washington.

4 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
5 Respondents continues to date.

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

7 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14), "Mortgage Broker" means any
8 person who for compensation or gain, or in the expectation of compensation or gain (a) assists a person in
9 obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to
10 assist a person in obtaining or applying to obtain a residential mortgage loan.

11 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11)(a), "Loan originator" means a
12 natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
13 compensation or gain (i) takes a residential mortgage loan application for a mortgage broker, or (ii) offers or
14 negotiates terms of a mortgage loan. "Loan originator" also includes a person who holds themselves out to the
15 public as able to perform any of these activities. "Loan originator" does not mean persons performing purely
16 administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or
17 clerical tasks" means the receipt, collection, and distribution of information common for the processing of a
18 loan in the mortgage industry and communication with a borrower to obtain information necessary for the
19 processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not
20 performing administrative or clerical tasks.

21 **2.3 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
22 I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2) and (3), and RCW 19.146.200 for
23 engaging in the business of a mortgage broker without first obtaining and maintaining a license under the Act.
24 Individuals negotiating residential mortgage loan terms act as mortgage brokers or loan originators and must be
25 licensed under the Act unless specifically exempt from the Act.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the Director may
3 issue orders directing a licensee, its employee or loan originator, independent contractor, agent, or other person
4 subject to the Act to cease and desist from conducting business.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a) and (d), the Director
6 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
7 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
8 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
9 RCW 19.146.200, 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) and WAC 208-660-530, the Director may
11 impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for
12 any violations of the Act or any violations of RCW 19.146.0201(1) through (9), or RCW 19.146.200, or failure
13 to comply with a directive or order of the Director.

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

16 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(4) and
17 WAC 208-660-520(9), upon completion of any investigation of the books and records of a licensee or other person
18 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
19 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
20 hour that each staff person devoted to the investigation.

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

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

- 1 **4.1** Respondents Bank Modification Experts and Brian W. Pascal cease and desist offering loan modification
2 services or otherwise conducting the business of a mortgage broker or loan originator in the state of
Washington;
- 3 **4.2** Respondents Bank Modification Experts and Brian W. Pascal be prohibited from participation in the
4 conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a
period of five (5) years;
- 5 **4.3** Respondents Bank Modification Experts and Brian W. Pascal jointly and severally pay a fine, which as of
6 the date of these charges totals \$4,500;
- 7 **4.4** Respondents Bank Modification Experts and Brian W. Pascal jointly and severally refund all fees or
8 monies collected from the borrowers referenced in paragraph 1.2 above;
- 9 **4.5** Respondents Bank Modification Experts and Brian W. Pascal jointly and severally pay an investigation fee
10 which as of the date of these charges totals \$864 calculated at \$48 per hour for the eighteen (18) staff hours
11 devoted to the investigation; and
- 12 **4.6** Respondents Bank Modification Experts and Brian W. Pascal maintain records in compliance with the Act
13 and provide the Department with the location of the books, records and other information relating to
14 Respondent Bank Modification Expert's business, and the name, address and telephone number of the
15 individual responsible for maintenance of such records in compliance with the Act.

12 //
13 //
14 //
15 //
16 //
17 //
18 //
19 //
20 //
21 //
22 //
23 //
24 //
25 //

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit From
3 Industry, Impose Fine, Order Restitution, and Collect Investigation Fee is entered pursuant to the provisions of
4 RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions
5 of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a
6 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
7 HEARING accompanying this Statement of Charges.

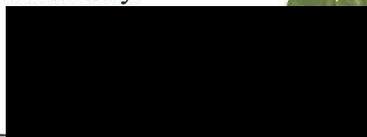
8
9 Dated this 27th day of May, 2010.



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



15 Presented by:



16 MARNIE SHEERAN
17 Financial Legal Examiner

18 Approved by:



19 JAMES R. BRUSSELBACK
20 Enforcement Chief