

ORDER SUMMARY – Case Number: C-10-408

Name(s): Grant A. Gerhart

Order Number: C-10-408-14-CO01

Effective Date: August 12, 2014

License Number: Unlicensed **NMLS ID:** 892086
Or NMLS Identifier [U/L]

License Effect: n/a

Not Apply Until: August 12, 2019

Not Eligible Until: August 12, 2019

Prohibition/Ban Until: August 12, 2019

Investigation Costs	\$480.80	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 08/12/14
Fine	\$3619.20	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 08/12/14
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$5,900	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 08/12/14
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:

**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:

NOD CONSULTANTS, LLC,
NICOLAS R. GODBOUT, Member, and
GRANT A. GERHART, Member,

Respondent(s).

No.: C-10-408-14-CO01

CONSENT ORDER AS TO
GRANT A. GERHART,
NMLS #892086

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Grant A Gerhart (Respondent Gerhart), and finding that the issues raised in the above-captioned matter solely as they relate to Respondent Gerhart 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 Respondent Gerhart have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-10-408-11-SC01, entered December 14, 2011, (copy attached hereto) solely as they relate to Respondent Gerhart; both individually and in his capacity as a purported member of Respondent NOD Consultants, LLC. Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent Gerhart hereby 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 solely as they relate to Respondent Gerhart; both individually and in his capacity as a purported member of Respondent NOD Consultants, LLC. The parties intend this Consent Order to

CONSENT ORDER
C-10-408-14-CO01
Grant A. Gerhart

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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 fully resolve the Statement of Charges solely as to Respondent Gerhart. Respondent Gerhart is
2 agreeing not to contest the Statement of Charges in consideration of 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
5 of the activities discussed herein.

6 **B. Waiver of Hearing.** It is AGREED that Respondent Gerhart waived his right to a hearing
7 before an administrative law judge by failing to request a hearing within 20 days of being served with
8 the Statement of Charges. It is further AGREED that, by his signature below, Respondent Gerhart
9 waives his right to any and all administrative and judicial review of the issues raised in this matter, or
10 of the resolution reached herein.

11 **C. No Admission of Liability.** It is AGREED that Respondent Gerhart does not admit to
12 any wrongdoing by entry of this Consent Order. It is further AGREED that Final Order C-10-408-
13 12-FO01 is withdrawn as to Respondent Gerhart.

14 **D. Application for License.** It is AGREED that Respondent Gerhart shall not apply for any
15 license issued by the Department, under any name, for a period of five years from the date of this
16 Consent Order. It is further AGREED that, should Respondent Gerhart apply to the Department for
17 any license under any name at any time later than five years from the date of entry of this Consent
18 Order, he shall be required to meet any and all application requirements in effect at that time.

19 **E. Fine.** It is AGREED that Respondent Gerhart shall pay a fine to the Department in the
20 amount of \$3,619.20 in the form of a cashier's check made payable to the "Washington State
21 Treasurer" upon entry of this Consent Order.

22 **F. Restitution.** It is AGREED that Respondent Gerhart has paid restitution totaling \$5,900
23 to the borrowers listed in paragraph 4.3 of the Statement of Charges.

1 **G. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
2 consent of any person or entity not a party to this Consent Order to take any action concerning their
3 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
4 Order, this Consent Order does not limit or create any private rights or remedies against Respondents,
5 limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

6 **H. Investigation Fee.** It is AGREED that Respondent Gerhart shall pay to the Department
7 an investigation fee of \$480.80 in the form of a cashier's check made payable to the "Washington
8 State Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee may be paid
9 together in one \$4,000 cashier's check made payable to the "Washington State Treasurer."

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

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

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

19 **RESPONDENT:**

20
21 
22 Grant A. Gerhart
23 Individually


24
Date

8/4/14

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 12th DAY OF August, 2014.




DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



Steven C. Sherman
Financial Legal Examiner Supervisor

Approved by:



Charles E. Clark
Enforcement Chief

**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:

NOD CONSULTANTS, LLC,
NICOLAS R. GODBOUT, Member, and
GRANT A. GERHART, Member,

Respondents.

No. C-10-408-11-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO PROHIBIT FROM INDUSTRY,
ORDER RESTITUTION, IMPOSE FINE,
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). After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of 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. **NOD Consultants, LLC (NOD)** has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker. At all times relevant to this Statement of Charges, Respondent NOD was registered with the California Secretary of State as an active Limited Liability Company.

B. **Nicolas R. Godbout (Godbout)** was a Member of Respondent NOD at all times relevant to this Statement of Charges. Respondent Godbout has never been licensed by the Department for any purpose.

1 C. **Grant A. Gerhart (Gerhart)** was a Member of Respondent NOD at all times
2 relevant to this Statement of Charges. Respondent Gerhart has never been licensed by the
3 Department for any purpose.

4 **1.2 Unlicensed Activity.** On or about October 30, 2009, Washington consumer A.S. received an
5 advertisement in the mail advertising that the sender of the advertisement could assist the consumer
6 "modify your existing home loan and reduce your monthly mortgage payments, receive interest rate
7 reductions, and/or freeze your existing interest rate." The advertisement did not bear the name of any
8 company or individual, but invited the consumer to call a toll-free number. On or about April 14,
9 2010, a representative from the Department called the toll-free number and reached a voice
10 messaging system identifying the user of the number as "NOD Consultants."

11 Between at least March 1, 2010, and April 30, 2010, Respondents assisted at least three
12 Washington consumers in attempting to modify the terms of two residential mortgage loans.
13 Respondents collected an advance fee of \$2,950 from B.C. and S.C. and an advance fee of \$2,950
14 from R.J. No loan modifications were provided.

15 **1.3 Unlicensed Loan Originator Activity.** Between at least March 1, 2010, and April 30, 2010,
16 Respondents permitted at least three unlicensed loan originators to assist borrowers in obtaining
17 residential mortgage loans in at least two transactions. Respondent Godbout and loan originator
18 Richlyn Graf assisted borrowers B.C. and S.C. and Respondent Gerhart assisted borrower R.J.

19 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
20 Act by Respondents continues to date.

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II. GROUNDS FOR ENTRY OF ORDER

2.1 Definition of Mortgage Broker. Pursuant to RCW 19.146.010(14) and WAC 208-660-006, "Mortgage broker" includes any person who, for compensation or gain, or in the expectation of compensation or gain (a) assists a person by counseling on loan terms (rates, fees, other costs) or (b) holds himself or herself out as being able to perform those services.

2.2 Definition of Loan Originator. Pursuant to RCW 19.146.010(11) and WAC 208-660-006, "Loan originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services or holds themselves out to the public as able to perform any of these activities.

2.3 Definition of Residential Mortgage Loan Modification. Pursuant to RCW 19.146.010(20) and WAC 208-660-006, "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalization of arrearages; or principal reductions.

2.4 Definition of Residential Mortgage Loan Modification Services. Pursuant to RCW 19.146.010(21) and WAC 208-660-006, "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification. "Residential mortgage loan modification services" also includes the collection of data for submission to any entity performing mortgage loan modification services.

2.5 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a

scheme, device or artifice to defraud or mislead any person, engaging in an unfair or deceptive practice toward any person, and obtaining property by fraud or misrepresentation.

2.6 Requirement to Obtain and Maintain Mortgage Broker License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1) and WAC 208-660-155 for engaging in the business of a mortgage broker without first obtaining and maintaining a license under the Act.

2.7 Requirement to Obtain and Maintain Loan Originator License. Based on the Factual Allegations set forth in Section I above, Respondents Godbout and Gerhart are in apparent violation of RCW 19.146.200(1) and WAC 208-660-155 for engaging in the business of a loan originator without first obtaining and maintaining a license under the Act.

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Prohibit from Industry. Pursuant to RCW 19.146.220(5), the Director may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or RCW 19.146.200.

3.2 Authority to Order Restitution. Pursuant to RCW 19.146.220(2), the Director may order restitution against any person subject to the Act for any violation of the Act.

3.3 Authority to Impose Fine. Pursuant to RCW 19.146.220(2) and (3), the Director may impose fines against any person subject to the Act for any violations of RCW 19.146.0201(1) through (9) or RCW 19.146.200.

3.4 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), WAC 208-660-520(9) & (11), and WAC 208-660-550(4)(a), the Department may collect the costs of investigation. The Department will charge \$48 per hour for each examiner's time devoted to an investigation.

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

2 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC,
3 as 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 19.146.220, RCW 19.146.221, and
5 RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

6 **4.1** Respondents NOD Consulting, LLC, Nicolas R. Godbout, and Grant A. Gerhart be prohibited
7 from participation in the conduct of the affairs of any mortgage broker subject to licensure by
the Director, in any manner, for a period of five years.

8 **4.2** Respondents NOD Consulting, LLC, Nicolas R. Godbout, and Grant A. Gerhart jointly and
9 severally pay a fine which as of the date of these charges totals \$20,000.

10 **4.3** Respondents NOD Consulting, LLC, Nicolas R. Godbout, and Grant A. Gerhart jointly and
11 severally pay restitution in the amount of \$2,950 to borrowers B.C. and S.C. and \$2,950 to
borrower R.J.

12 **4.4** Respondents NOD Consulting, LLC, Nicolas R. Godbout, and Grant A. Gerhart jointly and
severally pay an investigation fee which as of the date of these charges totals \$480.80.

13 **4.5** Respondents NOD Consulting, LLC, Nicolas R. Godbout, and Grant A. Gerhart maintain
14 records in compliance with the Act and provide the Department with the location of the
books, records and other information relating to Respondents' mortgage broker business, and
15 the name, address, and telephone number of the individual responsible for maintenance of
such records in compliance with the Act.

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24 STATEMENT OF CHARGES
C-10-408-11-SC01
NOD Consultants, LLC
Nicolas R. Godbout
Grant A. Gerhart

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
3 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
8 Dated this 14th day of December, 2011.



9 [Redacted Signature]
10
11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

16 [Redacted Signature]
17 STEVEN C. SHERMAN
18 Financial Legal Examiner

19 Approved by:

20 [Redacted Signature]
21 JAMES R. BRUSSELBACK
22 Enforcement Chief