

1 STATE OF WASHINGTON  
2 DEPARTMENT OF FINANCIAL INSTITUTIONS  
3 CONSUMER SERVICES DIVISION

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

7 HOME CREDIT LAW CENTER, BRIAN R.  
8 LINNEKENS, and DEREK THOMAS,

9 Respondents.

C-11-0633-11-TD01

TEMPORARY ORDER TO  
CEASE AND DESIST

10 THE STATE OF WASHINGTON TO: Home Credit Law Center  
11 Brian R. Linnekens  
12 Derek Thomas

13 COMES NOW the Director of the Washington State Department of Financial Institutions (Director),  
14 by and through his designee Deborah Bortner, Division Director, Division of Consumer Services, and  
15 finding that the public is likely to be substantially injured by delay in issuing a cease and desist order,  
16 enters this Temporary Order to Cease and Desist pursuant to chapter 19.146 RCW, the Mortgage Broker  
17 Practices Act (Act), based on the following:

18 I. FACTUAL FINDINGS

19 1.1 Respondents.

20 A. Respondent Home Credit Law Center (Respondent HCLC) is believed to be a d/b/a for  
21 Linnekens Law, a law firm located at 9854 National Boulevard, Suite 242, in Los Angeles, California.  
22 Respondent HCLC has never been licensed by the Washington State Department of Financial  
23 Institutions (Department) to conduct business as a mortgage broker in Washington.

24 B. Respondent Brian R. Linnekens (Respondent Linnekens) is the President of Respondent  
HCLC and is a licensed member of the California State Bar Association, license number 206144.  
Respondent Linnekens has never been licensed by the Department to conduct business as a loan  
originator or mortgage broker in Washington.

1 C. Respondent Derek Thomas (Respondent Thomas) is an employee of Respondent HCLC  
2 using the title "Senior Case Manager." Respondent Thomas has never been licensed by the  
3 Department to conduct business as a loan originator or mortgage broker in Washington.

4 **1.2 Unlicensed Conduct.**

5 A. On or about February 14, 2011, Respondent Thomas, representing Respondents HCLC and  
6 Linnekens, called Washington residents GL and DL offering to provide loan modification services.  
7 After a few questions he indicated that GL and DL were candidates for a loan modification, and stated  
8 that Respondents HCLC, Linnekens, and Thomas (Respondents) could get a loan modification for  
9 them. GL and DL indicated they were interested in Respondents loan modification program, and  
10 requested more information.

11 B. On or about Friday, February 18, 2011, Respondents sent GL and DL an e-mail stating that  
12 they had been approved by the Respondents' attorneys for the loan modification program. The e-mail  
13 identified Respondent HCLC as a real estate law firm, and Respondent Linnekens as the "head  
14 attorney and owner of the law firm."

15 C. Attached to the e-mail were a number of documents, including a one-page Limited Power of  
16 Attorney & Borrower Authorization form and a one-page Invoice, Credit Card & Electronic Check  
17 Authorization form on Respondent HCLC's letterhead. The Limited Power of Attorney & Borrower  
18 Authorization form indicates that GL and DL were appointing both Respondent HCLC and United  
19 Processing Center, Inc. (United Processing) "each as my true and lawful attorneys-in-fact for me, in  
20 my name and on my behalf...." The form authorized Respondent HCLC and United Processing to  
21 perform any act with respect to forensic loan auditing and/or modification services and authorized  
22 Respondent HCLC and United Processing to contact GL and DL's lender for the purpose of  
23 negotiating a workout agreement or modification. The form further authorized Respondent HCLC and  
24 United Processing to order a consumer credit report on GL and DL as needed.

1 D. The Invoice, Credit Card & Electronic Check Authorization form states that the clients will  
2 be charged two separate \$1,500 fees for services, as follows:

3 Attorney Retainer, Underwriting.....Start Date / /2011 Amount \$1,500.00  
4 Attorney Retainer, Mitigation, Negotiation.....30 Days Later / /2011 Amount \$1,500.00

5 The form further states that by executing the payment authorization, GL and DL authorized  
6 Respondent HCLC to collect fees for and on behalf of United Processing.

7 E. On or about February 22, 2011, GL and DL completed the paperwork and returned it to  
8 Respondents via e-mail. On or about March 3, 2001, GL and DL sent Respondents a cashier's check  
9 made out to Respondent HCLC in the amount of \$2,560. The check was sent via Certified Mail to  
10 Respondent HCLC at 14542 Ventura Boulevard, Suite 209, in Sherman Oaks, California, and signed  
11 for as received on or about March 7, 2011. GL and DL authorized Respondents to withdraw the  
12 balance of the \$3,000 fee directly from their bank account, and on or about March 31, 2011,  
13 Respondents withdrew \$440 from GL and DL's bank account.

### 14 1.3 Misrepresentations and Omissions with Respect to the Practice of Law

15 Respondents implied that the forensic loan auditing and/or modification services would be  
16 performed by attorneys licensed to practice law in Washington, and omitted to disclose that none of  
17 the Respondents were licensed to practice law in Washington. Furthermore, Respondents collected at  
18 least \$2,560 in attorney retainer fees from GL and DL.

## 19 II. GROUNDS FOR ENTRY OF ORDER

20 2.1 Failure to Obtain License. Based on the Factual Allegations set forth in Section I above,  
21 Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage  
22 broker or loan originator without first obtaining a license under the Act.

23 2.2 Unfair or Deceptive Practice. Based on the Factual Allegations set forth in Section I above,  
24 Respondents are in apparent violation of RCW 19.146.0201(2) for engaging in any unfair or deceptive

1 practice toward any person by misrepresenting their status as attorneys licensed to practice law in  
2 Washington or by omitting to disclose they were not licensed to practice law in Washington.

3 **2.3 Obtaining Property by Fraud or Misrepresentation.** Based on the Factual Allegations set  
4 forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(3) for obtaining  
5 property by fraud or misrepresentation.

6 **2.4 Illegal Contract.** Based on the Factual Allegations set forth in Section I above, Respondents  
7 are in apparent violation of RCW 19.146.0201(3) for entering into a contract with a borrower that  
8 provides in substance that the mortgage broker may earn a fee or commission through the mortgage  
9 broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

### 10 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

11 **3.1 Authority to Issue Temporary Order to Cease and Desist.** Pursuant to RCW 19.146.227, the  
12 Director is authorized to issue a temporary order to cease and desist whenever the Director determines  
13 that the public is likely to be substantially injured by delay in issuing a cease and desist order. Based  
14 on the Factual Findings and Grounds for Entry of Order set forth above, Respondents engaged in the  
15 business of a Mortgage Broker or Loan Originator without a license; misrepresented that the forensic  
16 loan auditing and/or modification services would be performed by licensed attorneys or omitted to  
17 disclose that none of Respondents were licensed to practice law in Washington; obtained property by  
18 fraud or misrepresentation; entered into an illegal contract; and the public is likely to be substantially  
19 injured due to Respondents' disregard for the applicable laws.

### 20 **IV. ORDER**

21 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue  
22 Temporary Order to Cease and Desist, and pursuant to RCW 19.146.227, the Director determines that  
23 the public is likely to be substantially harmed by a delay in entering a cease and desist order.

24 Therefore, the Director ORDERS that:

1 4.1 Respondents shall immediately cease and desist from participating in the conduct of the affairs of  
2 any mortgage broker or loan originator subject to licensure by the Director, in any manner, specifically  
3 including but not limited to originating any residential mortgage loan, assisting with the origination of  
4 any residential mortgage loan, negotiating any terms of a residential mortgage loan, performing any  
5 loan modification services, or holding out as able to assist or perform any of the above listed services.

6 4.2 Respondents shall immediately cease and desist from representing that they are attorneys  
7 licensed to provide legal services in Washington or omitting to disclose that none of the Respondents  
8 are licensed to provide legal services in Washington, and from collecting attorney retainer fees for the  
9 provision of any of the above-listed services.

10 4.3 Respondents shall immediately cease and desist collecting advance fees or commissions for  
11 performing any loan modification or legal services in Washington.

12 4.4 This order shall take effect immediately and shall remain in effect unless set aside, limited, or  
13 suspended in writing by an authorized court.

14 **NOTICE**

15 PURSUANT TO CHAPTER 19.146 RCW, YOU ARE ENTITLED TO A HEARING TO  
16 DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A  
17 HEARING, YOU MUST COMPLETE AND RETURN THE ATTACHED APPLICATION FOR  
18 ADJUDICATIVE HEARING.

19 **FAILURE TO COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE**  
20 **HEARING SO THAT IT IS RECEIVED BY THE DEPARTMENT WITHIN 20 DAYS OF**  
21 **THE DATE THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A**  
22 **DEFAULT, AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO A HEARING.**

23 SERVICE ON YOU IS DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID,  
24 TO YOUR LAST KNOWN ADDRESS, A COPY OF THIS TEMPORARY CEASE AND DESIST

1 ORDER, NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING,  
2 AND APPLICATION FOR ADJUDICATIVE HEARING. BE ADVISED THAT DEFAULT WILL  
3 RESULT IN THIS TEMPORARY ORDER TO CEASE AND DESIST BECOMING PERMANENT  
4 ON THE 21<sup>ST</sup> DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

5 PURSUANT TO RCW 31.45.130, WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED  
6 WITH THIS TEMPORARY ORDER TO CEASE AND DESIST, YOU MAY APPLY TO THE  
7 SUPERIOR COURT IN THE COUNTY OF YOUR PRINCIPAL PLACE OF BUSINESS FOR AN  
8 INJUNCTION SETTING ASIDE, LIMITING, OR SUSPENDING THIS ORDER PENDING THE  
9 COMPLETION OF THE ADMINISTRATIVE PROCEEDINGS PURSUANT TO THIS NOTICE.

10  
11 DATED this 8<sup>th</sup> day of April, 2011.

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13 DEBORAH BORTNER  
14 Director, Division of Consumer Services  
Department of Financial Institutions

15 Presented by:

16  
17 

18 ANTHONY W. CARTER  
19 Enforcement Attorney

20 Approved by:

21 

22 JAMES R. BRUSSELBACK  
23 Enforcement Chief

