

ORDER SUMMARY – Case Number: C-11-0668

Name(s): Richard F Haitbrink

Order Number: C-11-0668-13-CO01

Effective Date: 04/26/13

License Number: UNLICENSED

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: N/A

Not Apply Until: Shall never apply to the Department for any license

Not Eligible Until: N/A

Prohibition/Ban Until: Permanent prohibition from MB and CL industry

Investigation Costs	\$816	Due upon entry	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 4/23/13
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$40,230	Due NOW	Paid <input type="checkbox"/> Y <input checked="" 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:		15		

Comments:

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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:

RICHARD F. HAITBRINK,

Respondent.

No.: C-11-0668-13-CO01

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Richard F. Haitbrink (Respondent), 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 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-11-0668-12-SC01 (Statement of Charges), entered March 8, 2012, (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, Respondent 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. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

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

3 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
4 hearing before an administrative law judge, and hereby waives his right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached
6 herein. Accordingly, Respondent, by his signature below, withdraws his appeal to the Office of
7 Administrative Hearings.

8 C. **Admissions.** It is AGREED that Respondent admits to the following facts:

- 9 • Respondent has never been licensed by the Department to conduct the business of a
10 mortgage broker or loan originator.
- 11 • Respondent has never been licensed to practice law in the state of Washington.
- 12 • From at least August 2009 through at least February 2010, Respondent offered to
13 provide 15 consumers located in the state of Washington with residential mortgage
14 loan modification services related to residential mortgage loans secured by real
property located in the state of Washington, and collected \$40,230 in advance fees
from these consumers as identified and itemized in paragraph 1.2 of the Statement of
Charges.

15 D. **Mortgage Broker Activity.** It is AGREED that Respondent shall cease and desist from
16 conducting the business of a mortgage broker without obtaining and maintaining a mortgage broker
17 license or qualifying for an exemption from licensure under the Act.

18 E. **Loan Originator Activity.** It is AGREED that Respondent shall cease and desist from
19 conducting the business of a loan originator without obtaining and maintaining a loan originator
20 license or qualifying for an exemption from licensure under the Act.

21 F. **Prohibition from Industry.** It is AGREED that Respondent is permanently prohibited
22 from participating, in any manner, in the conduct or the affairs of any mortgage broker or consumer
23 loan company licensed by the Department or subject to licensure or regulation by the Department.

1 **G. Application for License.** It is AGREED that Respondent shall never apply to the
2 Department for any license under any name or on behalf of any person.

3 **H. Restitution.** It is AGREED that Respondent owes and shall pay restitution totaling
4 \$40,230 to 15 consumers as identified and itemized in paragraph 1.2 of the Statement of Charges as
5 follows:

6 Consumer	Restitution
7 [REDACTED]	\$2,500
8 [REDACTED]	\$2,495
9 [REDACTED]	\$1,840
10 [REDACTED]	\$2,500
11 [REDACTED]	\$3,500
12 [REDACTED]	\$2,500
13 [REDACTED]	\$2,500
14 [REDACTED]	\$2,500
15 [REDACTED]	\$3,500
16 [REDACTED]	\$3,500
17 [REDACTED]	\$1,500
18 [REDACTED]	\$3,500
19 [REDACTED]	\$2,500
20 [REDACTED]	\$2,695
21 [REDACTED]	\$2,500
22 [REDACTED]	\$2,700

23 Upon payment of this restitution to these 15 consumers, Respondent shall notify the Department of
24 such payment in writing and provide the Department with written proof of payment consisting of a
copy of each cashier's check or a copy of the front and back of each cancelled check.

1 **I. Declaration of Financial Condition.** It is AGREED that Respondent has provided the
2 Department with a Declaration comprehensively describing his current financial condition and
3 representing his current inability to pay the restitution and fine sought in the Statement of Charges. It
4 is further AGREED that, based on this Declaration, the Department has agreed to enter this Consent
5 Order without imposing a fine on Respondent and without requiring the payment of restitution prior
6 to entry of this Consent Order. Nothing in this paragraph shall be construed as relieving Respondent
7 from the obligation to pay the \$40,230 restitution described in paragraph H of this Consent Order.

1 **J. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
2 investigation fee of \$816, in the form of a cashier's check made payable to the "Washington State
3 Treasurer," upon entry of this Consent Order.

4 **K. Records Retention.** It is AGREED that Respondent shall maintain records in compliance
5 with the Act and provide the Director with the location of the books, records and other information
6 relating to Respondent's mortgage broker business, and the name, address and telephone number of
7 the individual responsible for maintenance of such records in compliance with the Act.

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

12 **M. Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily
13 entered into this Consent Order, which is effective when signed by the Director's designee.

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

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24 CONSENT ORDER
C-11-0668-13-CO01
Richard F. Haitbrink

1 **RESPONDENT:**

2 [Redacted]

3 Richard F. Haitbrink

4-17-2013
Date

4 DO NOT WRITE BELOW THIS LINE

5 THIS ORDER ENTERED THIS 26th DAY OF April, 2013



6 [Redacted]

7 DEBORAH BORTNER
8 Director
9 Division of Consumer Services
10 Department of Financial Institutions

11 Presented by:

12 [Redacted]

13 STEVEN C. SHERMAN
14 Financial Legal Examiner Supervisor

15 Approved by:

16 [Redacted]

17 CHARLES E. CLARK
18 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:

RICHARD F. HAITBRINK,

Respondent.

No. C-11-0668-12-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO PROHIBIT FROM INDUSTRY,
ORDER RESTITUTION, IMPOSE FINE,
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)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:

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I. FACTUAL ALLEGATIONS

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1.1 Respondent Richard F. Haitbrink (Respondent) has never been licensed by the
Department of Financial Institutions of the State of Washington (Department) to conduct business as
a mortgage broker or loan originator. Respondent is not licensed to practice law in the state of
Washington.

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1.2 Unlicensed Activity. On or about August 12, 2010, the Department issued a Directive and
Requirement for Production of Records and Explanation (Department's Directive) directing
Respondent to provide the Department with an explanation of the services provided or offered by
Respondent, a complete list of all transactions in which Respondent had provided loan modification

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¹ RCW 19.146 (2009)
STATEMENT OF CHARGES
C-11-0668-12-SC01
Richard F. Haitbrink

1 services for properties or consumers located in the state of Washington, and either: a completed
2 Claim of Non-Applicability of the Mortgage Broker Practices Act form (CNA form), including an
3 explanation of why Respondent was not subject to licensure; or, a completed Declaration and
4 Agreement to Cease and Desist form acknowledging Respondent was required to be licensed and
5 agreeing to cease conducting business as a mortgage broker until such time as Respondent had
6 obtained the appropriate license.

7 On or about September 10, 2010, Respondent provided a response to the Department's
8 Directive. Respondent explained the services provided or offered as follows:

9 "I represented clients by contacting their mortgage companies to negotiate work
10 outs of their mortgages which were delinquent, in foreclosure, or which the
amount of the mortgage exceeded the value of the property."

11 Respondent explained the basis for his exemption from the licensing requirement of the Act as
12 follows:

13 "I was acting on a good faith belief that I was not required to have a mortgage
14 license to represent these clients from my office in the jurisdiction where I
practice law and that acting as an attorney did not constitute acting as a mortgage
15 originator. I further believe that such activity did not constitute the unauthorized
practice of law in Washington under applicable professional rules. Beginning
16 August 2009 for approximately 6 months thereafter I represented approximately
15 clients. After February 2010 I became aware of the amendments to the MBPA
17 regarding loan modifications which were to take affect in July of 2010. Although
I am uncertain whether these rules pertain to the practice of law, I ceased taking
18 new clients with property in the state of Washington after February 2010."

19 On or about October 15, 2010, Respondent provided a completed CNA form, with the
20 following explanation of why Respondent was not subject to licensure:

21 "Richard F. Haitbrink is an attorney licensed to practice law in the State of
22 Kansas. The services provided were provided from his law office and he was
acting as an attorney negotiating on behalf of his clients and not as a loan
23 originator. This activity is authorized by the applicable rules governing the
practice of law."

1 On or about October 15, 2010, Respondent provided a list of 15 consumers located in the state
2 of Washington from whom Respondent had collected at least \$40,230 in advance fees for residential
3 loan modification services from August 2009 through February 2010 as follows:

4 Consumer	Advance Fee
	\$2,500
	\$2,495
	\$1,840
	\$2,500
	\$3,500
	\$2,500
	\$2,500
	\$3,500
	\$3,500
	\$1,500
	\$3,500
	\$2,500
	\$2,695
	\$2,500
	\$2,700

13 **1.3 Prohibited Acts.** The Department has received a complaint from at least one of the
14 consumers identified in paragraph 1.2 of this Statement of Charges, alleging Respondent did not
15 provide residential mortgage loan modification services and did not refund the advance fee this
16 consumer paid to Respondent.

17 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
18 Act by Respondent continues to date.

19 II. GROUNDS FOR ENTRY OF ORDER

20 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(14), "Mortgage broker"
21 means any person who for compensation or gain, or in the expectation of compensation or gain (a)
22 assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or
23 herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage
24 loan.

1 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(11), "Loan originator" means
2 a natural person who for direct or indirect compensation or gain, or in the expectation of direct or
3 indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
4 offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform
5 any of these activities.

6 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent
7 is in apparent violation of RCW 19.146.0201(1), (2) & (3) for directly or indirectly employing a
8 scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an
9 unfair or deceptive practice toward any person, and obtaining property by fraud or misrepresentation.

10 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
11 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.200(1)
12 for engaging in the business of a mortgage broker without first obtaining and maintaining a license
13 under the Act.

14 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
15 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.200(1)
16 for engaging in the business of a loan originator without first obtaining and maintaining a license
17 under the Act.

18 **2.6 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
19 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
20 location that is on file with and readily available to the Department until at least twenty-five months
21 have elapsed following the effective period to which the books and records relate.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
3 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
4 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
5 mortgage broker or any person subject to licensing under the Act for any violation of RCW
6 19.146.0201(1) through (9) or (13), or RCW 19.146.200.

7 **3.2 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
8 restitution against licensees or other persons subject to the Act for any violation of the Act.

9 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
10 against a licensee or other persons subject to the Act for any violation of the Act. Pursuant to RCW
11 19.146.220(3), the Director may impose fines on an employee, loan originator, independent
12 contractor, or agent of the licensee, or other person subject to the Act, for any violations of RCW
13 19.146.0201(1) through (9) or (13), or RCW 19.146.200.

14 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
15 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time
16 devoted to an investigation of a licensee or other person subject to the Act.

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

2 Respondent’s 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** Respondent Richard F. Haitbrink be prohibited from participation in the conduct of the
7 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
a period of five years.

8 **4.2** Respondent Richard F. Haitbrink pay a fine. As of the date of this Statement of
9 Charges, the fine totals \$25,000.

10 **4.3** Respondent Richard F. Haitbrink pay restitution totaling the amount collected from all
11 consumers for residential mortgage loan modification services related to real property
or consumers located in the state of Washington, including at least \$40,230 to at least
the 15 consumers identified in paragraph 1.2 of this Statement of Charges.

12 **4.4** Respondent Richard F. Haitbrink pay an investigation fee. As of the date of this
13 Statement of Charges, the investigation fee totals \$816.

14 **4.5** Respondent Richard F. Haitbrink maintain records in compliance with the Act and
15 provide the Department with the location of the books, records and other information
relating to Respondent Richard F. Haitbrink’s mortgage broker business, and the
16 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**

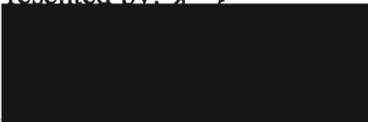
2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
3 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter
4 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for a
5 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
6 HEARING accompanying this Statement of Charges.

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8 Dated this 9th day of March, 2012



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

15 Presented by:



16 MARK T. OLSON
17 Financial Legal Examiner

18 Approved by:



19 JAMES R. BRUSSELBACK
20 Enforcement Chief