

ORDER SUMMARY – Case Number: C-13-1166

Name(s): Top Legal Advocates, P.C. fka Top Legal Advocates, P.L.L.C.

Order Number: C-13-1166-14-FO01

Effective Date: October 8, 2014

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

License Effect: N/A

Not Apply Until: October 8, 2019

Not Eligible Until: October 8, 2019

Prohibition/Ban Until: October 8, 2019

Investigation Costs	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$9,000	Due	Paid <input type="checkbox"/> Y <input checked="" 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:



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

TOP LEGAL ADVOCATES, P.C. f/k/a TOP
LEGAL ADVOCATES, P.L.L.C. and JEFFREY
A. LEWISTON, Principal,
Respondents.

No.: C-13-1166-14-FO01

FINAL ORDER RE:

TOP LEGAL ADVOCATES, P.C. f/k/a
TOP LEGAL ADVOCATES, P.L.L.C.

I. DIRECTOR'S CONSIDERATION

Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington ("Director"), pursuant to RCW 34.05.440(2). On March 27, 2013, the Director, through his designee, Consumer Services Division Director Deborah Bortner, issued a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist Business, Prohibit from Industry, Order Restitution, Impose Fine, and Collect Investigation Fee ("Statement of Charges") against Top Legal Advocates, P.C. ("Respondent Top Legal Advocates"). On March 28, 2013, the Department of Financial Institutions ("Department") served Respondent Top Legal Advocates with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery. The Statement of Charges was accompanied by a cover letter dated March 28, 2013, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Respondent Top Legal Advocates. On April 15, 2013, Respondent Top Legal Advocates filed an Application for Adjudicative Hearing. On April 18, 2013, the Department made a request to the Office of Administrative Hearings ("OAH") to assign an Administrative Law Judge ("ALJ") to schedule and conduct a hearing on the Statement of Charges.

1 On May 16, 2013, OAH issued a Notice of Conference with ALJ Lisa Dublin ("ALJ Dublin") for a
2 conference scheduled for Wednesday, June 5, 2013, at 11:00 a.m. The Notice of Conference stated:
3 "You must participate in the conference. If you do not, a default may be entered. This means you
4 lose the opportunity to further challenge the agency action."

5 On June 5, 2013, Respondent Top Legal Advocates through its counsel Wayne C. Fricke and
6 representatives for the Department attended a telephonic prehearing conference. On June 12, 2013,
7 ALJ Dublin issued a Notice of Hearing and Prehearing Conference Order scheduling a hearing for
8 January 21-23, 2014, at 9:00 a.m. That Order stated: "If you do not participate in any stage of the
9 proceedings or if you fail to appear at your hearing, you may be held in default. This means you lose
10 the right to a hearing and the decision made by the agency remains in effect."

11 On October 29, 2013, ALJ Dublin issued an Order on Motion to Continue, Notice of
12 Hearings, and First Amended Prehearing Conference Order scheduling a new hearing date for April
13 14-16, 2014.

14 On April 11, 2014, OAH notified receivership counsel for Respondent Top Legal Advocates
15 by fax and email that the April 14, 2014, hearing was stricken, and that a telephone status conference
16 would take place on April 14, 2014, at 9:00 a.m.¹

17 On April 14, 2014, a status conference was held.² The Department moved for a Default Order
18 as to Respondent Top Legal Advocates.

19 On April 24, 2014, ALJ Dublin issued an Order Denying Motion for Default, and Notice of
20 Conference. A Status Conference was scheduled for Friday, May 9, 2014, at 2:00 p.m. The Order
21 stated: "You must participate in the conference. If you do not, a default may be entered. This means
22 you lose the opportunity to further challenge the agency action."

23 ¹ Pursuant to *Federal Trade Commission v. A to Z Marketing, Inc., et al.*, United States District Court for the Central District of
24 California, Case No. SACV13-0919-DOC, Respondent Top Legal Advocates, P.C. was placed into receivership.

² Due to a settlement-in-principle, Respondent Jeffrey A. Lewiston ("Respondent Lewiston") withdrew his appeal. On April 21,
2014, the Department and Respondent Lewiston entered in a Consent Order resolving the matter as to Respondent Lewiston only.

1 On May 6, 2014, ALJ Dublin issued a Notice of Conference scheduling a conference for
2 Thursday, May 15, 2014, at 2:00 p.m. The Notice stated: "You must participate in the conference. If
3 you do not, a default may be entered. This means you lose the opportunity to further challenge the
4 agency action." The May 6, 2014, Notice of Conference was served on counsel for the receivership,
5 in addition to Respondent Top Legal Advocates attorney of record and the Department.

6 On May 15, 2014, at 2:00 p.m. ALJ Dublin convened a status conference. A representative
7 for the Department appeared. At 2:15 p.m., when no one appeared on behalf of Respondent Top
8 Legal Advocates, ALJ Dublin ended the proceeding. Respondent Top Legal Advocates did not
9 timely request a continuance of the status conference. On May 20, 2014, ALJ Dublin issued an
10 Initial Order of Default Dismissing the Appeal of Top Legal Advocates, PC fka Top Legal Advocate
11 PLLC for Failure to Appear.

12 Pursuant to RCW 34.05.440(3), Respondent Top Legal Advocates had seven (7) days from
13 the date of service of the Initial Order of Default to file a written motion with OAH requesting that
14 the Order of Default be vacated, and stating the grounds relied upon. Respondent Top Legal
15 Advocates did not make a request to vacate during the statutory period.

16 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent Top Legal Advocates had
17 twenty (20) days from the date of service of the Initial Order of Default to file a Petition for Review
18 of the Initial Order of Default. Respondent Top Legal Advocates did not file a Petition for Review
19 during the statutory period.

20 A. Record Presented. The record presented to the Director for his review and for entry of
21 a final decision included the following:

22 1. Statement of Charges, cover letter dated March 28, 2013, and Notice of
23 Opportunity to Defend and Opportunity for Hearing, with documentation of
24 service.

2. Application for Adjudicative Hearing for Top Legal Advocates, P.C.

3. Request to OAH for Assignment of Administrative Law Judge.
4. Notice of Conference dated May 16, 2013, with documentation of service.
5. Notice of Hearing and Prehearing Conference Order dated June 12, 2013, with documentation of service.
6. Order on Motion to Continue, Notice of Hearings, and First Amended Prehearing Conference dated October 29, 2013, with documentation of service.
7. Order Denying Motion for Default, and Notice of Conference dated April 24, 2014, with documentation of service.
8. Notice of Conference dated May 6, 2014, with documentation of service.
9. Initial Order of Default Dismissing the Appeal of Top Legal Advocates, PC fka Top Legal Advocate PLLC for Failure to Appear, dated May 20, 2014.

B. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(2), the Director hereby adopts the Statement of Charges, which is attached hereto. Pursuant to RCW 34.05.461, the Director hereby adopts the Department's Statement of Charges, which is attached hereto.

II. FINAL ORDER

Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

A. IT IS HEREBY ORDERED, That:

1. Respondent TOP LEGAL ADVOCATES, P.C. cease and desist engaging in the business of a mortgage broker or loan originator.
2. Respondent TOP LEGAL ADVOCATES, P.C. is prohibited from participation, in any manner, in the conduct of the affairs of any mortgage broker subject to licensure by the Director for a period of five years.
3. Respondent TOP LEGAL ADVOCATES, P.C. pay to WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS a fine of Nine Thousand Dollars (\$9,000).³

³ The fine may be paid in the form of a cashier's check made payable to the "Washington State Treasurer."

1 4. Respondent TOP LEGAL ADVOCATES, P.C. maintain records in compliance with
2 the Act and provide the Department with the location of the books, records and other
3 information relating to Respondents' provision of residential mortgage loan
4 modification services in Washington, and the name, address and telephone number of
5 the individual responsible for maintenance of such records in compliance with the
6 Act.

7 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent Top Legal Advocates has
8 the right to file a Petition for Reconsideration stating the specific grounds upon which relief is
9 requested. The Petition must be filed in the Office of the Director of the Department of Financial
10 Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O.
11 Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the Final Order
12 upon Respondent Top Legal Advocates. The Petition for Reconsideration shall not stay the
13 effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial
14 review in this matter.

15 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the
16 date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
17 written notice specifying the date by which it will act on a petition.

18 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
19 effectiveness of this order. Any such requests should be made in connection with a Petition for
20 Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

21 D. Judicial Review. Respondent Top Legal Advocates has the right to petition the
22 superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW.
23 For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections
24 following.

E. Non-compliance with Order. If you do not comply with the terms of this order,
including payment of any amounts owed within thirty (30) days of receipt of this order, the

1 Department may seek its enforcement by the Office of the Attorney General to include the collection
2 of the fine imposed herein. The Department also may assign the amounts owed to a collection
3 agency for collection.

4 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
5 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
6 attached hereto.

7 DATED this 8th day of October, 2014.



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9 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

10 [Redacted Signature]
11 SCOTT JARVIS
12 Director
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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:

TOP LEGAL ADVOCATES, P.C., f/k/a TOP
LEGAL ADVOCATES, P.L.L.C., and JEFFREY
A. LEWISTON, Principal,

Respondents.

No. C-13-1166-13-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, 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 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. Top Legal Advocates, P.C., (Respondent Top Legal Advocates) 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.

B. Jeffrey A. Lewiston (Respondent Lewiston) is a Principal of Top Legal Advocates. During the relevant time period, Respondent Lewiston was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1.2 Unlicensed Activity. Between at least May 2012 and December 2012 Respondents were offering residential mortgage loan modification services to Washington consumers on property located

1 in Washington State. Respondents entered into a contractual relationship with at least two Washington
2 consumers to provide those services and collected a fee for the provision of those services. The
3 Department has received at least three complaints from Washington consumers alleging Respondents
4 provided or offered to provide residential mortgage loan modification services while not licensed by
5 the Department to provide those services. Washington consumer B.D. paid Respondents \$3,500 for
6 loan modification services. Washington consumer S.T. was provided with a complete refund of the
7 fees paid. Washington consumer L.S. did not receive or pay for services from Respondents.

8 **1.3 Misrepresentations and Omissions.** Respondents represented that they were licensed to
9 provide the residential mortgage loan modification services or omitted disclosing that they were not
10 licensed to provide those services.

11 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
12 Act by Respondents continues to date.

13 II. GROUNDS FOR ENTRY OF ORDER

14 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
15 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
16 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
17 or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person
18 in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
19 person "'assists a person in obtaining or applying to obtain a residential mortgage loan' by, among
20 other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages...."

21 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), "loan originator" means a
22 natural person who for direct or indirect compensation or gain, or in the expectation of direct or
23 indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
24

1 offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform
2 any of these activities.

3 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
4 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
5 toward any person and obtaining property by fraud or misrepresentation.

6 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
7 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
8 for engaging in the business of a mortgage broker for Washington residents or property without first
9 obtaining a license to do so.

10 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
11 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
12 for engaging in the business of a loan originator without first obtaining and maintaining a license.

13 **2.6 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
14 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
15 location that is on file with and readily available to the Department until at least twenty-five months
16 have elapsed following the effective period to which the books and records relate.

17 **III. AUTHORITY TO IMPOSE SANCTIONS**

18 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
19 Director may issue orders directing any person subject to the Act to cease and desist from conducting
20 business.

21 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
22 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
23 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
24 (13), or RCW 19.146.200.

1 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
2 restitution against any person subject to the Act for any violation of the Act.

3 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
4 against any person subject to the Act for any violation of the Act.

5 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
6 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
7 to an investigation of any person subject to the Act.

8 **IV. NOTICE OF INTENT TO ENTER ORDER**

9 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
10 set forth above constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221,
11 and RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

12 **4.1** Respondents cease and desist engaging in the business of a mortgage broker or loan originator.

13 **4.2** Respondents be prohibited from participation, in any manner, in the conduct of the affairs of
14 any mortgage broker subject to licensure by the Director for a period of five years.

15 **4.3** Respondents jointly and severally pay restitution to the one consumer identified by the
16 Department in paragraph 1.2 in the amount set forth therein, and that Respondents jointly and
17 severally pay restitution to each Washington consumer with whom they entered into a contract
for residential mortgage loan modification services related to real property or consumers
located in the state of Washington equal to the amount collected from that Washington
consumer for those services in an amount to be determined at hearing.

18 **4.4** Respondents jointly and severally pay a fine, which as of the date of this Statement of Charges
19 totals \$9,000.

20 **4.5** Respondents jointly and severally pay an investigation fee, which as of the date of this
Statement of Charges totals \$192.

21 **4.6** Respondents maintain records in compliance with the Act and provide the Department with the
22 location of the books, records and other information relating to Respondents' provision of
23 residential mortgage loan modification services in Washington, 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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V. AUTHORITY AND PROCEDURE

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

Dated this 27th day of March, 2013.



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

Presented by:



DEBORAH TALLIOUS
Financial Legal Examiner

Approved by:



CHARLES E. CLARK
Enforcement Chief