

TERMS COMPLETED

ORDER SUMMARY – Case Number: C-13-1342

Names: United Processing Services, Inc.
Alan Shane Hurd

Order Number: C-13-1342-15-CO01

Effective Date: August 10, 2015

License Number: DFI: 57664 NMLS ID# 382734 (United Processing)
DFI: 38951 NMLS ID# 80956 (Hurd)

Or NMLS Identifier [U/L]

License Effect: Stayed Revocation of Mortgage Broker and Loan Originator Licenses

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: Stayed prohibition of five years

Investigation Costs	\$2,008.80	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 8/4/2015
Fine	\$36,000.00	Due: \$10,000 by 9/30/2015 \$26,000 stayed	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: \$10,000 pd 10/1/15
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$21,792.00	Due: 8/31/2015	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 8/31/2015
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: \$26,000 of the fine, the revocations and prohibition are stayed pending payment of restitution by August 31, 2015, and payment of \$10,000 of the fine by September 30, 2015. Upon timely payment of restitution and fine, the remaining balance of \$26,000, the revocations and the prohibitions are deemed withdrawn.

**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-13-1342-15-CO01

CONSENT ORDER

UNITED PROCESSING SERVICES, INC.,
NMLS ID# 382734,
ALAN SHANE HURD, PRESIDENT and
DESIGNATED BROKER,
NMLS ID# 80956,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, United Processing Services, Inc. (Respondent United Processing Services), and Alan Shane Hurd, President and Designated Broker, (Respondent Hurd), 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-13-1342-14-SC01 (Statement of Charges), entered January 16th, 2015, (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

1 Order to fully resolve the Statement of Charges and agree that the Respondents do not admit or deny
2 any wrongdoing by its entry.

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 Respondents have been informed of the right to a
7 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
8 administrative and judicial review of the issues raised in this matter, or of the resolution reached
9 herein. Accordingly, Respondents, by their signatures and the signatures of their representative
10 below, withdraw their appeal to the Office of Administrative Hearings.

11 **C. No Admission or Denial of Liability.** The parties intend this Consent Order to fully
12 resolve the Statement of Charges and agree that Respondents neither admit nor deny any wrongdoing
13 by its entry.

14 **D. Mortgage Broker License Revocation.** It is AGREED that Respondent United
15 Processing Services' mortgage broker license is revoked.

16 **E. Loan Originator License Revocation.** It is AGREED that Respondent Hurd's loan
17 license is revoked.

18 **F. Prohibition from Industry.** It is AGREED that, for a period of five years from the date
19 of entry of this Consent Order, Respondent United Processing Services and Respondent Hurd are
20 prohibited from participating, in any capacity, in the conduct of the affairs of any mortgage broker
21 licensed by the Department or subject to licensure or regulation by the Department.

1 G. **Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
2 \$36,000.00. It is further AGREED that Respondents shall pay \$10,000.00 of the fine in the form of a
3 cashier's check made payable to the "Washington State Treasurer" no later than September 30, 2015.

4 H. **Stay of Revocations, Prohibitions, and Fine.** It is AGREED that \$26,000 of the fine
5 referenced in Paragraph G, the license revocations referenced in Paragraphs D and E, and the
6 prohibitions referenced in Paragraph F of this Consent Order will be STAYED pending Respondents'
7 compliance with the fine and restitution provisions referenced in Paragraphs G and J of this Consent
8 Order. Should respondents timely comply with Paragraphs G and J, the stayed revocations,
9 prohibitions, and fine shall be deemed withdrawn.

10 I. **Lifting of Stay.** It is AGREED that:

- 11 1. If the Department determines that Respondents United Processing Services and
12 Hurd have not complied with the terms of this Consent Order to a degree sufficient
13 to warrant imposition of a fine, and the Department accordingly seeks to lift the
14 stay and impose the fine, revocations, and prohibitions set forth in Paragraphs D,
15 E, F, and G above, the Department will first notify Respondents United Processing
16 Services and Hurd in writing of its determination.
- 17 2. The Department's notification will include:
- 18 a) A description of the alleged noncompliance;
- 19 b) A statement that because of the noncompliance, the Department seeks
20 to lift the stay and impose the sanctions;
- 21 c) The opportunity for Respondents United Processing Services and Hurd
22 to contest the Department's determination of noncompliance in an
23 administrative hearing before an Administrative Law Judge (ALJ) of
24 the Office of Administrative Hearings (OAH); and
- d) A copy of this Consent Order. The notification and hearing process
provided in this Consent Order applies only to this Consent Order. It is
solely provided in the event Respondents United Processing Services
and Hurd choose to contest the Department's determination of
noncompliance.

3. Respondents United Processing Services and Hurd will be afforded ten (10) business days from the date of receipt of the Department's notification to submit a written request to the Department for an administrative hearing to be held before an ALJ from the OAH.
4. Respondents United Processing Services and Hurd, in addition to its request for hearing, may provide a written response to include any information pertaining to the alleged noncompliance.
5. The administrative hearing shall follow the timing and processes described in this Consent Order.
6. The scope and issues of the hearing are limited solely to whether or not Respondents United Processing Services and Hurd are in violation of the terms of this Consent Order to a degree sufficient to warrant imposition of the stayed sanctions.
7. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party may file a Petition for Review with the Director of the Department.
8. If Respondents United Processing Services and Hurd do not request the hearing within the stated time, the Department will impose the fine and pursue whatever action it deems necessary to enforce the sanctions.

J. Restitution. It is AGREED that Respondents shall pay restitution to the twelve consumers identified in Appendix A of this Consent Order, attached hereto and incorporated herein by this reference, in the amounts set forth therein no later than August 31, 2015.

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

L. Investigation Fee. It is AGREED that Respondent shall pay to the Department an investigation fee of \$2,008.80, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

1 **M. Change of Address.** It is AGREED that for the duration of the period this Consent Order
2 is in effect, unless otherwise agreed to in writing by the Department, Respondent shall provide the
3 Department with a mailing address and telephone number at which Respondent can be contacted and
4 Respondent shall notify the Department in writing of any changes to his mailing address or telephone
5 number within fifteen days of any such change.

6 **N. Authority to Execute Order.** It is AGREED that the undersigned have represented and
7 warranted that they have the full power and right to execute this Consent Order on behalf of the
8 parties represented.

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

13 **P. Voluntarily Entered.** It is AGREED that Respondents have voluntarily entered into this
14 Consent Order, which is effective when signed by the Director's designee.

15 **Q. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
16 this Consent Order in its entirety and fully understand and agree to all of the same.


17 **RESPONDENTS:**

18 **United Processing Services, Inc.**

19 By: 

20 Alan Shane Hurd

21 President and Designated Broker

22 
23 Alan Shane Hurd

24 Individually

7/27/15
Date

7/27/15
Date

1 Approved for Entry:

2 [REDACTED]

3 Marshall Casey, WSBA No. 42552

4 Attorney at Law

M Casey Law, PLLC

Attorney for Respondents

7/27/15
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 10th DAY OF August, 2015.



8 [REDACTED]
CHARLES E. CLARK

Director

Division of Consumer Services

Department of Financial Institutions

Presented by:

[REDACTED]

ROBERT E. JONES

Financial Legal Examiner

Approved by:

[REDACTED]

STEVEN C. SHERMAN

Enforcement Chief

APPENDIX A

Attorney Involvement

Borrower Fees Paid

N.B. \$1,864.50

K.C. \$2,270.00

T.V. \$1,570.00

R.G. \$2,352.00

F.B. \$1,715.50

C.B. \$1,870.00

Advance Fees

Borrower Fees Paid

B.M. \$750.00

K.D. \$2,100.00

N.C. \$1,000.00

V.S. \$2,300.00

L.N. \$750.00

G.W. \$3,250.00

TOTAL \$21,792.00

**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:

UNITED PROCESSING SERVICES, INC.,
NMLS ID# 382734,
ALAN SHANE HURD, PRESIDENT and
DESIGNATED BROKER,
NMLS ID# 80956,

Respondents.

No. C-13-1342-14-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO REVOKE LICENSES,
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 (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 Charles E. Clark, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. United Processing Services, Inc. d/b/a Pacific Mortgage Center (Respondent United Processing Services) was licensed to conduct the business of a mortgage broker on December 16, 2010, and has continued to be licensed to date.

B. Alan Shane Hurd (Respondent Hurd) is President and Designated Broker of Respondent United Processing Services, Inc. Respondent Hurd was licensed to conduct the business of a loan originator on June 8, 2007, and was licensed at all times relevant to this Statement of Charges. Respondent Hurd was sponsored by PMC Home Loan Center from October 15, 2008, through

1 December 21, 2009. Respondent Hurd was sponsored by PMC Funding from October 15, 2008,
2 through April 15, 2010. Respondent Hurd was sponsored by Central Banc Mortgage from June 10,
3 2010, through September 22, 2011. Respondent Hurd has been sponsored by Respondent United
4 Processing Services since December 16, 2010. Respondent Hurd's license was inactive from April 16,
5 2010, through June 9, 2010.

6 **1.2 Unlicensed Loan Modification Activity.** Between at least September 2009 and December 16,
7 2010, Respondents were offering residential mortgage loan modification services to Washington
8 consumers on property located in Washington State. Respondents entered into an agreement with an
9 attorney admitted to the practice of law in Washington to perform the loan modification services,
10 provided loan modification clients with the attorney's fee agreement, and represented to loan
11 modification clients that the attorney would be involved in their modification; however the attorney
12 did substantially no work for the clients. Respondents performed substantially all the work for these
13 clients and the attorney did not supervise the work. Respondents entered into a relationship with at
14 least six Washington consumers to provide those services and collected advance fees for the provision
15 of those services. A list of Washington consumers with whom Respondents conducted business as a
16 mortgage broker or loan originator, and the amount paid by each is appended hereto and incorporated
17 herein by reference. None of Respondent Hurd's loan modification activity was performed on behalf
18 of PMC Home Loan Center, PMC Funding, or Central Banc Mortgage.

19 **1.3 Activity with Inactive Loan Originator License.** Respondent Hurd's loan modification
20 activity from April 16, 2010, through June 9, 2010, was conducted with an inactive loan originator
21 license.

22 **1.4 Prohibited Advance Fees.** Between at least December 16, 2010, and April 2013 Respondents
23 also directly offered residential mortgage loan modification services to Washington consumers on
24 property located in Washington State. Respondents entered into a contractual relationship with at least

1 six consumers to collect advance fees for loan modification services. Respondents collected advance
2 fees in violation of 16 CFR 322 (MARS Rule) by taking advance fees for loan modification services.
3 A list of Washington consumers from whom Respondents collected advance fees, and the amount paid
4 by each is appended hereto and incorporated herein by reference.

5 **1.5 Failure to Comply with Investigation Authority.** The Department issued Subpoena Number
6 C-13-1342-14-SB01 to Respondents on April 29, 2014, pursuant to an investigation into whether or
7 not Respondents violated the Act by engaging in deceptive or misleading practices related to
8 residential mortgage loan modification services. The subpoena was served by First-Class mail and
9 Federal Express overnight delivery. The subpoena sent by Federal Express overnight delivery was
10 delivered on May 1, 2014. The subpoena sent by First-Class mail was not returned by the United
11 States Postal Service. Response to this subpoena was due no later than 5:00 p.m. on May 14, 2014.
12 Respondent Hurd's only response was a letter dated May 12, 2014, and received by the Department on
13 May 14, 2014. Respondent Hurd declined to provide any responsive documents, erroneously claiming
14 attorney client privilege. The Department responded by letter dated May 15, 2014, informing
15 Respondents that the claim of privilege was not applicable and extending the date for compliance to
16 the subpoena to 5:00 p.m. on May 19, 2014. Respondent did not provide responsive documents until
17 June 3, 2014.

18 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the
19 Act by Respondents continues to date.

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

21 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
22 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
23 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
24 or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person

1 in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
2 person ““assists a person in obtaining or applying to obtain a residential mortgage loan’ by, among
3 other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages....”

4 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), “loan originator” means a
5 natural person who for direct or indirect compensation or gain, or in the expectation of direct or
6 indirect compensation or gain: offers or negotiates terms of a mortgage loan; or holds themselves out
7 to the public as able to perform any of these activities.

8 **2.3 Responsibility of Designated Broker.** Pursuant to RCW 19.146.200(3) every licensed
9 mortgage broker must at all times have a designated broker responsible for all activities of the
10 mortgage broker in conducting the business of a mortgage broker. A designated broker, principal, or
11 owner who has supervisory authority over a mortgage broker is responsible for a licensee’s,
12 employee’s, or independent contractor’s violations of the Act and its rules if: (a) the designated
13 broker, principal, or owner directs or instructs the conduct or, with knowledge of the specific conduct,
14 approves or allows the conduct; or (b) the designated broker, principal, or owner who has supervisory
15 authority over the licensed mortgage broker knows or by the exercise of reasonable care and inquiry
16 should have known of the conduct, at a time when its consequences can be avoided or mitigated and
17 fails to take reasonable remedial action.

18 **2.4 Unlicensed Mortgage Broker Activity.** Based on the Factual Allegations set forth in Section
19 I above, Respondents are in apparent violation of RCW 19.146.200(1) for engaging in the business of
20 a mortgage broker without first obtaining and maintaining a license under the Act and RCW
21 19.146.0201(2) and (3) for engaging in an unfair or deceptive practice toward any person and
22 obtaining property by fraud or misrepresentation.

23 **2.5 Activity with Inactive License.** Based on the Factual Allegations set forth in Section I above,
24 Respondent Hurd is in apparent violation of WAC 208-660-350(10) for engaging in the business of a

1 loan originator with an inactive license and RCW 19.146.0201(2) and (3) for engaging in an unfair or
2 deceptive practice toward any person and obtaining property by fraud or misrepresentation..

3 **2.6 Advance Fees.** Based on the Factual Allegations set forth in Section I above, Respondents are
4 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 **2.7 Failure to Comply with Investigative Authority.** Based on the Factual Allegations set forth
7 in Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to comply
8 with the investigative authority of the department.

9 III. AUTHORITY TO IMPOSE SANCTIONS

10 **3.1 Authority to Revoke License.** Pursuant to RCW 19.145.220(2), the Director may revoke
11 licenses for failure to comply with any directive, order, or subpoena of the Director; or any violation of
12 the Act.

13 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
14 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
15 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
16 (13), or RCW 19.146.200; or failure to comply with any directive or order of the Director.

17 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
18 restitution against any person subject to the Act for any violation of the Act.

19 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
20 against any person subject to the Act for any violation of the Act or failure to comply with any
21 directive, order, or subpoena of the Director.

22 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
23 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
24 to an investigation of any person subject to the Act.

IV. NOTICE OF INTENT TO ENTER ORDER

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

- 4.1 Respondent United Processing Services, Inc.'s license to conduct the business of a mortgage broker be revoked.
- 4.2 Respondent Alan Shane Hurd's license to conduct the business of a loan originator be revoked.
- 4.3 Respondents United Processing Services, Inc. and Alan Shane Hurd be 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.
- 4.4 Respondents United Processing Services, Inc. and Alan Shane Hurd jointly and severally pay restitution to the twelve consumers identified in Appendix A to this Statement of Charges in the amount set forth therein, and that Respondents jointly and 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.
- 4.5 Respondents United Processing Services, Inc. and Alan Shane Hurd jointly and severally pay a fine, which as of the date of this Statement of Charges totals \$36,000.
- 4.6 Respondents United Processing Services, Inc. and Alan Shane Hurd jointly and severally pay an investigation fee, which as of the date of this Statement of Charges totals \$2,008.80.

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 34.05
4 RCW (The Administrative Procedure Act). Respondent(s) may make a written request for a hearing as
5 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
6 accompanying this Statement of Charges.

7
8 Dated this 16th day of January, 2015.



15
16
17
18

[Redacted Signature]

CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

19 Presented by:

20
21
22

[Redacted Signature]

ROBERT E. JONES
Financial Legal Examiner

23 Approved by:

24
25

[Redacted Signature]

STEVEN C. SHERMAN
Enforcement Chief

APPENDIX A

Attorney Involvement

Borrower Fees Paid

N.B. \$2,300

K.C. \$2,700

T.V. \$2,000

R.G. \$2,900

F.B. \$2,000

C.B. \$2,300

Advance Fees

Borrower Fees Paid

B.M. \$750

K.D. \$2,100

N.C. \$1,000

V.S. \$2,300

L.N. \$750

G.W. \$3,250

TOTAL \$24,350.00