

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

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

7 MICHAEL A. RABEL & ASSOCIATES, LLC, and  
8 MICHAEL A. RABEL, Principal

9 Respondents.

No. C-14-1457-14-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

10 INTRODUCTION

11 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial  
12 Institutions of the State of Washington (Director) is responsible for the administration of chapter  
13 19.146 RCW, the Mortgage Broker Practices (Act). After having conducted an investigation pursuant  
14 to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the  
15 Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes  
16 this proceeding and finds as follows:

17 I. FACTUAL ALLEGATIONS

18 1.1 Respondents.

19 A. Michael A. Rabel & Associates, LLC (Respondent Michael A. Rabel & Associates) has  
20 never been licensed by the Department of Financial Institutions of the State of Washington  
21 (Department) to conduct business as a mortgage broker.

22 B. Michael A. Rabel (Respondent Rabel) is the principal of Michael A. Rabel & Associates,  
23 LLC. During the relevant time period, Respondent Rabel was not licensed by the Department to  
24 conduct business as a mortgage broker or loan originator.

1.2 Unlicensed Activity. Between at least November 18, 2013, and February 26, 2014,

Respondents were offering residential mortgage loan modification services to Washington consumers

1 on property located in Washington State. Respondents entered into a contractual relationship with at  
2 least one Washington consumer to provide those services and collected an advance fee for the  
3 provision of those services. The Department has received at least one complaint from a Washington  
4 consumer alleging Respondents provided or offered to provide residential mortgage loan modification  
5 services while not licensed by the Department to provide those services. Consumer L.N. paid  
6 Respondents \$1,200.00 for loan modification services.

7 **1.3 Misrepresentations and Omissions.** Respondents represented that they were licensed to  
8 provide the residential mortgage loan modification services or omitted disclosing that they were not  
9 licensed to provide those services.

10 **1.4 Failure to Comply with Investigation Authority.** On or about February 25, 2014, the  
11 Department issued a subpoena to Respondents compelling Respondents to provide documents and an  
12 explanation of Respondents unlicensed activity. To date, Respondents have not provided any response  
13 to the subpoena.

14 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the  
15 Act by Respondents continues to date.

## 16 **II. GROUNDS FOR ENTRY OF ORDER**

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

1 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), “loan originator” means a  
2 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, Respondents  
7 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice  
8 toward any person and obtaining property by fraud or misrepresentation.

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

13 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual  
14 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)  
15 for engaging in the business of a loan originator without first obtaining and maintaining a license.

16 **2.6 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in  
17 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 16 CFR 322 (the  
18 Mortgage Assistance Relief Services Rule) for taking advance fees for loan modification services.

19 **2.7 Requirement to Comply with Investigation Authority.** Based on the Factual Allegations set  
20 forth in Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to  
21 comply with the investigation authority of the Director.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the  
3 Director may issue orders directing any person subject to the Act to cease and desist from conducting  
4 business.

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

9 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order  
10 restitution against any person subject to the Act for any violation of the Act.

11 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines  
12 against any person subject to the Act for any violation of the Act.

13 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-  
14 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted  
15 to an investigation of any person subject to the Act.

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

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

20 **4.1** Respondents Michael A. Rabel & Associates, LLC and Michael A. Rabel cease and desist from  
21 engaging in the business of a mortgage broker or loan originator.

22 **4.2** Respondents Michael A. Rabel & Associates, LLC and Michael A. Rabel be prohibited from  
23 participation, in any manner, in the conduct of the affairs of any mortgage broker subject to  
24 licensure by the Director for a period of five years.

**4.3** Respondents Michael A. Rabel & Associates, LLC and Michael A. Rabel jointly and severally  
pay restitution to the consumer identified by the Department in paragraph 1.2 in the amount set

1       forth therein, and that Respondents jointly and severally pay restitution to each Washington  
2       consumer with whom they entered into a contract for residential mortgage loan modification  
3       services related to real property or consumers located in the state of Washington equal to the  
4       amount collected from that Washington consumer for those services in an amount to be  
5       determined at hearing.

6       **4.4** Respondents Michael A. Rabel & Associates, LLC and Michael A. Rabel jointly and severally  
7       pay a fine, which as of the date of this Statement of Charges totals \$6,000.00.

8       **4.5** Respondents Michael A. Rabel & Associates, LLC and Michael A. Rabel jointly and severally  
9       pay an investigation fee, which as of the date of this Statement of Charges totals \$364.80.

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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). Respondent(s) 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 21<sup>st</sup> day of July, 2014.



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

Presented by:



ROBERT E. JONES  
Financial Legal Examiner

Approved by:



CHARLES E. CLARK  
Enforcement Chief