

ORDER SUMMARY – Case Number: C-14-1458

Name(s): US Recovery Program and Arturo Garcia

Order Number: C-14-1458-14-FO01

Effective Date: July 2, 2014

License Number: Not applicable – unlicensed entities.
Or NMLS Identifier [U/L]

License Effect: Prohibited/Banned for 5 years.

Not Apply Until: July 2, 2019

Not Eligible Until: July 2, 2019

Prohibition/Ban Until: July 2, 2019

Investigation Costs	\$4,368	Due: 7/2014	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$20,000	Due: 7/2014	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	\$22,665.89	Due: 7/2014	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 checked="" type="checkbox"/> N		
No. of Victims:		Five (5)		

Comments: In addition to the legal financial obligations listed above, US Recovery Program and Arturo Garcia are ordered to cease and desist from engaging in the business of a mortgage broker or loan originator; are 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 (5) years; and are ordered to maintain records in compliance with the Mortgage Broker Practices Act.

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:

US RECOVERY PROGRAM, and
ARTURO GARCIA, Owner,

Respondents.

No.: C-14-1458-14-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On April 30, 2014, the Director, through the Director's designee, 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 US Recovery Program and Arturo Garcia (Respondents). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated May 1, 2014, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents (collectively, accompanying documents).

On May 1, 2014, the Department served Respondents with the Statement of Charges and accompanying documents by First-Class mail and Federal Express overnight delivery. On May 2, 2014, the documents sent by Federal Express overnight delivery to Respondents were delivered. The documents sent by First-Class mail to Respondents were not returned to the Department by the United States Postal Service.

1 The documents sent by First-Class mail to Respondent Arturo Garcia's personal residential
2 mailing addresses were returned to the Department by the United States Postal Service as
3 undeliverable. On May 23, 2014, the Department received confirmation from ABC Legal Services
4 via a Declaration of Service that on May 12, 2014, Julio Ascorra personally served Respondent
5 Arturo Garcia with the Statement of Charges and accompanying documents at the address of 14751
6 Titus Street, Apartment 70, Panorama City, California 91402.

7 Respondents did not request an adjudicative hearing within twenty calendar days after the
8 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
9 in WAC 208-08-050(2).

10 B. Record Presented. The record presented to the Director's designee for her review and
11 for entry of a final decision included the following:

- 12 1. Statement of Charges, cover letter dated May 1, 2014, Notice of Opportunity to
13 Defend and Opportunity for Hearing, and blank Applications for Adjudicative
Hearing for Respondents, with documentation for service; and
- 14 2. Declaration of Service (Proof of Service), signed by Julio Ascorra, Reg. #6310,
15 Los Angeles, CA, on May 14, 2014.

16 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
17 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

18 II. FINAL ORDER

19 Based upon the foregoing, and the Director's designee having considered the record and being
20 otherwise fully advised, NOW, THEREFORE:

21 A. IT IS HEREBY ORDERED, That:

- 22 1. Respondents US Recovery Program and Arturo Garcia cease and desist from
23 engaging in the business of a mortgage broker or loan originator;

2. Respondents US Recovery Program and Arturo Garcia are 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 (5) years;
3. Respondents US Recovery Program and Arturo Garcia jointly and severally pay \$22,665.89 in restitution to the five (5) Washington consumers identified by the Department in the amount set forth in Exhibit A;
4. Respondents US Recovery Program and Arturo Garcia jointly and severally pay a fine of \$20,000;
5. Respondents US Recovery Program and Arturo Garcia jointly and severally pay an investigation fee of \$4,368; and
6. Respondents US Recovery Program and Arturo Garcia, its officers, employees, and agents maintain records in compliance with chapter 19.146, the Mortgage Brokers Practice Act (Act) and provide the Department with the location of the books, records, and other information relating to Respondents' business, and the name, address, and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

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

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

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

1 D. Judicial Review. Respondents have the right to petition the superior court for judicial
2 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
3 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

4 E. Non-compliance with Order. If Respondents do not comply with the terms of this
5 order, including payment of any amounts owed within 30 days of receipt of this order, the
6 Department may seek its enforcement by the Office of the Attorney General to include the collection
7 of the fines, fees, and restitution imposed herein. The Department also may assign the amounts owed
8 to a collection agency for collection.

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

12 DATED this 2nd day of July, 2014.

13 STATE OF WASHINGTON
14 DEPARTMENT OF FINANCIAL INSTITUTIONS

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16 DEBORAH BORTNER
17 Director
18 Division of Consumer Services
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1 **RESTITUTION**

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3 **Borrower**

Amount

4 J.S. \$2,516.42

5 G.M. \$4,183.38

6 L.P. \$3,983.35

7 G.F. \$4,489.57

8 B.S. \$7,493.17

9 **TOTAL** **\$22,665.89**

**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:

US RECOVERY PROGRAM, and
ARTURO GARCIA, Owner,

Respondents.

No. C-14-1458-14-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

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 (the 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. US Recovery Program (Respondent US Recovery Program) has never been licensed by the Department of Financial Institutions of the State of Washington (the Department) to conduct business as a mortgage broker or loan originator.

B. Arturo Garcia (Respondent Arturo Garcia) is the owner of Respondent US Recovery Program. During the relevant time period, Respondent Arturo Garcia was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1.2 Unlicensed Activity. Between at least October 2013 through February 2014, Respondents were offering residential mortgage loan modification services to Washington consumers on property

1 located in Washington State. Respondents entered into a contractual relationship with at least five (5)
2 Washington consumers to provide those services and collected an advance fee for the provision of
3 those services. The Department has received at least five (5) complaints from Washington consumers
4 alleging Respondents provided or offered to provide residential mortgage loan modification services
5 while not licensed by the Department to provide those services. A list of Washington consumers with
6 whom Respondents conducted business as a mortgage broker or loan originator, and the amount paid
7 by each, is appended hereto and incorporated herein by reference.

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 direct or indirect compensation or gain, or in the
16 expectation of direct or indirect compensation or gain (a) assists a person in obtaining or applying to
17 obtain a residential mortgage loan or performs residential mortgage loan modification services or (b)
18 holds himself or herself out as being able to assist a person in obtaining or applying to obtain a
19 residential mortgage loan or provide residential mortgage loan modification services. Pursuant to
20 WAC 208-660-006, a person "assists a person in obtaining or applying to obtain a residential
21 mortgage loan" by, among other things, counseling on loan terms (rates, fees, other costs), [and]
22 preparing loan packages"

23 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11) and WAC 208-660-006, "Loan
24 originator" means a natural person who for direct or indirect compensation or gain, or in the

1 expectation of direct or indirect compensation or gain: takes a residential mortgage loan application for
2 a mortgage broker; offers or negotiates terms of a mortgage loan; performs residential mortgage loan
3 modification services; or holds themselves out to the public as able to perform any of these activities.

4 **2.3 Definition of Residential Mortgage Loan Modification.** Pursuant to RCW 19.146.010(20)
5 and WAC 208-660-006, "Residential mortgage loan modification" means a change in one or more of a
6 residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or
7 conditions include but are not limited to: forbearances; repayment plans; changes in interest rates, loan
8 terms, or loan types; capitalization of arrearages; or principal reductions.

9 **2.4 Definition of Residential Mortgage Loan Modification Services.** Pursuant to RCW
10 19.146.010(21) and WAC 208-660-006, "Residential mortgage loan modification services" includes
11 negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform
12 a residential mortgage loan modification. "Residential mortgage loan modification services" also
13 includes the collection of data for submission to any entity performing mortgage loan modification
14 services.

15 **2.5 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
16 are in apparent violation of RCW 19.146.0201(2) and (3) for engaging in an unfair or deceptive
17 practice toward any person and obtaining property by fraud or misrepresentation.

18 **2.6 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
19 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
20 and WAC 208-660-155 for engaging in the business of a mortgage broker for Washington residents or
21 property without first obtaining a license to do so.

22 **2.7 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
23 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
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1 and WAC 208-660-155 for engaging in the business of a loan originator without first obtaining and
2 maintaining a license.

3 **2.8 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
4 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
5 location that is on file with and readily available to the Department until at least three years have
6 elapsed following the effective period to which the books and records relate.

7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
9 Director may issue orders directing any person subject to the Act to cease and desist from conducting
10 business.

11 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
12 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
13 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
14 mortgage broker or any person subject to licensing under the Act for any violation of this chapter.

15 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
16 restitution against any person subject to the Act for any violation of the Act.

17 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
18 against any person subject to the Act for any violation of the Act.

19 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-
20 520(9) and (11), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per hour
21 for an examiner's time devoted to an investigation of any person subject to the Act.

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IV. NOTICE OF INTENT TO ENTER ORDER

Respondents US Recovery Program's and Arturo Garcia's 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 Respondents US Recovery Program and Arturo Garcia cease and desist from engaging in the business of a mortgage broker or loan originator;
- 4.2 Respondents US Recovery Program and Arturo Garcia 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 (5) years;
- 4.3 Respondents US Recovery Program and Arturo Garcia jointly and severally pay restitution to the five (5) consumers identified by the Department in paragraph 1.2 in the amount set forth in Appendix A, and that Respondents jointly and severally pay restitution to each Washington consumer with whom the Respondents entered into a contract for residential mortgage loan modification services related to real property or consumers located in Washington equal to the amount collected from the Washington consumers for those services in an amount to be determined at hearing;
- 4.4 Respondents US Recovery Program and Arturo Garcia jointly and severally pay a fine, which as of the date of this Statement of Charges totals \$20,000;
- 4.5 Respondents US Recovery Program and Arturo Garcia jointly and severally pay an investigation fee, which as of the date of this Statement of Charges totals \$4,368; and.
- 4.6 Respondents US Recovery Program and Arturo Garcia maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' provision of 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.

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). Respondents US Recovery Program and Arturo Garcia
5 may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
6 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

7 Dated this 30th day of April, 2014.



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

18 Presented by:

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BARBARA PENTTILA
Financial Legal Examiner

Approved by:

CHARLES E. CLARK
Enforcement Chief

1 **RESTITUTION**

2

3 **Borrower**

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