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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
Consumer Loan Act of Washington by:

Quicken Loans, Inc., NMLS No. 3030,

Respondent.

No. C-14-1568-15-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST, TAKE
AFFIRMATIVE ACTION, IMPOSE FINE,
AND COLLECT COSTS

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, 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 Respondent Quicken Loans, Inc. (Respondent Quicken) has been licensed by the Department of Financial Institutions of the State of Washington (Department) since at least 1998, and is currently licensed to conduct business in Washington as a consumer loan company. Respondent Quicken is a non-supervised participating lender with the U.S. Department of Veterans Affairs (VA) licensed in all 50 states. At the end of 2014, Respondent Quicken reported it had become the nation's leading VA lender.

1.2 Unfair, Deceptive, and Misleading VA Mortgage Loan Advertising. Between around January 1 and August 8, 2014, Respondent Quicken distributed at least 65 direct mail solicitations in Washington offering servicemembers, veterans, and family members residential mortgage loans guaranteed by the VA. As an example, a solicitation captioned **INTEREST RATE REDUCTION**

1 **NOTICE** (the IRRRL Notice) was distributed in Washington between May and August 2014, and
 2 offered a VA 5/1 adjustable rate mortgage (ARM). Respondent Quicken distributed the IRRRL
 3 Notice to 35,432 Washington consumers. The IRRRL Notice contained a number of features,
 4 representations, and disclosures in violation of the Act, including:

| FEATURE, REPRESENTATION, DISCLOSURE | ALLEGED VIOLATION |
|--|---|
| Used a watermark emblem designed to resemble the seal of the VA, including by the use of the phrase "GOVERNED BY: UNITED STATES VETERANS DEPARTMENT." (Identified as the "Eagle Seal Watermark.") | RCW 31.04.027(2) and (13) WAC 208-620-550(5) WAC 208-620-630(1), (1)(b), and (6) WAC 208-620-640 |
| Used an official-looking emblem of an eagle surrounded by a circle of stars, all in red ink. (Identified as the "VA Distressed Red Eagle Stamp.") | RCW 31.04.027(2) and (13) WAC 208-620-550(5) WAC 208-620-630(1)(b) WAC 208-620-640 |
| Advertised a rate of interest that was bought down by 1.00 point without disclosing that the advertised rate was bought down. | RCW 31.04.027(2), (7), (13) RCW 31.04.135 WAC 208-620-550(5) |
| Advertised a rate of interest that was bought down by 1.00 point without disclosing the cost to the consumer of buying down the interest rate. | RCW 31.04.027(2), (7), (13) RCW 31.04.135 WAC 208-620-550(5) |
| Did not clearly and conspicuously disclose the APR. | RCW 31.04.027(2), (12), (13) WAC 208-620-630(2) |
| Advertised "new initial fixed interest rate" without first clearly and conspicuously disclosing that the loan product being offered was a 5/1 ARM. | RCW 31.04.027(2), (7), (13) RCW 31.04.135 WAC 208-620-550(5) WAC 208-620-640 |
| Advertised "new initial fixed interest rate" without clearly and conspicuously disclosing by an equally prominent and closely proximate statement that the interest rate was only available for 5 years, and that the rate may increase after that period. | RCW 31.04.027(2), (7), (13) RCW 31.04.135 WAC 208-620-550(5) WAC 208-620-640 |
| Advertised "new est. monthly payment" without clearly and conspicuously disclosing by an equally prominent and closely proximate statement that the monthly payment was only available for 5 years, and that the payment may increase after that period. | RCW 31.04.027(2), (7), (13) RCW 31.04.135 WAC 208-620-550(5) WAC 208-620-640 |
| Advertised that recipients were eligible and prequalified for a VA-guaranteed 5/1 ARM when the recipients were not selected based on assumed income of \$8,000 a month. | RCW 31.04.027(2), (7), (13) RCW 31.04.135 WAC 208-620-550(5) WAC 208-620-640 |
| Engaged in bait and switch advertising, as the advertised terms were only available to consumers with an assumed income of \$8,000 a month. | RCW 31.04.027(2), (7), (13) WAC 208-620-550(5) WAC 208-620-640 |
| Advertised that the purpose of the IRRRL Notice was to notify the recipient of the status of their mortgage refinance eligibility. | RCW 31.04.027(2), (13) WAC 208-620-550(5) WAC 208-620-640 |

| | |
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| Created a false sense of urgency by directing recipients to immediately contact Respondent Quicken to confirm receipt of the IRRRL Notice, by including a “response required by” date, and by closing with another direction to call Respondent Quicken “now.” | RCW 31.04.027(2), (13) WAC 208-620-550(5) WAC 208-620-640 |
| Did not provide recipients with the name of the source of consumer loan information used in the IRRRL Notice. | RCW 31.04.027(2) WAC 208-620-630(7) |

Between about January and August 2014, Respondent Quicken distributed at least 40 other direct mail solicitations offering VA guaranteed residential mortgage loans to consumers that contained similar unfair, deceptive, or misleading features, representations, and disclosures in violation of the Act. At least 20 offered ARMs without clearly and conspicuously disclosing that the offer was for an ARM; at least 20 misrepresented that the interest rate was fixed; at least 20 included the Eagle Seal Watermark and VA Distressed Red Eagle Stamp; at least 20 misrepresented that the recipient was eligible or prequalified for the advertised loan terms when no income eligibility criteria had been used; and most advertised bought-down interest rates without clearly and conspicuously disclosing both that the rate was bought down and the cost to the consumer of buying down the rate. Respondent Quicken distributed those solicitations to approximately three million consumers nationwide, including Washington consumers.

1.3 Failure to Comply or Cooperate. In August 2014, the Department issued a Complaint Directive (Directive) to Respondent Quicken relating to the use of the IRRRL Notice in Washington. The Directive specifically requested the identity, including names, titles, and contact information, of every person who reviewed or authorized the use of the IRRRL Notice in Washington.

In its initial response to the Directive dated September 4, 2014, Respondent Quicken failed to comply with the specific request, responding only that the IRRRL Notice “was reviewed by members of the direct mail team and the Legal Team.” During a September 29, 2014, call related to omissions in Respondent Quicken’s initial response to the Directive, the Department advised that Respondent Quicken was required to comply with the Directive by identifying, as defined in the

1 Directive, every person who reviewed or authorized the use of the IRRL Notice in Washington. The
2 Department further advised that failure to comply with the Directive would be a violation of the Act.

3 In a supplemental response to the Directive dated October 10, 2014, Respondent Quicken
4 claimed that they did not understand the relevancy of the Department's request and again failed to
5 identify every person who had reviewed or authorized the use of the IRRL notice in Washington.

6 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
7 Act by Respondent Quicken continues to date.

8 II. GROUNDS FOR ENTRY OF ORDER

9 **2.1 Unfair or Deceptive Practices.** Based on the Factual Allegations set forth in Section I
10 above, Respondent Quicken is in apparent violation of RCW 31.04.027(2) for directly or indirectly
11 engaging in any unfair or deceptive practice toward any person, and by being in apparent violation
12 of WAC 208-620-550(5) and (6); WAC 208-620-610(5); WAC 208-620-630(1) and (1)(b);
13 WAC 208-620-630(2), (6), and (7); and WAC 208-620-640.

14 **2.2 False or Deceptive Statements or Representations.** Based on the Factual Allegations set
15 forth in Section I above, Respondent Quicken is in apparent violation of RCW 31.04.027(7) for
16 making, in any manner, any false or deceptive statement or representation with regard to the rates,
17 points, or other financing terms for a residential mortgage loan, or engaging in bait and switch
18 advertising, and by being in apparent violation of WAC 208-620-550(5) and WAC 208-620-640.

19 **2.3 Failure to Conspicuously Disclose the APR.** Based on the Factual Allegations set forth in
20 Section I above, Respondent Quicken is in apparent violation of RCW 31.04.027(12) for advertising
21 any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate
22 of interest, and by being in apparent violation of WAC 208-620-630(2).

23 **2.4 Violation of Applicable Federal Law.** Based on the Factual Allegations set forth in Section
24 I above, Respondent Quicken is in apparent violation of RCW 31.04.027(13) for violating any

1 applicable federal laws relating to the activities governed by the Act, including but not limited to the
2 advertising prohibitions contained in the Federal Trade Commission Act, 15 U.S.C. §§ 41-58;
3 Regulation Z, 12 C.F.R. Part 1026; and Regulation N, 12 C.F.R. Part 1014; and by being in apparent
4 violation of WAC 208-620-640.

5 **2.5 False, Misleading, or Deceptive Advertisements or Promotions.** Based on the Factual
6 Allegations set forth in Section I above, Respondent Quicken is in apparent violation of RCW
7 31.04.135 for advertising, in any manner whatsoever, any statement or representation with regard to
8 the rates, terms, or conditions for the lending of money that is false, misleading, or deceptive, and by
9 being in apparent violation of WAC 208-620-550(5) and WAC 208-620-640.

10 **2.6 Requirement to Comply with Investigation Authority.** Based on the Factual Allegations
11 set forth in Section I above, Respondent Quicken is in apparent violation of RCW 31.04.145 for
12 failing to comply with the Department's investigation authority, and by being in apparent violation
13 of WAC 208-620-550(6) and WAC 208-620-610(5).

14 III. AUTHORITY TO IMPOSE SANCTIONS

15 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 31.04.093(5)(a), the
16 Director may issue an order directing a licensee to cease and desist from conducting business in a
17 manner that is injurious to the public or violates any provision of the Act.

18 **3.2 Authority to Order Affirmative Action.** Pursuant to RCW 31.04.093(5)(b), the Director
19 may issue an order directing a licensee to take such affirmative action as is necessary to comply with
20 the Act.

21 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
22 up to one hundred dollars per day, per violation, upon the licensee for any violation of the Act or
23 failure to comply with any order or subpoena issued by the Director under the Act.

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1 **3.4 Authority to Charge Costs.** Pursuant to RCW 31.04.145(3), every licensee examined or
2 investigated by the Director or the Director's designee shall pay for the cost of the examination or
3 investigation. Pursuant to WAC 208-620-590, the Department charges \$69.01 per staff hour.¹

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

5 Respondent Quicken's violations of the provisions of chapter 31.04 RCW and chapter 208-620
6 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to
7 Impose Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW
8 31.04.165, and RCW 31.04.205. Therefore, it is the Director's intent to ORDER that:

9 **4.1** Respondent Quicken Loans, Inc. cease and desist distributing direct mail solicitations
10 offering Washington servicemembers, veterans, and their families VA residential
11 mortgage loans until such time as it is able to demonstrate to the Department's
12 satisfaction that it has in place compliance policies, procedures, and testing systems
reasonably designed to detect and prevent the distribution of false, deceptive, or
misleading direct mail solicitations in Washington.

13 **4.2** Respondent Quicken Loans, Inc. take affirmative action as is necessary to comply
with the Act, including:

14 a. Within 30 days of the entry of a Final Order in this matter, review Respondent
15 Quicken's Marketing/Legal Guide and make necessary changes to ensure the
16 existing direct mail compliance systems are reasonably designed to detect and
prevent the distribution of false, deceptive, or misleading direct mail
solicitations in Washington; and

17 b. Within 60 days of the entry of a Final Order in this matter, provide the
18 Department with a report of Respondent Quicken's review of the
19 Marketing/Legal Guide and any changes made to ensure the direct mail
20 compliance systems are reasonably designed to detect and prevent the
21 distribution of false, deceptive, or misleading direct mail solicitations in
Washington.

22 **4.3** Respondent Quicken Loans, Inc. pay a fine. As of the date of this Statement of
23 Charges, the fine totals \$500,000.

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¹ Effective July 24, 2015, the Department is authorized to recover the state's costs and expenses for prosecuting violations of the Act including staff time spent preparing for and attending administrative hearings and reasonable attorneys' fees unless, after a hearing, the Director determines no violation occurred. Laws of 2015, Chapter 229, § 30(2).

