

Terms Completed

ORDER SUMMARY – Case Number: C-17-2241

Name(s): Butt, LLC
Charles Butt
Kristy Butt

Order Number: C-17-2241-18-CO01

Effective Date: 6/8/18

License Number: U/L NMLS ID: K. Butt 1765539, C. Butt 1765540, Entity 1765535
Or NMLS Identifier [U/L]

License Effect:

Not Apply Until:

Not Eligible Until:

Prohibition/Ban Until:

Investigation Costs	\$ 2,150		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 6/19/18
Fine	\$ 10,000	Due \$5,000 (\$5,000 STAYED)	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 6/19/18
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$2,053.01	Due within 30 days	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 6/25/18
Financial Literacy and Education	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Cost of Prosecution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
	No. of Victims:			

Comments: \$5,000 of the fine has been stayed for a period of two years from entry of the order,

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 Consumer Loan Act of Washington by:

No.: C-17-2241-18-CO01

CONSENT ORDER

7 BUTT, LLC;
8 CHARLES BUTT, Member; and
9 KRISTY BUTT, Member,

Respondents.

10 COMES NOW the Director of the Department of Financial Institutions (Director), through
11 her designee Charles E. Clark, Division Director, Division of Consumer Services, and Butt, LLC,
12 Charles Butt, and Kristy Butt (Respondents), and finding that the issues raised in the above-captioned
13 matter may be economically and efficiently settled, agree to the entry of this Consent Order. This
14 Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and
15 RCW 34.05.060 of the Administrative Procedure Act, based on the following:

16 **AGREEMENT AND ORDER**

17 The Department of Financial Institutions, Division of Consumer Services (Department) and
18 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges
19 No. C-17-2241-18-SC01 (Statement of Charges), entered February 15, 2018, (copy attached hereto).
20 Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the
21 Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent
22 Order and further agree that the issues raised in the above-captioned matter may be economically and
23 efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully
24 resolve the Statement of Charges. Respondents are agreeing not to contest the Statement of Charges
in consideration of the terms of this Consent Order.

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1 Based upon the foregoing:

2 A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
3 of the activities discussed herein.

4 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
5 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached
7 herein. Accordingly, Respondents, by their signatures and the signatures of their representatives
8 below, withdraw their appeal to the Office of Administrative Hearings.

9 C. **No Admission of Liability.** The parties intend this Consent Order to fully resolve the
10 Statement of Charges and agree that Respondents do not admit to any wrongdoing by its entry.

11 D. **Cease and Desist.** It is AGREED that Respondents shall, upon entry of this Consent
12 Order, cease and desist from making, originating, or servicing residential mortgage loans until such
13 time that Respondents obtain a consumer loan company license or a waiver, or meet a statutory
14 exemption.

15 E. **Fine and Stayed Amount.** It is AGREED that Respondents shall pay a fine to the
16 Department in the amount of \$10,000. It is further AGREED that the Department shall stay \$5,000 of
17 the fine for a period of two (2) years from date of entry of this Consent Order, at which point the
18 Stayed Fine shall be withdrawn. The Stayed Fine may be lifted within this two year time period in
19 accordance with the terms stated in Paragraph F. It is further AGREED that Respondents shall pay to
20 the Department \$5,000 upon entry of this Consent Order in the form described in Paragraph H.

21 F. **Lifting the Stay and Imposing Stayed Fine.** It is AGREED that:

- 22 1. If the Department determines that Respondents have not complied with the terms of
23 this Consent Order to a degree sufficient to warrant imposition of a Stayed Fine, and
24 the Department accordingly seeks to lift the stay and impose the Stayed Fine set forth
in Paragraph E above, the Department will first notify Respondents in writing of its
determination.

1 2. The Department's notification will include:

- 2 a) A description of the alleged noncompliance;
- 3 b) A statement that because of the noncompliance, the Department seeks to lift
- 4 the stay and impose the Stayed Fine;
- 5 c) The opportunity for Respondents to contest the Department's determination of
- 6 noncompliance in an administrative hearing before an Administrative Law
- 7 Judge (ALJ) of the Office of Administrative Hearings (OAH); and
- 8 d) A copy of this Consent Order. The notification and hearing process provided in
- 9 this Consent Order applies only to this Consent Order. It is solely provided in
- 10 the event Respondents choose to contest the Department's determination of
- 11 noncompliance.

12 3. Respondents will be afforded twenty (20) business days from the date of receipt of the

13 Department's notification to submit a written request to the Department for an

14 administrative hearing to be held before an ALJ from the OAH.

15 4. Respondents, in addition to their request for hearing, may provide a written response

16 to include any information pertaining to the alleged noncompliance.

17 5. The scope and issues of the hearing are limited solely to whether or not Respondents

18 are in violation of the terms of this Consent Order to a degree sufficient to warrant

19 imposition of the Stayed Fine.

20 6. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party

21 may file a Petition for Review with the Director of the Department.

22 7. If Respondents do not request the hearing within the stated time, the Department will

23 impose the Stayed Fine and pursue whatever action it deems necessary to enforce the

24 Stayed Fine.

25 **G. Refunds to Borrowers.** It is AGREED that Respondents shall, within 30 days of entry of

26 this Consent Order, pay refunds of non-third party loan-related fees in the aggregate amount of

27 \$2,053.01 to the two borrowers and in the amounts listed in Appendix A. Respondents shall provide

28 the Department with a copy of each refund check and shall notify the Department if any check is

29 returned or not cashed within 30 days of issuance.

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1 **H. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
2 investigation fee of \$2,150 upon entry of this Consent Order. The Fine and Investigation Fee shall be
3 paid together in one \$7,150 cashier’s check made payable to the “Washington State Treasurer.”

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

9 **J. Authority to Execute Order.** It is AGREED that the undersigned have represented and
10 warranted that they have the full power and right to execute this Consent Order on behalf of the
11 parties represented.

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

16 **L. Voluntarily Entered.** It is AGREED that Respondents have voluntarily entered into this
17 Consent Order, which is effective when signed by the Director’s designee.

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

20 **N. Counterparts.** This Consent Order may be executed by the Respondents in any number
21 of counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be
22 deemed to be an original, but all of which, taken together, shall constitute one and the same Consent
23 Order.

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1 **RESPONDENTS:**

Butt, LLC

2 By:

3 /s/_____

Charles Butt
4 Member

5-31-18_____

Date

5 /s/_____

6 Charles Butt
Individually

5-31-18_____

Date

7 /s/_____

8 Kristy Butt
9 Individually

5/31/2018_____

Date

10 Approved for Entry:

11 /s/_____

Katrina Self, WSBA No. 52359
12 Attorney at Law
Eisenhower Carlson PLLC
13 Attorney for Respondents

6/4/2018_____

Date

14 **DO NOT WRITE BELOW THIS LINE**

15 THIS ORDER ENTERED THIS 8th DAY OF June, 2018.

17 /s/_____

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

20 Presented by:

Approved by:

22 /s/_____

23 BRETT CARNAHAN
Financial Legal Examiner

/s/_____

STEVEN C. SHERMAN
Enforcement Chief

1 C. **Kristy Butt (Respondent Kristy Butt)** is a Member of Respondent Butt, LLC.
2 Respondent Kristy Butt has never been licensed by the Department to conduct business either as a
3 mortgage loan originator or as a servicer of residential mortgage loans.

4 **1.2 Unlicensed Residential Mortgage Loan Origination.** Since 2013, Respondents Charles
5 Butt and Kristy Butt have originated, and through Respondent Butt, LLC have funded at least four
6 residential mortgage loans in Washington State, without first obtaining and maintaining a license
7 under the Act.

8 **1.3 Unlicensed Residential Mortgage Loan Servicing.** Since 2013, Respondents collectively
9 have serviced at least four residential mortgage loans in Washington State, without first obtaining and
10 maintaining a license under the Act.

11 **1.4 Unfair or Deceptive Act.** In November of 2015, Respondents assessed an incorrect amount
12 of default interest against a residential mortgage loan it had issued to Borrower R.A., which Borrower
13 R.A. paid to Respondent Butt, LLC. As of the date of this Statement of Charges, Respondent has not
14 provided compensation to Borrower R.A. for this erroneously calculated default interest.

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

17 II. GROUNDS FOR ENTRY OF ORDER

18 **2.1 Definition of a Borrower.** Pursuant to RCW 31.04.015(4), "Borrower" means any person
19 who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek
20 information about obtaining a loan, regardless of whether that person actually obtains such a loan.
21 "Borrower" includes a person who consults with or retains a licensee or person subject to this chapter
22 in an effort to obtain, or who seeks information about obtaining a residential mortgage loan
23 modification, regardless of whether that person actually obtains a residential mortgage loan
24 modification.

1 **2.2 Definition of Residential Mortgage Loan.** Pursuant to RCW 31.04.015(23), a “Residential
2 mortgage loan” is a loan primarily for personal, family, or household use that is secured by a
3 mortgage, deed of trust, or other consensual security interest on a dwelling, as defined in the truth in
4 lending act, or residential real estate upon which is constructed or intended to be constructed a
5 dwelling.

6 **2.3 Definition of Mortgage Loan Originator.** Pursuant to RCW 31.04.015(17)(a), "Mortgage
7 loan originator" means an individual who for compensation or gain (i) takes a residential mortgage
8 loan application, or (ii) offers or negotiates terms of a residential mortgage loan. Pursuant to RCW
9 31.04.015(17)(b) “Mortgage loan originator" includes an individual who for direct or indirect
10 compensation or gain performs residential mortgage loan modification services or holds himself or
11 herself out as being able to perform residential mortgage loan modification services.

12 **2.4 Definition of Making a Loan.** Pursuant to RCW 31.04.015(15), “Making a loan” means
13 “advancing, offering to advance, or making a commitment to advance funds to a borrower for a
14 loan.”

15 **2.5 Definition of Servicing a Loan.** Pursuant to RCW 31.04.015(28), “Service or servicing a
16 loan” includes “on behalf of the lender or investor of a residential mortgage loan . . . [c]ollecting or
17 receiving payments on existing obligations due and owing to the lender or investor, including
18 payments of principal, interest, escrow amounts, and other amounts due . . .”

19 **2.6 Unlicensed Mortgage Loan Originators.** Based on the Factual Allegations set forth in
20 Section I above, Respondents Charles Butt and Kristy Butt are in apparent violation of RCW
21 31.04.221 for engaging in the business of a mortgage loan originator without first obtaining and
22 maintaining a license under the Act.

23 **2.7 Unlicensed Consumer Loan Activity.** Based on the Factual Allegations set forth in Section
24 I above, Respondents are in apparent violation of RCW 31.04.035(1) for engaging in the business of

1 a consumer loan company by both making and servicing residential mortgage loans without first
2 obtaining and maintaining a license under the Act.

3 **2.8 Unfair or Deceptive Practice.** Based on the Factual Allegations set forth in Section I above,
4 Respondents are in apparent violation of RCW 31.04.027(2) for directly or indirectly engaging in any
5 unfair or deceptive act toward any person.

6 **III. AUTHORITY TO IMPOSE SANCTIONS**

7 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 31.04.093(5)(a), the
8 Director may issue orders directing a licensee, its employee, loan originator, or other person subject
9 to the Act to cease and desist from conducting business in a manner that is injurious to the public or
10 violates any provision of the Act.

11 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(f), the Director
12 may issue an order prohibiting from participation in the affairs of any licensee or any person subject
13 to the Act for failure to obtain a license for activity that requires a license.

14 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
15 up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator, or
16 any other person subject to the Act for any violation of the Act or failure to comply with any order or
17 subpoena issued by the Director under the Act.

18 **3.4 Authority to Order Refund or Restitution.** Pursuant to RCW 31.04.093(5), the Director may
19 issue an order directing a licensee, its employee or loan originator, or any other person subject to the
20 Act to make a refund or restitution to a borrower or other person who is damaged as a result of a
21 violation of the Act.

22 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-
23 590, WAC 208-620-610(7), every licensee examined or investigated by the Director or the Director's
24 designee shall pay for the cost of the examination or investigation, calculated at the rate of \$69.01 per

1 staff hour devoted to the examination or investigation, and shall pay travel costs if the licensee
2 maintains its records outside the state.

3 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
4 may recover the state's costs and expenses for prosecuting violations of the Act.

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

6 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
7 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
8 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, RCW
9 34.04.202, and RCW 31.04.205. Therefore, it is the Director's intent to ORDER that:

- 10 **4.1** Respondents Charles Butt, and Kristy Butt cease and desist from originating
11 residential mortgage loans without first obtaining a mortgage loan originator license,
obtaining a waiver for each loan originated, or meeting a statutory exemption.
- 12 **4.2** Respondents Butt, LLC, Charles Butt, and Kristy Butt cease and desist from making
13 residential mortgage loans without first obtaining a consumer loan company license,
obtaining a waiver for each loan made, or meeting a statutory exemption.
- 14 **4.3** Respondents Butt, LLC, Charles Butt, and Kristy Butt cease and desist from servicing
15 residential mortgage loans without first obtaining a consumer loan company license,
obtaining a waiver for each loan serviced, or meeting a statutory exemption.
- 16 **4.4** Respondents Butt, LLC, Charles Butt, and Kristy Butt be prohibited from participation
17 in the conduct of the affairs of any consumer loan company or mortgage loan
originator subject to licensure by the Department, in any manner, until Respondents
18 meet the licensing eligibility requirements of the Act.
- 19 **4.5** Respondents Butt, LLC, Charles Butt, and Kristy Butt jointly and severally pay a fine.
As of the date of this Statement of Charges, the fine totals \$25,000.
- 20 **4.6** Respondents Butt, LLC, Charles Butt, and Kristy Butt jointly and severally pay a
21 refund of non-third party loan-related fees to two borrowers listed in Appendix A,
attached hereto and incorporated into this Statement of Charges by reference, in the
22 total amount of \$2,053.01.
- 23 **4.7** Respondents Butt, LLC, Charles Butt, and Kristy Butt jointly and severally pay an
investigation fee. As of the date of this Statement of Charges, the investigation fee
24 totals \$2,150.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist, Impose
3 Fine, Order Restitution, Collect Investigation Fee and Recover Costs and Expenses (Statement of
4 Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202,
5 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative
6 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE
7 OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND TO DEFEND accompanying this
8 Statement of Charges.

9 Dated this 15th day of February, 2018

10 /s/
11 CHARLES E. CLARK
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

16 /s/
17 BRETT CARNAHAN
18 Financial Legal Examiner

19 Approved by:

20 /s/
21 STEVEN C. SHERMAN
22 Enforcement Chief