

Terms Complete
CONSENT ORDER SUMMARY
Case Number: C-09-435

Name(s) Northwest Mortgage Advisors, Inc.

Order Number C-09-435-10-CO01

Effective Date 5/3/2010

License Number 19469 [MB]
 (Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.

License Effect Voluntarily Surrendered, business closed

Not Apply until 5/3/2020 [any license]

Prohibition/Ban until 5/3/2020 [MB or CL industry]

Investigation Costs	\$3,936	Due 5/3/2010	Paid YES	Date 5/3/2010
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Assessment(s)	\$	Due	Paid Y N	Date
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Monetary Penalty	\$60,000	Due 5/3/2010	Paid YES	Date 5/3/2010
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Other \$12,208.65 restitution to 6 borrowers paid

Special Instructions

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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
Mortgage Broker Practices Act of Washington by:

NO. C-09-435-10-CO01

NORTHWEST MORTGAGE ADVISORS, INC.,
KIMBERLEY KAY NEILS, Designated Broker,
President, and Owner,
TROY DUNCAN GAMBLE, Vice President and
Owner, and
MARTIN WILLIAM NEILS, Partner and Owner,

CONSENT ORDER
NORTHWEST MORTGAGE ADVISORS, INC.

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Northwest Mortgage Advisors, Inc., (hereinafter "Respondent"), by and through itself and its attorneys Daniel M. Caine and D. Gordon Willhite, 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 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 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-09-435-09-SC01 (Statement of Charges), entered December 29, 2009, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act, and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees 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 Order to fully resolve the Statement of Charges.

Based upon the foregoing:

CONSENT ORDER
C-09-435-10-CO01
Northwest Mortgage Advisors, Inc.

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

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

3 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
4 before an administrative law judge, and hereby waives its right to a hearing and any and all administrative and
5 judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent,
6 by the signatures of its representatives below, withdraws its appeal to the Office of Administrative Hearings.

7 **C. License Surrender.** It is AGREED that the Department accepts Respondent's voluntarily surrender
8 of its mortgage broker license, effective on December 31, 2009.

9 **D. Application for License.** It is AGREED that, for a period of ten years from the date of entry of this
10 Consent Order, Respondent shall not apply to the Department for any license under any name. It is further
11 AGREED that, should Respondent apply to the Department for any license under any name at any time later than
12 ten years from the date of entry of this Consent Order, Respondent shall be required to meet any and all
13 application requirements in effect at that time.

14 **E. Prohibition from Participation in the Industry.** It is AGREED that, for a period of ten years from
15 the date of entry of this Consent Order, Respondent is prohibited from participation in the conduct of the affairs of
16 any mortgage broker or consumer lender licensed by the Department or subject to licensure or regulation by the
17 Department under chapter 19.146, the Mortgage Broker Practices Act, or chapter 31.04 RCW, the Consumer Loan
18 Act, in any capacity.

19 **F. Restitution.** It is AGREED that Respondent shall pay restitution totaling \$12,208.65 to the following
20 mortgage borrowers ("borrowers") in the following amounts:

<u>Borrower</u>	<u>Amount</u>
• N.G.	\$2,772.06
• G.D.G.	\$2,127.75
• J.H.	\$1,886.50
• K.L.H.	\$1,914.36
• S.J.K.	\$ 132.98
• M.W.	\$3,375.00

1 The total restitution amount shall be deposited by Respondent into the trust account of Ryan, Swanson &
2 Cleveland, PLLC ("RSC") for distribution to the specified borrowers, and Respondent shall provide written proof
3 of such deposit prior to entry of this Consent Order. Such written proof shall consist of a copy of a cashier's
4 check in the amount of \$12,208.65 made payable to RSC's trust account and a written representation from RSC
5 that the funds have been deposited into RSC's trust account. Following deposit of these funds into RSC's trust
6 account, Respondent or any of its officers or owners will not be permitted to receive any portion of the funds.
7 Respondent will instruct RSC to mail restitution checks from RSC's trust account to the specified borrowers at
8 their last known address within 15 days after entry of this Consent Order. In the event that any restitution checks
9 are not cashed, or any borrower(s) cannot be located, within 60 days after entry of this Consent Order, Respondent
10 will instruct RSC to submit such funds to the Washington State Department of Revenue ("Department of
11 Revenue") as unclaimed property on behalf of the specified borrowers, subject to the rules and regulations of the
12 Unclaimed Property Section of the Department of Revenue. Respondent will bear the cost of all related expenses
13 such as attorney's fees, costs of mailing, and stop payment fees on outstanding checks that are not returned or
14 cashed. Within 120 days after entry of this Consent Order, Respondent will provide the Department with written
15 proof of all payments in the form of a copy of the front and back of each cancelled restitution check and each
16 cancelled check made to the Department of Revenue, and a copy of all unclaimed property reports submitted to the
17 Department of Revenue by Respondent or by RSC.

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

23 **H. Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$60,000, in the form of a
24 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

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I. Investigation Fee. It is AGREED that, in addition to the \$8,184 investigation fee Respondent paid the Department in or around July 2009, Respondent shall pay to the Department an investigation fee of \$3,936, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee may be paid together in one \$63,936 cashier's check made payable to the "Washington State Treasurer."

J. Records Retention. It is AGREED that Respondent shall maintain records related to its mortgage broker business in compliance with chapter 19.146 RCW, the Mortgage Broker Practices Act.

K. Authority to Execute Order. It is AGREED that the undersigned have represented and warranted that they have the full power and right to execute this Consent Order on behalf of the party represented.

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

M. Voluntarily Entered. It is AGREED that Respondent has voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

N. Completely Read, Understood, and Agreed. It is AGREED that Respondent has read this Consent Order in its entirety and fully understands and agrees to all of the same.

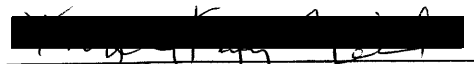
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RESPONDENT:

Northwest Mortgage Advisors, Inc.


By:


Kimberley Kay Neils
Designated Broker, President, and Owner

4/28/10
Date



Troy Duncan Gamble
Vice President and Owner

4/28/10
Date


Martin William Neils
Secretary and Owner


4/28/10
Date

Approved as to Form:


D. Gordon Willhite, WSBA No. 2302
Attorney for Respondent

4/28/10
Date

Ryan Swanson & Cleveland, PLLC
By:


Daniel M. Caine, WSBA No. 368
Attorneys for Respondent

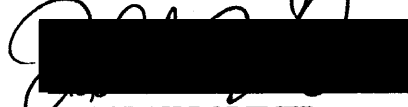
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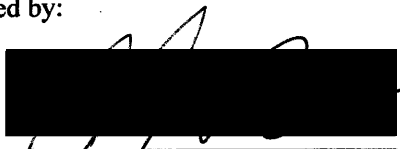
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THIS ORDER ENTERED THIS 3rd DAY OF May, 2010.


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



MARK T. OLSON
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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

NO. C-09-435-09-SC01

NORTHWEST MORTGAGE ADVISORS, INC.,
KIMBERLEY KAY NEILS, Designated Broker,
President, and Owner,
TROY DUNCAN GAMBLE, Vice President and
Owner, and
MARTIN WILLIAM NEILS, Partner and Owner,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSES,
PROHIBIT FROM INDUSTRY,
IMPOSE FINE, ORDER RESTITUTION,
AND COLLECT INVESTIGATION FEE

Respondents.

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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)¹. 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. Northwest Mortgage Advisors, Inc. (Respondent Northwest) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker in 1996, and continues to be licensed to date.²

B. Kimberley Kay Neils (Respondent K. Neils) is President and 33.33% Owner of Respondent Northwest. Respondent K. Neils has been the Designated Broker of Respondent Northwest from initial licensure by the Department through the present.

¹ RCW 19.146 (2006)

² Respondent Northwest was formerly known as First National Home Mortgage Corp. from initial licensure through in or around July 2008.

1 **C. Troy Duncan Gamble (Respondent Gamble)** is Vice President and 33.33% Owner of
2 Respondent Northwest. Respondent Gamble was licensed by the Department to conduct business as a loan
3 originator on or about February 26, 2007, and continues to be licensed to date.

4 **D. Martin William Neils (Respondent M. Neils)** is Partner and 33.33% Owner of Respondent
5 Northwest. Respondent M. Neils was licensed by the Department to conduct business as a loan originator on or
6 about February 3, 2007, and continues to be licensed to date.

7 **1.2 Residential Mortgage Loan Activity.** From in or around January 2007 through in or around May
8 2009 (the period of investigation), Respondent Northwest originated at least 45 residential mortgage loans on
9 property located in the State of Washington (the transactions).

10 **1.3 Misrepresentation of Borrower Information.** A loan originator operating under Respondent
11 Northwest's mortgage broker license misrepresented Borrower SS's (SS) information to lenders in two of the
12 transactions in order to obtain residential mortgage loans totaling over \$1,200,000. Such information included
13 SS's income, assets, liabilities, and intent to occupy the subject properties.

- 14 • **Transaction 1** – In or around March 2008, the loan originator assisted SS in obtaining a \$560,000
15 residential mortgage loan to refinance property located at 8501 27th Ave NE, Seattle, WA (Property 1).
- 16 • **Transaction 2** – In or around March 2008, Respondent assisted SS in obtaining a \$675,000 residential
17 mortgage loan to purchase property located at 6824 24th Ave NE, Seattle, WA (Property 2).

18 The loan originator represented to the lender in each transaction that SS would be occupying each subject
19 property as his primary residence. The loan originator did not disclose to either lender that the loan originator
20 was originating loans for SS on two properties simultaneously while representing to each lender that SS would
21 be occupying each property as his primary residence. The loan originator provided each lender with the same
22 copies of paystubs, W-2s, bank statements, and investment account statements to document SS's income and
23 assets. Respondent Northwest's mortgage broker files for both transactions contained credit reports, residential
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1 mortgage loan applications, and initial disclosures; all dated March 3, 2008³. The loan originator represented to
2 the lender in Transaction 1 that SS intended to use the proceeds from refinancing Property 1 for a variety of
3 reasons, none of which were to use as a down payment to purchase another home⁴. The loan originator
4 represented to the lender in Transaction 2 that Property 1 was a rental property generating \$1,800 per month in
5 rental income, was subject to a one-year lease agreement signed March 4, 2008, and had a mortgage balance of
6 \$280,000. SS sold Property 1 in June 2008.

7 **1.4 Unlicensed Loan Originator Activity.** Respondent Northwest permitted at least two unlicensed loan
8 originators to assist borrowers in obtaining residential mortgage loans in at least six of the transactions.
9 Respondent Northwest collected over \$20,000 in mortgage broker fees at the closing of these transactions.

10 **1.5 Failure to Maintain Funds in Trust.** At the time of initial licensure, Respondent Northwest obtained
11 approval from the Department to operate a trust account to receive trust funds from or on behalf of borrowers
12 for the payment of third-party provider services. However, during at least the period of investigation,
13 Respondent Northwest received trust funds in at least 14 of the transactions, usually from the closing agent at
14 the closing of the transactions, and deposited these trust funds into operating accounts under its control, thereby
15 commingling trust funds with operating funds.

16 **1.6 Failure to Comply with State Loan Disclosure Requirements.**

17 **A. Loan Fees and Terms.** Respondent Northwest did not, within three business days following
18 receipt of a loan application or any moneys from the borrowers, provide borrowers in at least 17 of the
19 transactions with full written disclosures containing an itemization and explanation of all fees and costs the
20 borrowers were required to pay in connection with obtaining the residential mortgage loans, specifying the fees
21 inuring to the benefit of Respondent Northwest, and containing, if a variable rate, the circumstances under
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23 ³ While many of the documents obtained from Respondent Northwest's mortgage broker files were purportedly signed by
24 SS on March 3, 2008, the signatures on these documents are not consistent.

25 ⁴ Respondent Northwest's mortgage broker file for Transaction 1 contained two letters, purportedly signed by SS. One
letter, dated March 13, 2008, indicated the purpose of the refinance was to improve the property and for SS's wife to invest
in a business opportunity. One letter, dated March 17, 2008, indicated the purpose of the refinance was to improve the
property. SS's signatures on these letters are not consistent.

1 which the rate might increase, any limitation on the increase, the effect of an increase, and an example of the
2 payment terms resulting from an increase.⁵

3 **B. Increased Fees.** Respondent Northwest charged a borrower \$2,700 in fees inuring to the
4 benefit of Respondent Northwest in excess of the fees disclosed on the initial written disclosures in at least one
5 of the transactions. Respondent Northwest did not provide this borrower, no less than three business days prior
6 to the signing of the loan closing documents, a clear written explanation of the fees and the reason for charging
7 fees exceeding those which were previously disclosed.

8 **C. Lock-In Agreement Disclosure.** Respondent Northwest did not, within three business days
9 following receipt of a loan application or entry of a lock-in agreement, provide borrowers in at least 40 of the
10 transactions with full written disclosures containing lock-in agreement information. Respondent Northwest
11 either did not provide lock-in agreement disclosures at all, or provided lock-in agreement disclosures that: did
12 not indicate whether a lock-in agreement had been entered; and if a lock-in agreement had been entered, did not
13 indicate the cost, terms, duration, and conditions of the lock-in agreement; and if a lock-in agreement had not
14 been entered, did not indicate that the disclosed interest rate and terms were subject to change.⁶

15 **D. Borrower Paid Services.** Respondent Northwest did not, within three business days following
16 receipt of a loan application or any moneys from the borrowers, provide borrowers in all 45 of the transactions
17 with a written statement that if the borrowers were unable to obtain a loan for any reason, Respondent
18 Northwest must, within five days of a written request by the borrowers, give copies of any appraisals, title
19 reports, or credit reports paid for by the borrowers to the borrowers, and transmit the appraisals, title reports, or
20 credit reports to any other mortgage broker or lender to whom the borrowers directed the documents to be sent.⁷

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24 ⁵ At least 3 of these transactions were originated by Respondent Gamble and at least 3 of these transactions were originated
25 by Respondent M. Neils.

⁶ At least 3 of these transactions were originated by Respondent K. Neils, at least 9 of these transactions were originated by
Respondent Gamble, and at least 5 of these transactions were originated by Respondent M. Neils.

⁷ At least 3 of these transactions were originated by Respondent K. Neils, at least 10 of these transactions were originated
by Respondent Gamble, and at least 5 of these transactions were originated by Respondent M. Neils.

1 **1.7 Failure to Comply with Federal Loan Disclosure Requirements.**

2 **A. Truth-in-Lending Act.** Respondent Northwest did not provide borrowers in at least 11 of the
3 transactions with Truth-in-Lending disclosures (TILs) completed in compliance with the Truth-in-Lending Act
4 and Regulation Z. On these TILs, Respondent Northwest did not complete the bottom section of the TIL that
5 identifies the insurance requirements and the existence of a prepayment penalty, security interest, assumption
6 policy, and late fees.⁸

7 **B. Real Estate Settlement Procedures Act.** Respondent Northwest did not provide borrowers in
8 at least 8 of the transactions with Good Faith Estimate disclosures (GFEs) completed in compliance with the
9 Real Estate Settlement Procedures Act and Regulation X. Respondent Northwest did not disclose the Yield
10 Spread Premium (YSP) on these GFEs, while ultimately collecting YSPs totaling over \$26,000 at the closing of
11 these 8 transactions.⁹

12 **1.8 Failure to Display License Numbers.**

13 **A. Residential Mortgage Loan Applications.** Loan originators operating under Respondent
14 Northwest's mortgage broker license did not display their loan originator license numbers and did not display
15 Respondent Northwest's mortgage broker license number on residential mortgage loan applications in at least
16 20 of the transactions.¹⁰

17 **B. Web Sites.** In September 2008, the Department reminded Respondent Northwest of the Act's
18 requirement to display loan originator license numbers and Respondent Northwest's mortgage broker license
19 number on web sites;¹¹ however, as of at least May 2009, Respondent Northwest and at least 10 loan originators
20 operating under Respondent Northwest's mortgage broker license maintained web sites that did not display loan
21 originator license numbers or Respondent Northwest's mortgage broker license or both.¹²

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⁸ At least 1 of these transactions was originated by Respondent K. Neils.

23 ⁹ At least 1 of these transactions was originated by Respondent K. Neils and at least 2 of these transactions were originated
by Respondent Gamble.

24 ¹⁰ At least 1 of these transactions was originated by Respondent K. Neils, at least 1 of these transactions was originated by
Respondent Gamble, and at least 3 of these transactions were originated by Respondent M. Neils.

25 ¹¹ The Department issued a Resolution and Request for Action to Respondent Northwest on September 23, 2008 under
Complaint 27799 involving Loan Originator Dave Mitchell.

¹² 1 of these web sites was maintained by Respondent Gamble.

1 **1.9 Unapproved Trade Names.** In September 2008, the Department reminded Respondent Northwest of
2 the Act's requirement to obtain the Department's approval prior to using any trade name;¹³ however, as of at
3 least May 2009, Respondent Northwest and at least 4 loan originators operating under Respondent Northwest's
4 mortgage broker license were using at least the following trade names:

5 www.nwadvisors.com
6 www.lendinghotspot.com
7 www.mortgagemaverick.com
8 www.esteslending.com, The Estes Team
9 www.jtgpro.com, JTG PRO, JTG Financial

8 Respondent Northwest did not have the written consent of the Director to use these trade names at any time
9 during the period of investigation.

10 **1.10 Advertising "Lowest" or "Best" Rates.** As of at least May 2009, at least 4 loan originators operating
11 under Respondent Northwest's mortgage broker license maintained web sites advertising the availability of the
12 "lowest" or "best" interest rates through Respondent Northwest.

13 **1.11 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
14 Respondents continues to date.

15 II. GROUNDS FOR ENTRY OF ORDER

16 **2.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC 208-660-
17 155(3), a licensed mortgage broker is liable for any conduct violating the Act by the designated broker or a loan
18 originator while employed or engaged by the licensed mortgage broker. Pursuant to RCW 19.146.200(4) and
19 WAC 208-660-155(4), a designated broker, principal, or owner who has supervisory authority over a mortgage
20 broker is responsible for a licensee's, employee's, or independent contractor's violations of the Act if: the
21 designated broker, principal, or owner directs or instructs the conduct or, with knowledge of the specific
22 conduct, approves or allows the conduct; or the designated broker, principal, or owner who has supervisory
23 authority over the licensed mortgage broker knows or by the exercise of reasonable care and inquiry should
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25 ¹³ The Department issued a Resolution and Request for Action to Respondent Northwest on September 23, 2008 under
Complaint 27799 involving the unapproved trade name "Mitchell Group" being used by Loan Originator Dave Mitchell.

1 have known of the conduct, at a time when its consequences can be avoided or mitigated and fails to take
2 reasonable remedial action.

3 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
4 apparent violation of RCW 19.146.0201:

- 5 • (1) for directly or indirectly employing a scheme, device or artifice to defraud or mislead borrowers or
6 lenders or any person;
- 7 • (2) for engaging in an unfair or deceptive practice toward any person;
- 8 • (3) for obtaining property by fraud or misrepresentation;
- 9 • (6) for failing to make disclosures to loan applicants and noninstitutional investors as required by RCW
10 19.146.030 and any other applicable state or federal law;
- 11 • (7) for making, in any manner, any false or deceptive statement or representation with regard to the
12 rates, points, or other financing terms or conditions for a residential mortgage loan or engaging in bait
13 and switch advertising;
- 14 • (11) for failing to comply with any requirements of the Truth-in-Lending Act, 15 U.S.C. Sec. 1601, and
15 Regulation Z, 12 C.F.R. Sec. 226 and for failing to comply with any requirements of the Real Estate
16 Settlement Procedures Act, 12 U.S.C. Sec. 2601, and Regulation X, 24 C.F.R. Sec. 3500;
- 17 • (13) for collecting, charging, attempting to collect or charge or using or proposing any agreement
18 purporting to collect or charge any fee prohibited by RCW 19.146.030 or RCW 19.146.070;
- 19 • (15) for failing to comply with any provision of RCW 19.146.030 through 19.146.080.

20 **2.3 Requirement to Disclose Residential Mortgage Loan Fees and Terms.** Based on the Factual
21 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1) & (2)(a)
22 for failing, within three business days following receipt of a loan application or any moneys from the borrowers,
23 to provide borrowers with full written disclosures containing an itemization and explanation of all fees and
24 costs the borrowers were required to pay in connection with obtaining residential mortgage loans, specifying the
25 fees inuring to the benefit of Respondent Northwest, and containing, if a variable rate, the circumstances under

1 which the rate might increase, any limitation on the increase, the effect of an increase, and an example of the
2 payment terms resulting from an increase.

3 **2.4 Requirement to Disclose Lock-In Agreement Information.** Based on the Factual Allegations set
4 forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1), (2)(c), & (3) for failing,
5 within three business days following receipt of a loan application or receipt of any moneys from the borrowers
6 or entry of a lock-in agreement with the borrowers subsequent to initial disclosures or representation to the
7 borrowers that the borrowers had entered into a lock-in agreement subsequent to initial disclosures, to provide
8 borrowers with full written disclosures containing the cost, terms, duration, and conditions of a lock-in
9 agreement and whether a lock-in agreement had been entered, and whether the lock-in agreement was
10 guaranteed by the mortgage broker or lender, and if a lock-in agreement had not been entered, disclosure in a
11 form acceptable to the Director that the disclosed interest rate and terms were subject to change.

12 **2.5 Requirement to Provide Written Statement on Borrower Paid Services.** Based on the Factual
13 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1) & (2)(d)
14 for failing, within three business days following receipt of a loan application or any moneys from the borrowers,
15 to provide borrowers with full written disclosures containing a statement that if the borrowers were unable to
16 obtain a loan for any reason, Respondent Northwest must, within five days of a written request by the
17 borrowers, give copies of any appraisals, title reports, or credit reports paid for by the borrowers to the
18 borrowers, and transmit the appraisals, title reports, or credit reports to any other mortgage broker or lender to
19 whom the borrowers directed the documents to be sent.

20 **2.6 Prohibited Fee, Commission, or Compensation.** Based on the Factual Allegations set forth in
21 Section I above, Respondents are in apparent violation of RCW 19.146.030(4) for charging fees inuring to the
22 benefit of Respondent Northwest in excess of the fees disclosed on the initial written disclosures: where the fees
23 were reasonably foreseeable at the time the initial written disclosures were provided to borrowers; or where
24 Respondent Northwest failed to provide the borrowers, no less than three business days prior to the signing of
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1 the loan closing documents, a clear written explanation of the fees and the reason for charging fees exceeding
2 those which were previously disclosed; or both.

3 **2.7 Requirement to Provide Complete and Accurate Truth-In-Lending Disclosures.** Based on the
4 Factual Allegations set forth in Section I above, Respondents are in apparent violation of Regulation Z, 12
5 C.F.R. Sec. 226.18 for failing to provide complete and accurate Truth-In-Lending disclosures to borrowers.

6 **2.8 Requirement to Disclose the Yield Spread Premium.** Based on the Factual Allegations set forth in
7 Section I above, Respondents are in apparent violation of Regulation X, 24 C.F.R. Sec. 3500, Appendix B, and
8 WAC 208-660-430(5) for failing to disclose Yield Spread Premiums charged to borrowers on the Good Faith
9 Estimate disclosures provided to borrowers.

10 **2.9 Requirement to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust.**
11 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
12 19.146.050 for failing to deposit funds received from a borrower or on behalf of a borrower for payment of
13 third-party provider services in a trust account of a federally insured financial institution located in this state,
14 prior to the end of the third business day following receipt of such monies, and for commingling operating
15 funds with trust account funds.

16 **2.10 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual Allegations
17 set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1) and WAC 208-660-
18 155(1) for utilizing the services of unlicensed loan originators to assist borrowers with applying for and
19 obtaining residential mortgage loans.

20 **2.11 Requirement to Display License Number.** Based on the Factual Allegations set forth in Section I
21 above, Respondents are in apparent violation of WAC 208-660-350(24), (25) & (26) for failing to display the
22 loan originator license number and the name and license number of the mortgage broker the loan originator is
23 associated with on web sites and when taking residential mortgage loan applications.

24 **2.12 Requirement to Obtain Consent for Use of Trade Name.** Based on the Factual Allegations set forth
25 in Section I above, Respondents are in apparent violation of RCW 19.146.250 and WAC 208-660-180 for

1 failing to obtain the written consent of the Director prior to operating or advertising under a name other than the
2 one under which the license is issued.

3 **2.13 Prohibited Advertising.** Based on the Factual Allegations set forth in Section I above, Respondents
4 are in apparent violation of WAC 208-660-440(7) for advertising rates or fees as the “lowest” or “best.” Rates
5 described as “lowest,” “best,” or other similar words cannot be proven to be actually available at the time they
6 are advertised. Therefore, they are a false or deceptive statement or representation prohibited by RCW
7 19.146.0201(7).

8 III. AUTHORITY TO IMPOSE SANCTIONS

9 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(e), the Director may revoke a license for
10 any violation of the Act.

11 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
12 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
13 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
14 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or (13),
15 RCW 19.146.030 through RCW 19.146.080, or RCW 19.146.200.

16 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), the Director may impose fines against
17 licensees or other persons subject to the Act for any violation of the Act. Pursuant to RCW 19.146.220(3), the
18 Director may impose fines on an employee, loan originator, independent contractor, or agent of the licensee, or
19 other person subject to the Act for any violation of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030
20 through RCW 19.146.080, or RCW 19.146.200.

21 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e), the Director may order restitution
22 against licensees or any other persons subject to the Act for any violation of the Act.

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

IV. NOTICE OF INTENTION TO ENTER ORDER

Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, 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 intention to ORDER that:

- 4.1 Respondent Northwest Mortgage Advisors, Inc.'s license to conduct the business of a mortgage broker be revoked.
- 4.2 Respondent Kimberley Kay Neils' license to conduct the business of a loan originator be revoked.
- 4.3 Respondent Troy Duncan Gamble's license to conduct the business of a loan originator be revoked.
- 4.4 Respondent Martin William Neils' license to conduct the business of a loan originator be revoked.
- 4.5 Respondent Northwest Mortgage Advisors, Inc. be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years.
- 4.6 Respondent Kimberley Kay Neils be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years.
- 4.7 Respondent Troy Duncan Gamble be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years.
- 4.8 Respondent Martin William Neils be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years.
- 4.9 Respondents Northwest Mortgage Advisors, Inc., Kimberley Kay Neils, Troy Duncan Gamble, and Martin William Neils jointly and severally pay a fine. As of the date of this Statement of Charges, the fine totals \$100,000.
- 4.10 Respondents Northwest Mortgage Advisors, Inc., Kimberley Kay Neils, Troy Duncan Gamble, and Martin William Neils jointly and severally pay restitution to borrowers in an amount to be determined at hearing.
- 4.11 Respondents Northwest Mortgage Advisors, Inc., Kimberley Kay Neils, Troy Duncan Gamble, and Martin William Neils jointly and severally pay an investigation fee. As of the date of this Statement of Charges, the investigation fee totals \$11,256.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (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). Respondents 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 29th day of December, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:




MARK T. OLSON
Financial Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief