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

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

NEST FINANCIAL, LLC, and
BRIAN HEBERLING, Owner,

Respondents.

C-12-0943-12-TD01

TEMPORARY ORDER TO
CEASE AND DESIST

THE STATE OF WASHINGTON TO: Nest Financial, LLC
Brian Heberling

COMES NOW the Director of the Washington State Department of Financial Institutions (Director),
by and through his designee Deborah Bortner, Division Director, Division of Consumer Services, and
finding that the public is likely to be substantially injured by delay in issuing a cease and desist order,
enters this Temporary Order to Cease and Desist pursuant to chapter 19.146 RCW, the Mortgage Broker
Practices Act (Act), based on the following:

I. FACTUAL FINDINGS

1.1 Respondents.

A. Respondent Nest Financial, LLC, (Respondent Nest Financial) is located at 2018 156th
Avenue NE, Suite 100, Bldg F, Bellevue, Washington, 98007. On or about March 13, 2009,
Respondent Nest Financial obtained a mortgage broker license with the Washington State Department
of Financial Institutions (Department).

B. Respondent Brian Heberling (Respondent Heberling) is the President and Owner of
Respondent Nest Financial. Respondent Heberling has never been licensed by the Department to
conduct business as a loan originator in Washington.

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1 **1.2 Unlicensed Conduct.**

2 A. On or about December 22, 2011, Respondent submitted via the Nationwide Mortgage
3 Licensing System (NMLS) a sponsorship removal for its designated broker and sole loan originator.
4 The Department provided Respondent until February 1, 2012, to obtain a designated broker. On or
5 about January 23, 2012, the Department sent a reminder email to Respondent Heberling stating “you
6 only have until February 1st to obtain a designated broker.” The email further stated that if
7 Respondents did not obtain a designated broker by February 1, 2012, that the license would be
8 suspended. On February 2, 2012, the Department issued a Resolution and Request for Action stating
9 that Respondents were required to obtain a loan originator and designated broker not later than
10 February 17, 2012. Respondents did not obtain a loan originator or designated broker by February 17,
11 2012. In a Declaration and Voluntary Agreement to Cease and Desist signed by Respondent
12 Heberling dated February 23, 2012, Respondent Heberling agreed to accept no new clients and
13 acknowledged that he understood that Nest Financial must have a designated broker and licensed,
14 sponsored loan originator to engage in short sale negotiations. As of the date of this Order,
15 Respondents have not obtained a designated broker and loan originator.

16 B. Respondents accepted at least ten new short sale clients after February 23, 2012.

17 C. Respondents have continued to maintain an active website advertising as able to assist
18 homeowners by offering short sale negotiations.

19 **II. GROUNDS FOR ENTRY OF ORDER**

20 **2.1 Failure to Obtain and Maintain a Loan Originator.** Based on the Factual Allegations set
21 forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1) for engaging in
22 the business of a loan originator without first obtaining a license under the Act.

23 **2.2 Failure to Obtain and Maintain a Designated Broker.** Based on the Factual Allegations set
24 forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(4), for failing to

1 have at all times a designated broker responsible for all activities of the mortgage broker in conducting
2 the business of a mortgage broker.

3 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

4 **3.1 Authority to Issue Temporary Order to Cease and Desist.** Pursuant to RCW 19.146.227, the
5 Director is authorized to issue a temporary order to cease and desist whenever the Director determines
6 that the public is likely to be substantially injured by delay in issuing a cease and desist order. Based
7 on the Factual Findings and Grounds for Entry of Order set forth above, Respondents engaged in the
8 business of a Mortgage Broker or Loan Originator without proper licensure and failed to comply with
9 its agreement to the Department to cease accepting new clients and the public is likely to be
10 substantially injured due to Respondents' disregard for the applicable laws.

11 **IV. ORDER**

12 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue
13 Temporary Order to Cease and Desist, and pursuant to RCW 19.146.227, the Director determines that
14 the public is likely to be substantially harmed by a delay in entering a cease and desist order.

15 Therefore, the Director ORDERS that:

16 **4.1** Respondents shall immediately cease and desist from participating in the conduct of the affairs of
17 any mortgage broker or loan originator subject to licensure by the Director, in any manner, specifically
18 including but not limited to negotiating any terms of a residential mortgage loan, performing any loan
19 modification services, performing short sale negotiations, or holding out as able to assist or perform
20 any of the above listed services.

21 **4.2** This order shall take effect immediately and shall remain in effect unless set aside, limited, or
22 suspended in writing by an authorized court.

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1 **NOTICE**

2 PURSUANT TO CHAPTER 19.146 RCW, YOU ARE ENTITLED TO A HEARING TO
3 DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A
4 HEARING, YOU MUST COMPLETE AND RETURN THE ATTACHED APPLICATION FOR
5 ADJUDICATIVE HEARING.

6 **FAILURE TO COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE**
7 **HEARING SO THAT IT IS RECEIVED BY THE DEPARTMENT WITHIN 20 DAYS OF**
8 **THE DATE THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A**
9 **DEFAULT, AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO A HEARING.**

10 SERVICE ON YOU IS DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID,
11 TO YOUR LAST KNOWN ADDRESS, A COPY OF THIS TEMPORARY CEASE AND DESIST
12 ORDER, NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING,
13 AND APPLICATION FOR ADJUDICATIVE HEARING. BE ADVISED THAT DEFAULT WILL
14 RESULT IN THIS TEMPORARY ORDER TO CEASE AND DESIST BECOMING PERMANENT
15 ON THE 21ST DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

16 WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED WITH THIS TEMPORARY
17 ORDER TO CEASE AND DESIST, YOU MAY APPLY TO THE SUPERIOR COURT IN THE
18 COUNTY OF YOUR PRINCIPAL PLACE OF BUSINESS FOR AN INJUNCTION SETTING
19 ASIDE, LIMITING, OR SUSPENDING THIS ORDER PENDING THE COMPLETION OF THE
20 ADMINISTRATIVE PROCEEDINGS PURSUANT TO THIS NOTICE.

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DATED this 5th day of October, 2012.

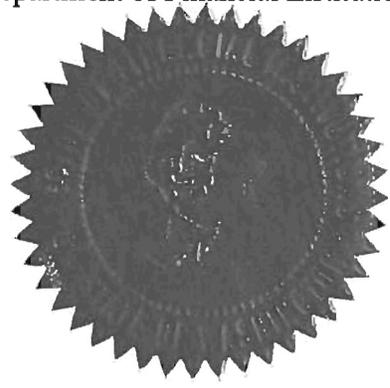
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DEBORAH BORTNER
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted signature]

DEBORAH TAELLIUS
Financial Legal Examiner



Approved by:

[Redacted signature]

CHARLES E. CLARK
Enforcement Chief