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STATE OF WASHINGTON DEPT. OF FINANCIAL INSTITUTIONS
DEPARTMENT OF FINANCIAL INSTITUTIONS OLYMPIA, WASHINGTON
CONSUMER SERVICES DIVISION

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

NO. C-05-037-05-CO01

Arcadia Capital LLC and Raymond Elliot
Brenneman and Bryan Douglas Mills, Owners

CONSENT ORDER

Respondents

COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Chuck Cross, Division Director, Division of Consumer Services, and Arcadia Capital LLC, Raymond Elliot Brenneman and Bryan Douglas Mills, Owners (hereinafter collectively as Respondents), and finding that the issues raised in the 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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-05-037-05-SC01 (Statement of Charges), entered March 3, 2005, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree 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, entered March 3, 2005.

Based upon the foregoing:

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

CONSENT ORDER
Arcadia Capital LLC
Raymond Elliot Brenneman and Bryan Douglas Mills,
Owners

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
2 before an administrative law judge, and that they have waived their right to a hearing and any and all
3 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

4 **C. Mortgage Broker License.** It is AGREED that Respondents have voluntarily surrendered their
5 mortgage broker license to the Department. It is further AGREED that Respondents have provided the Department
6 with a fully completed "Mortgage Broker Office Closure/License Surrender Form."

7 **D. Declaration of Non-Activity.** It is AGREED that Respondent Brenneman shall immediately provide
8 the Department with a Declaration of Non-Activity, declaring the date Respondent Arcadia Capital LLC ceased
9 operation as a Mortgage Broker, and declaring that Respondents transacted no further business requiring a license
10 from the Department after that date.

11 **E. Annual Assessments.** It is AGREED that Respondents shall pay to the Department the cumulative
12 delinquent annual assessments due through July 31, 2004 totaling \$530.86 in the form of a cashier's check made
13 payable to the "Washington State Treasurer" upon entry of this order.

14 **F. Compliance with the Law.** It is AGREED that Respondents shall comply with the Mortgage Broker
15 Practices Act and the rules adopted thereunder, particularly, the provisions relating to maintenance of records

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

20 **H. Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted
21 that they have the full power and right to execute this Consent Order on behalf of the parties represented.

22 **I. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into
23 this Consent Order, which is effective when signed by the Director's designee.

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

3 **RESPONDENTS:**


4 **ARCADIA CAPITAL LLC**

5 By:

6 

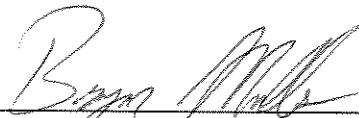
7 Ray Brenneman
8 Managing Member

9 4-1-05
Date

10 

11 Ray Brenneman
12 Managing Member

13 4-1-05
Date

14 

15 Bryan Mills
16 Owner

17 4-1-05
Date

18 **DO NOT WRITE BELOW THIS LINE**

19 THIS ORDER ENTERED THIS 9th DAY OF May, 2005.



25 

CHUCK CROSS
Director and Enforcement Chief
Division of Consumer Services
Department of Financial Institutions

1 compliance with a support order or a *residential or visitation order. If the person has continued to meet all
2 other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be
automatic upon the director's receipt of a release issued by the department of social and health services
stating that the licensee is in compliance with the order.

3 [1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

4 **RCW 19.146.221 Action by director -- Hearing -- Sanction.**

5 The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action
specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by
6 counsel at the time and place designated for any administrative hearing that may be held on the action then
the person shall be deemed to consent to the action. If the person subject to the action consents, or if after
7 hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this
chapter exist, then the director may impose any sanction authorized by this chapter.

8 [1994 c 33 § 13.]

9 **RCW 19.146.223 Director -- Administration and interpretation.**

The director shall have the power and broad administrative discretion to administer and interpret the
provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

10 [1994 c 33 § 2.]

11 **RCW 19.146.228 Fees -- Rules -- Exception.**

The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not
12 exceed, the costs of administering this chapter. These fees may include:

- 13 (1) An annual assessment paid by each licensee on or before a date specified by rule;
- (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or
other person subject to this chapter; and
- 14 (3) An application fee to cover the costs of processing applications made to the director under this
chapter.

15 Mortgage brokers shall not be charged investigation fees for the processing of complaints when the
investigation determines that no violation of this chapter occurred or when the mortgage broker provides a
16 remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys,
fees, and penalties collected under the authority of this chapter shall be deposited into the financial services
17 regulation fund, unless the consumer services account is created as a dedicated, nonappropriated account, in
which case all moneys, fees, and penalties collected under this chapter shall be deposited in the consumer
services account.

18 [2001 c 177 § 5; 1997 c 106 § 13; 1994 c 33 § 9.]

19 **RCW 19.146.230 Administrative procedure act application.**

The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking
20 licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal
therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter
21 34.05 RCW.

22 [1994 c 33 § 16; 1993 c 468 § 10.]

1 **RCW 19.146.235 Director -- Investigation powers -- Duties of person subject to examination or**
2 **investigation.**

3 For the purposes of investigating complaints arising under this chapter, the director may at any time, either
4 personally or by a designee, examine the business, including but not limited to the books, accounts, records,
5 and files used therein, of every licensee and of every person engaged in the business of mortgage brokering,
6 whether such a person shall act or claim to act under or without the authority of this chapter. For that
7 purpose the director and designated representatives shall have access during regular business hours to the
8 offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons.

9 The director or designated person may direct or order the attendance of and examine under oath all persons
10 whose testimony may be required about the loans or the business or subject matter of any such examination
11 or investigation, and may direct or order such person to produce books, accounts, records, files, and any
12 other documents the director or designated person deems relevant to the inquiry. If a person who receives
13 such a directive or order does not attend and testify, or does not produce the requested books, records, files,
14 or other documents within the time period established in the directive or order, then the director or
15 designated person may issue a subpoena requiring attendance or compelling production of books, records,
16 files, or other documents. No person subject to examination or investigation under this chapter shall
17 withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other
18 information.

19 Once during the first two years of licensing, the director may visit, either personally or by designee, the
20 licensee's place or places of business to conduct a compliance examination. The director may examine,
21 either personally or by designee, a sample of the licensee's loan files, interview the licensee or other
22 designated employee or independent contractor, and undertake such other activities as necessary to ensure
23 that the licensee is in compliance with the provisions of this chapter. For those licensees issued licenses
24 prior to March 21, 1994, the cost of such an examination shall be considered to have been prepaid in their
license fee. After this one visit within the two-year period subsequent to issuance of a license, the director
or a designee may visit the licensee's place or places of business only to ensure that corrective action has
been taken or to investigate a complaint.

[1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

1 **WAC 208-660-042 Continuing education requirement.**

2 (1) The principal or designated broker of a licensee must satisfactorily complete an approved continuing
3 education course annually. Each licensee must file annually a certificate of satisfactory completion of an
4 approved continuing education course by the licensee's principal or designated broker no later than the last
5 business day of the month in which the anniversary date of the issuance of the licensee's license occurs.

6 (2) This section applies to each licensee beginning on the first anniversary date of the issuance of the
7 licensee's license which occurs after December 31, 1995. (For example, if a licensee's license was issued on
8 January 10, 1994, then the licensee must submit its first certificate of satisfactory completion of an
9 approved continuing education course no later than the last business day of January 1996.)

10 [Statutory Authority: RCW 43.320.010, 19.146.223, 01-01-044, § 208-660-042, filed 12/8/00, effective
11 1/8/01; 96-04-028, recodified as § 208-660-042, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW
12 19.146.225, 95-13-091, § 50-60-042, filed 6/21/95, effective 7/22/95.]

13 **WAC 208-660-060 Department's fees and assessments.**

14 (1) Upon completion of processing and reviewing an application for a license or branch office certificate,
15 the department will prepare a billing, regardless of whether a license or certificate has been issued,
16 calculated at the rate of \$35.98 per hour that each staff person devoted to processing and reviewing the
17 application. The application deposit will be applied against this bill. Any amount left owing to the
18 department will be billed to and paid promptly by the applicant, while any balance remaining from the
19 deposit will be refunded promptly to the applicant.

20 (2) Upon completion of any examination of the books and records of a licensee, the department will furnish
21 to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at
22 the rate of \$46.26 per hour that each staff person devoted to the examination. The examination billing will
23 be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994,
24 have prepaid in their initial license fee the cost of the first compliance examination of the licensee
conducted by the department during the first two years after the date of issuance of the license.

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95
for each branch office certificate. The annual assessment(s) will be due no later than the last business day
of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a
licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The
investigation charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the
investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200, 01-12-
029, § 208-660-060, filed 5/29/01, effective 7/1/01; 96-04-028, recodified as § 208-660-060, filed 2/1/96,
effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-060, filed 6/21/95, effective
7/22/95; 94-23-033, § 50-60-060, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-
03-009, § 50-60-060, filed 1/7/94, effective 2/7/94.]

WAC 208-660-061 Fee increase.

The division intends to increase its fee and assessment rates each year for several bienniums. The division
intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual
increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal
year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As
used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate
increase may exceed the applicable fiscal growth factor.

1 (3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on
2 the immediately following July 1.

3 [Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-
4 029, § 208-660-061, filed 5/29/01, effective 7/1/01.]

4 **WAC 208-660-080 Surety bond and approved alternatives -- General requirements.**

(1) Each applicant for a license and licensee must file and maintain on file with the director:

5 (a) A surety bond in the required amount and related power of attorney issued by a bonding company or
insurance company authorized to do business in this state; or

6 (b) An approved alternative to a surety bond in the required amount in accordance with WAC 208-660-
08010.

7 The required amount of the surety bond or approved alternative ranges from twenty thousand dollars to
sixty thousand dollars and is based on the applicant's or licensee's monthly average number of loan
8 originators calculated in accordance with subsection (2) of this section. The surety bond or approved
alternative is subject to claims in accordance with RCW 19.146.205 and 19.146.240. Borrowers shall be
9 given priority over the state and other persons who file claims against the bond or approved alternative. The
state and other persons shall not receive distributions from the remainder of the bond or approved
10 alternative pursuant to valid claims prior to one hundred eighty days following the date a claim is made
against the bond.

11 [Statutory Authority: RCW 43.320.010, 19.146.223. 01-01-044, § 208-660-080, filed 12/8/00, effective
1/8/01; 96-04-028, recodified as § 208-660-080, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW
12 19.146.225. 95-13-091, § 50-60-080, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-080, filed
11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-080, filed 1/7/94,
effective 2/7/94.]

13 **WAC 208-660-150 Disclosure of significant developments.**

14 (1) A licensee must notify the director in writing within thirty days after the occurrence of any of the
following developments:

15 (a) Licensee's filing for bankruptcy or reorganization.

16 (b) Receipt of notification of license revocation procedures in any state against the licensee.

17 (c) The filing of a felony indictment or information related to mortgage brokering activities of the
licensee, or any officer, director, principal, or designated broker of the licensee.

18 (d) The licensee, or any officer, director, principal, or designated broker of the licensee being convicted
of a felony.

19 (e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any
significant decline in value of an approved alternative held by the director.

20 (f) The filing of any material litigation against the licensee.

(2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's
principal place of business or any of its branch offices.

(3) A licensee must notify the director in writing within five days after a change in the licensee's:

21 (a) Name or legal status (e.g., from sole proprietor to corporation, etc.);

22 (b) Mailing address or telephone number;

(c) President, partner, designated broker, or branch office manager;

(d) Trust account (e.g., change in the status, location, or account number);

(e) State master business license; or

(f) Standing with the state of Washington secretary of state.

23 [96-04-028, recodified as § 208-660-150, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW
19.146.225. 95-13-091, § 50-60-150, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9.
24 94-03-009, § 50-60-150, filed 1/7/94, effective 2/7/94.]

1 **WAC 208-660-160 License application denial or condition; license suspension or revocation.**

The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

- 2 (1) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;
- 3 (2) Has not filed the required surety bond or approved alternative or otherwise complied with RCW 19.146.205;
- 4 (3) Has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years;
- 5 (4) Has within the prior seven years been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct;
- 6 (5) Has failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. The director may find that the person has failed to make the demonstration if, among other things:
- 7 (a) The person is or has been subject to an injunction issued pursuant to the Mortgage Broker Practices Act or the Consumer Protection Act; or
- 8 (b) An independent credit report issued by a recognized credit reporting agency indicates that the person has a substantial history of unpaid debts;
- 9 (6) Has omitted, misrepresented, or concealed material facts in obtaining a license or in obtaining reinstatement thereof;
- 10 (7) Has violated the provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act;
- 11 (8) Has had its surety bond, approved alternative, or equivalent form of business insurance, canceled or revoked for cause;
- 12 (9) Has allowed the licensed mortgage broker business to deteriorate into a condition which would result in denial of a new application for a license;
- 13 (10) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act;
- 14 (11) Has demonstrated incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;
- 15 (12) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceed its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature;
- 16 (13) Has failed to comply with an order, directive, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;
- 17 (14) Has performed an act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or profession;
- 18 (15) Has failed to cooperate with the director, or his or her designee, including without limitation by:
- 19 (a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary actions or denial, suspension, or revocation of a license; or
- 20 (b) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;
- 21 (16) Has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action;
- 22 (17) Has failed to provide a required certificate of passing an approved examination;
- 23 (18) Has failed to provide a required certificate of satisfactory completion of an approved licensing course or, in the alternative, satisfactory proof of two years' experience in accordance with WAC 208-660-040; or
- 24 (19) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.

[Statutory Authority: RCW 43.320.010, 19.146.223, 01-01-044, § 208-660-160, filed 12/8/00, effective 1/8/01; 96-04-028, recodified as § 208-660-160, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-160, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9, 94-03-009, § 50-60-160, filed 1/7/94, effective 2/7/94.]

