

1
2
3
4
5
6
7
8

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

KENNETH ARDEN GEBAROWSKI,
Respondent.

NO. C-08-080-08-FO01

FINAL ORDER

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of
Financial Institutions of the State of Washington (Director), through his designee, Consumer Services
Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On May 27, 2008, the Director,
through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and
Notice of Intention to Enter an Order to Deny License Application and Prohibit from Industry
(Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this
order by this reference. The Statement of Charges was accompanied by a cover letter dated May 28,
2008, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for
Adjudicative Hearing. The Department served the Statement of Charges, cover letter dated May 28,
2008, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
Adjudicative Hearing on Respondent on May 28, 2008, via first class mail. The documents sent via
first class mail were not returned to the Department by the United States Postal Service. The
Department also served the Statement of Charges, cover letter dated May 28, 2008, Notice of
Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing

1 on Respondent on August 21, 2008 by Federal Express overnight delivery. On August 22, 2008, the
2 documents sent via Federal Express overnight delivery were delivered.

3 Respondent did not request an adjudicative hearing within twenty calendar days after the
4 Department served him with the Notice of Opportunity to Defend and Opportunity for Hearing, as
5 provided for in WAC 208-08-050(2).

6 B. Record Presented. The record presented to the Director's designee for her review and
7 for entry of a final decision included the Statement of Charges, cover letter dated May 28, 2008, Notice of
8 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing,
9 with documentation of service.

10 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the
11 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

12 II. FINAL ORDER

13
14 Based upon the foregoing, and the Director's designee having considered the record and
15 being otherwise fully advised, NOW, THEREFORE:

16 A. IT IS HEREBY ORDERED, That:

- 17 1. Respondent Kenneth Arden Gebarowski's application for a loan originator license is
18 denied; and
19 2. Respondent Kenneth Arden Gebarowski is banned from participation in the conduct
20 of the affairs of any mortgage broker subject to licensure by the Director, in any
manner, through August 10, 2014.

21 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
22 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
23 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
24 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,

1 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
2 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
3 Reconsideration a prerequisite for seeking judicial review in this matter.

4 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
5 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
6 notice specifying the date by which it will act on a petition.

7
8 C. Stay of Order. The Director's designee has determined not to consider a Petition
9 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
10 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

11 D. Judicial Review. Respondent has the right to petition the superior court for judicial
12 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
13 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

14 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
15 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
16 attached hereto.

17
18 DATED this 24th day of September, 2008.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

25

DEBORAH BORTNER
DIRECTOR
DIVISION OF CONSUMER SERVICES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

KENNETH ARDEN GEBAROWSKI,

Respondent.

NO. C-08-080-08-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION
AND PROHIBIT FROM INDUSTRY

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 19.146.310, 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 Respondent Kenneth Arden Gebarowski (Respondent Gebarowski) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Summit Mortgage Corporation, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about August 10, 2007.

1.2 Prior Administrative Action. On September 16, 2005, a Final Order to Cease and Desist, Denying Exemptions, and Assessing Civil Penalties was entered against Respondent Gebarowski by the State of Oregon Department of Consumer and Business Services, Division of Finance and Corporate Securities, Securities Section that concluded:

¹ RCW 19.146 (Amended 2006; Effective January 1, 2007)

- 1 A. Respondent offered unregistered securities for sale in the State of Oregon, in violation of
2 Oregon Securities Law (ORS) 59.055.
- 3 B. Respondent offered securities for sale in the State of Oregon without being licensed to do so,
4 in violation of ORS 59.165.
- 5 C. Respondent represented information to investors, which was an untrue statement of material
6 fact and/or an omission to state a material fact necessary in order to make the statements
7 made, in light of the circumstances under which they were made, not misleading, in violation
8 of ORS 59.135(2).

9 Respondent was ordered to cease and desist from offering or selling securities to persons in the State of
10 Oregon in violation of ORS Chapter 59, Oregon Administrative Rules Chapter 441, and the Oregon securities
11 law. Respondent was prohibited from applying for an Oregon securities license for a period of ten years.

12 **1.3 Responses to Application Questions.** The "Regulatory Action Disclosure" section of the loan
13 originator license application consists of nine questions, and includes the following instruction:

14 "If the answer to any of the following is "YES," provide complete details of all events or proceedings"

15 Respondent Gebarowski answered "no" to the following questions on the "Regulatory Disclosure" section of
16 his loan originator license application:

- 17 • Has any state or federal regulatory agency or foreign financial regulatory authority ever found
18 you to have made a false statement of omission or been dishonest, unfair or unethical?
- 19 • Has any state or federal regulatory agency or foreign financial regulatory authority ever found
20 you to have been involved in a violation of a financial services-related regulation(s) or
21 statute(s)?
- 22 • Has any state or federal regulatory agency or foreign financial regulatory authority ever
23 entered an order against you in connection with a financial services-related activity?
- 24 • Has any state or federal regulatory agency or foreign financial regulatory authority
25 ever...disciplined you, or otherwise by order, prevented you from associating with a financial
 services-related business or restricted your activities?

26 Respondent Gebarowski was obligated by statute to answer questions on the loan originator license application
27 truthfully and to provide the Department with complete details of all events or proceedings.

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

2 **2.1 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
3 Gebarowski is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently
4 making any false statement or willfully making any omission of material fact in connection with any application
5 or any information filed by a licensee in connection with any application, examination or investigation
6 conducted by the Department.

7 **2.2 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
8 forth in Section I above, Respondent Gebarowski fails to meet the requirements of RCW 19.146.300(1) and (2)
9 and RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form
10 prescribed by the Director.

11 **2.3 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
12 forth in Section I above, Respondent Gebarowski fails to meet the requirements of RCW 19.146.310(1)(g) and
13 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
14 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
15 within the purposes of the Act.

16 **III. AUTHORITY TO IMPOSE SANCTIONS**

17 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
18 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
19 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
20 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
21 of the denial.

22 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
23 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
24 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
25 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

1 **IV. NOTICE OF INTENTION TO ENTER ORDER**

2 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
3 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
4 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.
5 Therefore, it is the Director's intention to ORDER that:

6 **4.1** Respondent Kenneth Arden Gebarowski's application for a loan originator license be denied.

7 **4.2** Respondent Kenneth Arden Gebarowski be prohibited from participation in the conduct of the affairs of
8 any mortgage broker subject to licensure by the Director, in any manner, through August 10, 2014.

9 **V. AUTHORITY AND PROCEDURE**

10 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and
11 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
12 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
13 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in
14 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
15 Statement of Charges.

16 Dated this 27th day of May, 2008.

17 

18 DEBORAH BORTNER
19 Director
20 Division of Consumer Services
21 Department of Financial Institutions

22 Presented by:

23 

24 DEBORAH PINSONNEAULT
25 Financial Legal Examiner

Approved by:



FATIMA BATIE
Financial Legal Examiner Supervisor

