

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 CONSUMER SERVICES DIVISION

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

7 MGM Financial Services, Inc., and Geoffrey S.
8 Huetten, Vice President and Owner, and Lois A.
9 Jackson (fka Lois A. Huetten), Secretary and
10 former Designated Broker, and Patrick K.
11 McKeehan, President, and Randall L. Maine,
12 Chairman of the Board of Directors,

13 Respondents.

NO. C-02-197-05-FO01

FINAL ORDER
MGM FINANCIAL SERVICES, INC.,
and RANDALL L. MAINE

14 I. DIRECTOR'S CONSIDERATION

15 A. Default. This matter has come before the Director of the Department of
16 Financial Institutions of the State of Washington (Director), through his designee Consumer Services
17 Division Director Chuck Cross, pursuant to RCW 34.05.440(1). On July 26, 2004, the former
18 Director through her designee Consumer Services Division Director Chuck Cross, entered an
19 Amended Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses,
20 Collect Annual Assessments, Impose Fine, Prohibit from Industry, and Collect Investigation Fee
21 (Amended Statement of Charges). A copy of the Amended Statement of Charges is attached and
22 incorporated into this order by this reference.

23 On July 26, 2004, the Department served the Amended Statement of Charges, cover letter
24 dated July 26, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
25 Applications for Adjudicative Hearing for MGM Financial Services, Inc. (Respondent MGM) and
Geoffrey S. Huetten (Huetten), identified as Vice President of Respondent MGM in initial Mortgage
Broker license application documents submitted to the Department, on Respondent MGM by sending

1 packages containing the documents to Huetten at his residence via Federal Express overnight delivery
2 and by first class mail. On July 28, 2004, the documents sent via Federal Express overnight delivery
3 were delivered. The documents sent via first class mail were not returned to the Department by the
4 United States Post Office. On August 13, 2004, Huetten acknowledged receipt of the documents by
5 submitting an Application for Adjudicative Hearing for himself but not for Respondent MGM.

6 On July 26, 2004, the Department served the Amended Statement of Charges, cover letter
7 dated July 26, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
8 Applications for Adjudicative Hearing for Respondent MGM and Lois A. Jackson, (Jackson), formerly
9 known as Lois A. Huetten and identified as Secretary of Respondent MGM in correspondence with the
10 Department, on Respondent MGM by sending packages containing the documents to Jackson at her
11 residence via Federal Express overnight delivery and by first class mail. On July 28, 2004, the
12 documents sent via Federal Express overnight delivery were delivered. The documents sent via first
13 class mail were not returned to the Department by the United States Post Office. On August 13, 2004,
14 Jackson acknowledged receipt of the documents by submitting an Application for Adjudicative
15 Hearing for herself but not for Respondent MGM.

16 On July 26, 2004, the Department served the Amended Statement of Charges, cover letter
17 dated July 26, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
18 Applications for Adjudicative Hearing for Respondent MGM and Patrick K. McKeehan (McKeehan),
19 identified as President of Respondent MGM in initial Mortgage Broker license application documents
20 submitted to the Department, on Respondent MGM by sending packages containing the documents to
21 McKeehan at his residence via Federal Express overnight delivery and by first class mail. On August
22 2, 2004, the documents sent via Federal Express overnight delivery were returned to the Department as
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1 undeliverable, as no resident had been available to sign for the documents on three delivery attempts.
2 The documents sent via first class mail were not returned to the Department by the United States Post
3 Office. On August 13, 2004, McKeehan acknowledged receipt of the documents by submitting an
4 Application for Adjudicative Hearing for himself but not for Respondent MGM.

5 On July 26, 2004, the Department served the Amended Statement of Charges, cover letter
6 dated July 26, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
7 Application for Adjudicative Hearing for Respondent MGM, on Respondent MGM's Registered
8 Agent (Geoffrey S. Huetten, who provided his written consent to the Department to serve as
9 Registered Agent for Respondent MGM on March 1, 1999) by sending a package containing the
10 documents to his residence via Federal Express overnight delivery and by first class mail. On July 28,
11 2004, the documents sent via Federal Express overnight delivery were delivered. The documents sent
12 via first class mail were not returned to the Department by the United States Post Office. On July 26,
13 2004, the Department sent packages containing the documents and notice of service on the Registered
14 Agent to the last addresses of Respondent MGM on file with the Director (12408 80th Avenue Court
15 East, Puyallup, Washington 98373 and Post Office Box 731029, Puyallup, Washington 98373) via
16 registered mail, as required by RCW 19.146.260. On July 27, 2004, the documents sent to the 80th
17 Avenue Court East address via registered mail were returned to the Department by the United States
18 Post Office as undeliverable and the documents sent to the Post Office Box via registered mail were
19 delivered and signed for by Debra Metcalf.

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22 On August 25, 2004, after prior failed service attempts on Randall L. Maine (Respondent
23 Maine), the Department received confirmation from the Allen Branch Office of the United States Post
24 Office that mail addressed to Respondent Maine was being delivered to 613 East Ridge Street, Allen,

1 Texas 75002 (East Ridge address). The Department served the Amended Statement of Charges, cover
2 letter dated August 25, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
3 Applications for Adjudicative Hearing for Respondent MGM and Respondent Maine, on Respondent
4 MGM and Respondent Maine by sending packages containing the documents to the East Ridge
5 address by first class mail on August 26, 2004 and via Federal Express overnight delivery on August
6 30, 2004. On September 2, 2004, the documents sent via Federal Express overnight delivery were
7 delivered to the East Ridge address and signed for by E. Thompson. The documents sent via first class
8 mail were not returned to the Department by the United States Post Office.

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10 Respondent MGM and Respondent Maine did not request an adjudicative hearing within
11 twenty calendar days after the Department served them with the Notice of Opportunity to Defend and
12 Opportunity for Hearing, as provided for in WAC 208-08-050(2).

13 B. Record Presented. The record presented to the Director for his review and for entry of
14 a final decision included the following:

- 15 1. Amended Statement of Charges, and cover letters dated July 26, 2004 and August 25,
16 2004; and
- 17 2. Notice of Opportunity to Defend and Opportunity for Hearing; and
- 18 3. Blank Applications for Adjudicative Hearing for MGM Financial Services, Inc. and
19 Randall L. Maine, Chairman of the Board of Directors; and
- 20 4. Documentation of service for Amended Statement of Charges, Notice of Opportunity
21 to Defend and Opportunity for Hearing, Blank Applications for Adjudicative Hearing
22 for MGM Financial Services, Inc. and Randall L. Maine, Chairman of the Board of
23 Directors, and cover letters dated July 26, 2004 and August 25, 2004; and
- 24 5. Applications for Adjudicative Hearing received by the Department August 13, 2004
25 from Geoffrey S. Huetten, Lois A. Jackson (fka Lois A. Huetten), and Patrick K.
McKeehan; and

1 6. Consent to Serve as Registered Agent, signed by Geoffrey S. Huetten March 1, 1999;
2 and

3 7. Post Office Address Verification Request form completed by Allen Branch Office of
4 the United States Post Office received by the Department on August 25, 2004.

5 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the
6 Director hereby adopts the Statement of Charges, which is attached hereto.

7 **II. FINAL ORDER**

8 Based upon the foregoing, and the Director having considered the record and being
9 otherwise fully advised, NOW, THEREFORE:

10 A. IT IS HEREBY ORDERED, That:

- 11 1. Respondent MGM Financial Services, Inc.'s license to conduct the business of a
12 Mortgage Broker is revoked; and
- 13 2. Respondent MGM Financial Services, Inc.'s branch office license for the branch at
14 4305 Lacey Boulevard SE, Lacey Washington 98503, is revoked; and
- 15 3. Respondents MGM Financial Services, Inc. and Randall L. Maine jointly and
16 severally pay the cumulative delinquent main office Annual Assessments due through
17 March 31, 2004 totaling \$2,575.67, as calculated in Paragraph 1.4 of the Statement of
18 Charges; and
- 19 4. Respondents MGM Financial Services, Inc. and Randall L. Maine jointly and
20 severally pay the cumulative delinquent Lacey Washington branch office Annual
21 Assessments due through March 31, 2004 totaling \$2,075.67, as calculated in
22 Paragraph 1.5 of the Statement of Charges; and
- 23 5. Respondents MGM Financial Services, Inc. and Randall L. Maine jointly and
24 severally pay a fine of \$9,000.00 for
25 a. Failure to maintain the required bond, calculated at \$100.00 per day for 30 days;
and
b. Violation of RCW 19.146.0201(8), calculated at \$100.00 per day for 30 days; and
c. Failure to comply with a directive, calculated at \$100.00 per day for 30 days; and
6. Respondent Randall L. Maine is prohibited from participation in the conduct of the
affairs of any licensed mortgage broker, in any manner, for a period of five (5) years;
and

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2 7. Respondents MGM Financial Services, Inc. and Randall L. Maine jointly and severally pay an investigation fee in the amount of \$205.60.

3 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
4 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
5 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
6 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
7 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
8 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
9 Reconsideration a prerequisite for seeking judicial review in this matter.
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11 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
12 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
13 notice specifying the date by which it will act on a petition.

14 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
15 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
16 Review made under chapter 34.05 RCW and RCW 34.05.550.

17 D. Judicial Review. Respondents have the right to petition the superior court for
18 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
19 for filing a Petition for Judicial Review, see RCW 34.050.510 and sections following.
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21 E. Non-compliance with Order. If you do not comply with the terms of this order, the
22 Department may seek its enforcement by the Office of Attorney General to include the collection of the
23 fines, fees and restitution imposed herein.

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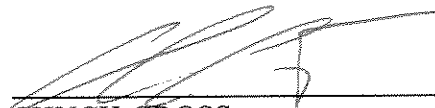
1 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
2 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
3 attached hereto.

4 DATED this 22nd day of September, 2005.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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CHUCK CROSS
DIRECTOR
DIVISION OF CONSUMER SERVICES
DEPARTMENT OF FINANCIAL INSTITUTIONS

1 **2.7 Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(i), (ii), (iii) and (iv), and WAC
2 208-660-160(1), (2), (6), (8) and (13), the Director may revoke a license if a licensee omits material facts in
3 obtaining a license which, if known, would have allowed the Director to deny the application for the license,
4 fails to pay a fee required by the Director, fails to maintain the required bond, commits any violation of RCW
5 19.146.0201(1)-(9) or fails to comply with any directive or order of the Director.

6 **2.8 Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the
7 Director may impose fines on a licensee that fails to maintain the required bond, commits any violation of RCW
8 19.146.0201(1)-(9) or fails to comply with any directive or order of the Director.

9 **2.9 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i), (ii) and (iv), the
10 Director may prohibit from participation in the conduct of the affairs of a licensed mortgage broker, any officer,
11 principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under
12 the Act that fails to maintain the required bond, commits any violation of RCW 19.146.0201(1)-(9), omits
13 material facts in obtaining a license which, if known, would have allowed the Director to deny the application
14 for the license, or fails to comply with any directive or order of the Director.

15 **2.10 Authority to Charge Investigation Fee:** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and
16 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee, the Department
17 will furnish to the licensee a billing to cover the cost of the investigation. The investigation charge will be
18 calculated at the rate of forty-seven dollars and seventy-eight cents (\$47.78) per hour that each staff person devoted
19 to the investigation.
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1 **III. NOTICE OF INTENTION TO ENTER ORDER**

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

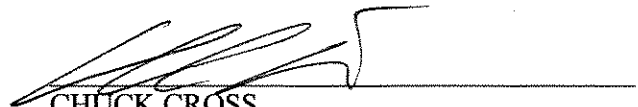
- 6 3.1 Respondent MGM Financial Service, Inc.'s license to conduct the business of a Mortgage Broker be
7 revoked; and
- 8 3.2 Respondent MGM Financial Service, Inc.'s branch office license for the branch at 4305 Lacey
9 Boulevard SE, Lacey Washington 98503, be revoked; and
- 10 3.3 Respondents jointly and severally pay the cumulative delinquent main office Annual Assessments due
11 through March 31, 2004 totaling \$2,575.67, as calculated in Paragraph 1.4 above. Additionally,
12 Respondents jointly and severally pay the \$530.86 main office Annual Assessment for the year ending
13 March 31, 2005 no later than the last business day of March, 2005; and
- 14 3.4 Respondents jointly and severally pay the cumulative delinquent Lacey Washington branch office
15 Annual Assessments due through March 31, 2004 totaling \$2,075.67, as calculated in Paragraph 1.5
16 above. Additionally, Respondents jointly and severally pay the \$530.86 branch office Annual
17 Assessment for the year ending March 31, 2005 no later than the last business day of March, 2005; and
- 18 3.5 Respondents jointly and severally pay a fine of \$9,000.00 for
19 a. Failure to maintain the required bond, calculated at \$100.00 per day for 30 days; and
20 b. Violation of RCW 19.146.0201(8), calculated at \$100.00 per day for 30 days; and
21 c. Failure to comply with a directive, calculated at \$100.00 per day for 30 days; and
- 22 3.6 Respondent Geoffrey S. Huetten be prohibited from participation in the conduct of the affairs of any
23 licensed mortgage broker, in any manner, for a period of five (5) years; and
- 24 3.7 Respondent Lois A. Jackson (fka Lois A. Huetten) be prohibited from participation in the conduct of
25 the affairs of any licensed mortgage broker, in any manner, for a period of five (5) years; and
- 3.8 Respondent Patrick K. McKeehan be prohibited from participation in the conduct of the affairs of any
licensed mortgage broker, in any manner, for a period of five (5) years; and
- 3.9 Respondent Randall L. Maine be prohibited from participation in the conduct of the affairs of any
licensed mortgage broker, in any manner, for a period of five (5) years; and
- 3.10 Respondents jointly and severally pay an investigation fee in the amount of \$955.60 calculated at
\$47.78 per hour for twenty (20) staff hours devoted to the investigation.

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IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Collect Annual Assessments, Impose Fine, Prohibit from Industry, and Collect Investigation Fee 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 and Notice of Intention to Enter an Order to Revoke Licenses, Collect Annual Assessments, Impose Fine, Prohibit from Industry, and Collect Investigation Fee.

Dated this 26th day of July, 2004.



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

Presented by:



Mark T. Olson
Financial Examiner



1 **RCW 19.146.0201 Loan originator, mortgage broker -- Prohibitions -- Requirements.**

2 It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or
3 mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1) (d) or (f) in connection with a
4 residential mortgage loan to:

- 5 (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud
6 any person;
- 7 (2) Engage in any unfair or deceptive practice toward any person;
- 8 (3) Obtain property by fraud or misrepresentation;
- 9 (4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or
10 commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the
11 borrower;
- 12 (5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are
13 actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW
14 19.146.020(1) (f) or (g) or a lender with whom the mortgage broker maintains a written correspondent or loan brokerage
15 agreement under RCW 19.146.040;
- 16 (6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other
17 applicable state or federal law;
- 18 (7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other
19 financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;
- 20 (8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection
21 with any reports filed by a mortgage broker or in connection with any investigation conducted by the department;
- 22 (9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the
23 independent judgment of the appraiser with respect to the value of the property;

24 ...
25 [1997 c 106 § 3; 1994 c 33 § 6; 1993 c 468 § 4.]

16 **RCW 19.146.205 License -- Application -- Exchange of fingerprint data with federal bureau of investigation -- Fee -
17 - Bond or alternative.**

18 (1) Application for a mortgage broker license under this chapter shall be in writing and in the form prescribed by the
19 director. The application shall contain at least the following information:

20 (a) The name, address, date of birth, and social security number of the applicant, and any other names, dates of birth, or
21 social security numbers previously used by the applicant, unless waived by the director;

22 (b) If the applicant is a partnership or association, the name, address, date of birth, and social security number of each
23 general partner or principal of the association, and any other names, dates of birth, or social security numbers previously
24 used by the members, unless waived by the director;

25 (c) If the applicant is a corporation, the name, address, date of birth, and social security number of each officer, director,
registered agent, and each principal stockholder, and any other names, dates of birth, or social security numbers previously
used by the officers, directors, registered agents, and principal stockholders unless waived by the director;

(d) The street address, county, and municipality where the principal business office is to be located;

1 (e) The name, address, date of birth, and social security number of the applicant's designated broker, and any other
2 names, dates of birth, or social security numbers previously used by the designated broker and a complete set of the
designated broker's fingerprints taken by an authorized law enforcement officer; and

3 (f) Such other information regarding the applicant's or designated broker's background, financial responsibility,
experience, character, and general fitness as the director may require by rule.

4 (4)(a) Each applicant for a mortgage broker's license shall file and maintain a surety bond, in an amount of not greater than
5 sixty thousand dollars nor less than twenty thousand dollars which the director deems adequate to protect the public
6 interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as
7 surety. The bonding requirement as established by the director may take the form of a uniform bond amount for all
8 licensees or the director may establish by rule a schedule establishing a range of bond amounts which shall vary according
9 to the annual average number of loan originators or independent contractors of a licensee. The bond shall run to the state of
10 Washington as obligee, and shall run first to the benefit of the borrower and then to the benefit of the state and any person
11 or persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or
12 rules adopted under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and
13 abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a
14 violation of this chapter or rules adopted under this chapter. Borrowers shall be given priority over the state and other
15 persons. The state and other third parties shall be allowed to receive distribution pursuant to a valid claim against the
remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be
entered prior to one hundred eighty days following the date the claim is filed. The bond shall be continuous and may be
canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation
shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued,
reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall
be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative
amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof,
at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any
penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded
under RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding
arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as
much coverage as is required under this subsection.

14 ...
15 [2001 c 177 § 4; 1997 c 106 § 9; 1994 c 33 § 8; 1993 c 468 § 6.]

16 **RCW 19.146.215 Continuing education -- Rules.**

The designated broker of every licensee shall complete an annual continuing education requirement, which the director shall define by rule.

17 [1997 c 106 § 11; 1994 c 33 § 11.]

18 **RCW 19.146.220 Director -- Powers and duties -- Violations as separate violations -- Rules.**

19 (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to
mortgage brokers, and hold hearings.

20 (2) The director may impose the following sanctions:

21 (a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this
chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

22 (b) Suspend or revoke licenses for:

23 (i) False statements or omission of material information on the application that, if known, would have allowed the
director to deny the application for the original license;

- 1 (ii) Failure to pay a fee required by the director or maintain the required bond;
- 2 (iii) Failure to comply with any directive or order of the director; or
- 3 (iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or
4 19.146.265;
- 5 (c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:
- 6 (i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200,
7 19.146.205(4), or 19.146.265; or
- 8 (ii) Failure to comply with any directive or order of the director;
- 9 (d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:
- 10 (i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of
11 this chapter; or
- 12 (ii) Pay restitution to an injured borrower; or
- 13 (e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
14 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any
15 person subject to licensing under this chapter for:
- 16 (i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4),
17 or 19.146.265; or
- 18 (ii) False statements or omission of material information on the application that, if known, would have allowed the
19 director to deny the application for the original license;
- 20 (iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a
21 license; or
- 22 (iv) Failure to comply with any directive or order of the director.
- 23 (3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and
24 distinct violation or failure.
- 25 (4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.
- (5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW
74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a
*residential or visitation order. If the person has continued to meet all 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.

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

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

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 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

1 the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any
2 grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

3 [1994 c 33 § 13.]

4 **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
5 chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

6 [1994 c 33 § 2.]

7 **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 exceed, the costs of
8 administering this chapter. These fees may include:

9 (1) An annual assessment paid by each licensee on or before a date specified by rule;

10 (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person
11 subject to this chapter; and

(3) An application fee to cover the costs of processing applications made to the director under this chapter.

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

17 [2001 c 177 § 5; 1997 c 106 § 13; 1994 c 33 § 9.]

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

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

21 [1994 c 33 § 16; 1993 c 468 § 10.]

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

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

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

Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or
34 places of business to conduct a compliance examination. The director may examine, either personally or by designee, a
35 sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and

1 undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this chapter.
2 For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered to have
3 been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license, the
4 director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been
5 taken or to investigate a complaint.

6 [1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

7 **WAC 208-660-030 Application procedure for mortgage broker license.**

8 (1) Each person required to have a license must apply to the director by filing the following:

9 (a) An application in the form prescribed by the director, including without limit the information required by RCW
10 19.146.205 (1)(a) through (d).

11 (b) A surety bond and related power of attorney, or approved alternative to the bond, in accordance with RCW
12 19.146.205(3) and WAC 208-660-080 and 208-660-08010.

13 (c) The application deposit.

14 (d) In regard to each principal and designated broker of the applicant:

15 (i) Biographical information including complete and accurate employment history and a description of any material
16 litigation involving the person;

17 (ii) An independent credit report obtained from a recognized credit reporting agency;

18 (iii) A signed authorization for a background investigation on a form provided by the department;

19 (iv) Completed fingerprint cards accepted by the Washington state patrol;

20 (v) A signed authorization for verification of the existence of a trust account on a form provided by the department;

21 (vi) A certificate of passing an approved examination (this requirement does not apply to principals); and

22 (vii) A certificate of satisfactory completion of an approved licensing course, or satisfactory proof of at least two
23 years of experience in accordance with WAC 208-660-040 (this requirement does not apply to principals).

24 (e) A signed certificate of compliance and authorization to examine trust accounts on a form provided by the
25 department;

(f) Information to support any required branch office certificate, as required by WAC 208-660-070.

(g) Information in regard to each independent contractor retained by the applicant, in accordance with RCW
19.146.200(1).

(h) A copy of any written agreement with a lender or licensee, in accordance with RCW 19.146.040(2).

(i) A copy of any form to be approved by the director in accordance with WAC 208-660-130(2).

(j) If the applicant's principal office is located out-of-state, information in regard to the applicant's registered agent, in
accordance with RCW 19.146.220(3).

[Statutory Authority: RCW 43.320.010, 19.146.223. 01-01-044, § 208-660-030, filed 12/8/00, effective 1/8/01; 96-04-028,
recodified as § 208-660-030, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-030,
filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-030, filed 1/7/94, effective
2/7/94.]

WAC 208-660-042 Continuing education requirement.

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

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

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

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

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

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

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

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

12 [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-
13 060, 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
14 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
15 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.]

14 **WAC 208-660-061 Fee increase.**

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

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

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

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

21 [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-
22 061, filed 5/29/01, effective 7/1/01.]

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

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

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

1 (b) An approved alternative to a surety bond in the required amount in accordance with WAC 208-660-08010.
2 The required amount of the surety bond or approved alternative ranges from twenty thousand dollars to sixty thousand
3 dollars and is based on the applicant's or licensee's monthly average number of loan originators calculated in accordance
4 with subsection (2) of this section. The surety bond or approved alternative is subject to claims in accordance with RCW
5 19.146.205 and 19.146.240. Borrowers shall be given priority over the state and other persons who file claims against the
6 bond or approved alternative. The state and other persons shall not receive distributions from the remainder of the bond or
7 approved alternative pursuant to valid claims prior to one hundred eighty days following the date a claim is made against
8 the bond.

9 [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,
10 recodified as § 208-660-080, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-080,
11 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
12 § 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
15 developments:

- 16 (a) Licensee's filing for bankruptcy or reorganization.
- 17 (b) Receipt of notification of license revocation procedures in any state against the licensee.
- 18 (c) The filing of a felony indictment or information related to mortgage brokering activities of the licensee, or any
19 officer, director, principal, or designated broker of the licensee.
- 20 (d) The licensee, or any officer, director, principal, or designated broker of the licensee being convicted of a felony.
- 21 (e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any significant
22 decline in value of an approved alternative held by the director.
- 23 (f) The filing of any material litigation against the licensee.

24 (2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's principal place
25 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:

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

[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. 94-03-009, § 50-60-150, filed 1/7/94,
effective 2/7/94.]

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:

- (1) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;
- (2) Has not filed the required surety bond or approved alternative or otherwise complied with RCW 19.146.205;
- (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;
- (4) Has within the prior seven years been convicted of a felony, or a gross misdemeanor involving dishonesty or
financial misconduct;
- (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

1 purposes of the Mortgage Broker Practices Act. The director may find that the person has failed to make the demonstration
if, among other things:

2 (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

3 (b) An independent credit report issued by a recognized credit reporting agency indicates that the person has a
substantial history of unpaid debts;

4 (6) Has omitted, misrepresented, or concealed material facts in obtaining a license or in obtaining reinstatement thereof;

5 (7) Has violated the provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act;

6 (8) Has had its surety bond, approved alternative, or equivalent form of business insurance, canceled or revoked for
cause;

7 (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;

8 (10) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act;

9 (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;

10 (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;

11 (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;

12 (14) Has performed an act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or
profession;

13 (15) Has failed to cooperate with the director, or his or her designee, including without limitation by:

14 (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

15 (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;

16 (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;

17 (17) Has failed to provide a required certificate of passing an approved examination;

18 (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

19 (19) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.

20 [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.]

21 **WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act.**

22 Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and
agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable
provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the
discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's
continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order
assess other penalties for a violation of the Mortgage Broker Practices Act.

23 [96-04-028, recodified as § 208-660-165, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091,
§ 50-60-165, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-165, filed 11/8/94, effective 12/9/94.]