

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

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

A-1 Mortgage, LLC and
James E. Yoest, Designated Broker,
Respondents.

NO. C-02-355-02-FO01
(Old No. 2002-147-001)

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Review. This matter has come before the Director to review the Statement of Charges and Notice Of Intention To Revoke License And Impose Fines ("Statement of Charges") entered by the Director through her designee Assistant Director Mark Thomson on November 19, 2002, a copy of which documents are attached and incorporated into this order by this reference. The Department served the Statement of Charges by certified mail on November 29, 2002. Respondents did not request an administrative hearing.

B. Record of Proceedings. The entire record of this proceeding, including but not limited to the Director's designee's Statement of Charges and Notice Of Intention To Revoke License And Impose Fines, was presented to the Director for her review and for entry of a final decision.

C. Factual Findings and Grounds For Order. The Director hereby adopts the Statement of Charges and Notice Of Intention To Revoke License And Impose Fines, which is attached hereto.

\\

\\

\\

\\

1 II. FINAL ORDER

2 Based upon the foregoing, and the Director having considered the entire record and being otherwise
3 fully advised, NOW, THEREFORE:

4 A. Final Order. IT IS HEREBY ORDERED, That:

- 5 1. Respondent’s mortgage broker license is revoked, and
6 2. Respondent pay an examination fee, calculated at \$46.26 per hour for three staff
7 hours devoted to the examination, totaling \$138.48, and
8 3. Respondent pay a fine of \$1,500.00, calculated at \$50.00 per day for thirty days, and
9 4. Payment of the examination fee and fine shall be suspended unless and until such time
10 as the Respondent applies for a license from the Department, at which time the total
11 fine and examination shall be due and owing.

12
13 B. That Respondent provide to the Department information relating to the location of all
14 books, records and other information relating to Respondent’s mortgage broker business, and
15 provide to the Department the name, address and telephone number of the individual responsible for
16 the maintenance of such records in compliance with the Act.

17 C. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
18 petition for reconsideration stating the specific grounds upon which relief is requested. The petition must be
19 filed in the Office of the Director of the Department of Financial Institutions, 210 11th Ave. West, Suite 300,
20 P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the Final Order upon
21 Respondent. The petition for reconsideration shall not stay the effectiveness of this order nor is a petition for
22 reconsideration a prerequisite for seeking judicial review in this matter.

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

4 D. Stay of Order. The Director has determined not to consider a petition to stay the
5 effectiveness of this order. Any such requests should be made in connection with a petition for judicial
6 review made under chapter 34.05 RCW and RCW 34.05.550.

7 E. Judicial Review. Respondent has the right to petition the superior court for judicial
8 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a
9 petition for judicial review, see RCW 34.050.510 and sections following.

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

12 DATED this 22nd day of January, 2003.

13 STATE OF WASHINGTON
14 DEPARTMENT OF FINANCIAL INSTITUTIONS

15
16 /S/
Helen Howell
17 Director

1
2
3
4
5
6
7
8
9

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

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

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

A-1 Mortgage, LLC and James E. Yoest, Designated
Broker,

Respondents.

NO. C-02-355-02-SC01
(Old No. 2002-147-C01)

STATEMENT OF CHARGES and NOTICE OF
INTENT TO REVOKE LICENSE AND IMPOSE
FINES

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"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of November 13, 2002, the Director institutes this proceeding and finds as follows:

I. FACTS

1. Respondents:

A. A-1 Mortgage, LLC is known to conduct the business of a mortgage broker at:

19525 100th Ave Ct E
Graham WA 98338

B. James E. Yoest was named designated broker in 1998 and has continued as designated broker to date.

2. License: A-1 Mortgage, LLC was licensed by the Department of Financial Institutions ("Department") to conduct business as a mortgage broker on April 28, 1998, and has continued to be licensed to date.

1 **3. State Corporate License:** A-1 Mortgage, LLC was incorporated to do business in the State of
2 Washington on March 11, 1998. The license of the corporation, issued by the Washington State Secretary of
3 State, expired on March 31, 2002. To date, A-1 Mortgage, LLC has not notified the Department of this change
4 in standing with the State of Washington Secretary of State.

5 **4. Continuing Education Requirement:** A certificate of satisfactory completion of an approved
6 continuing education course was due to the Department no later than the last business day of April 2002.

7 **5. Issuance of Directive:** On August 2, 2002, the Department issued a directive to Respondents requiring
8 the submission of a certificate of satisfactory completion of an approved continuing education course.

9 **6. Failure to Submit Certificate:** To date, the Department has not received the required certificate due
10 from Respondents.

11 II. GROUNDS FOR ENTRY OF ORDER

12 **1. Disclosure of Significant Developments:** Pursuant to WAC 208-660-150, the licensee must notify the
13 Director in writing within five days after a change in the licensee's status with the state of Washington Secretary
14 of State.

15 **2. Continuing Education Requirement:** Pursuant to RCW 19.146.215 and WAC 208-660-042, the
16 designated broker of every licensee shall complete an annual continuing education requirement and file a
17 certificate of satisfactory completion no later than the last business day of the month in which the anniversary
18 date of the issuance of the licensee's license occurs.

19 **3. Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(iii), and WAC 208-660-160(19),
20 the Director may revoke a license for failure to comply with any directive or order of the Director and for failure
21 to provide a required certificate of satisfactory completion of an approved continuing education course.

22 **4. Authority to Charge Examination Fee:** Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2), upon
23 completion of any examination of the books and records of a licensee, the Department will furnish to the licensee a
24

1 billing to cover the cost of the examination. The examination charge will be calculated at the rate of forty-six dollars
2 and twenty-six cents (\$46.26) per hour that each staff person devoted to the examination.

3 **5. Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(ii) and WAC 208-660-165, the Director
4 may impose fines on the licensee for failure to comply with any directive or order of the Director.

5 **III. NOTICE OF INTENT TO ENTER ORDER**

6 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in
7 the above Facts and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.220.

8 Therefore, it is the Director's intention to ORDER that:

- 9 1. The mortgage broker license held by Respondent A-1 Mortgage, LLC be revoked,
- 10 2. Respondents pay an examination fee to be calculated at \$46.26 per hour for each staff hour devoted to the
11 investigation; and
- 12 3. Respondents pay a fine of \$1,500.00 for failure to comply with a directive, calculated at \$50.00 per day
for 30 days.

13 ////

14 ////

15 ////

16 ////

17

18

19

20

21

22

23

24

25

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

IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221. 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 Intent to Revoke License and Impose Fines.

Dated this 29th day of November, 2002.

/S/
MARK THOMSON
ASSISTANT DIRECTOR
DIVISION OF CONSUMER SERVICES
DEPARTMENT OF FINANCIAL INSTITUTIONS

Reviewed by:
/S/
Chuck Cross, Enforcement Chief

1 **RCW 19.146.215 Continuing education – Rules.** The designated broker of every licensee shall complete an annual
2 continuing education requirement, which the director shall define by rule. [1997 c 106 § 11; 1994 c 33 § 11.]

3 **RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules.** (1) The director shall
4 enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and
5 hold hearings.

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

7 (. . .

8 (b) Suspend or revoke licenses for:

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

11 (ii) Failure to pay a fee required by the director or maintain the required bond;

12 (iii) Failure to comply with any directive or order of the director; or

13 (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
14 19.146.265;

15 (c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

16 (i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200,
17 19.146.205(4), or 19.146.265; or

18 (ii) Failure to comply with any directive or order of the director;

19 (. . .

20 (3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and
21 distinct violation or failure.

22 (. . .

23 [1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

24 **RCW 19.146.221 Action by director – Hearing – Sanction.** The director may, at his or her discretion and as provided
25 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 the person subject to the action consents, or if after
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. [1994 c 33 § 13.]

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. [1994 c 33 § 2.]

RCW 19.146.225 Director – Rule-making powers. In accordance with the administrative procedure act, chapter 34.05
RCW, the director may issue rules under this chapter only after seeking the advice of the mortgage brokerage commission
and to govern the activities of licensed mortgage brokers and other persons subject to this chapter. [1994 c 33 § 15; 1993
c 468 § 9.]

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 administering this chapter. These fees may include:

(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; . . . [1997 c 106 § 13; 1994 c 33 § 9.]

RCW 19.146.230 Administrative procedure act application. The proceedings for denying license applications, issuing
cease and desist orders, suspending or revoking 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 34.05 RCW. [1994 c 33 § 16; 1993 c 468 § 10.]

1 **WAC 208-660-042(1) Continuing education requirement.** (1) The principal or designated broker of a licensee
2 must satisfactorily complete an approved continuing education course annually. Each licensee must file annually a
3 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.

4 **WAC 208-660-060 Department's fees and assessments.** (1) Upon completion of processing and reviewing an
5 application for a license or branch office certificate, the department will prepare a billing, regardless of whether a license
6 or certificate has been issued, calculated at the rate of \$35.98 per hour that each staff person devoted to processing and
7 reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the
8 department will be billed to and paid promptly by the applicant, while any balance remaining from the deposit will be
refunded promptly to the applicant.

9 (2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the
10 licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per
11 hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly
12 upon receipt. Licensees that were issued licenses prior to March 21, 1994, 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.

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

16 (4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the
17 department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be
18 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.

19 **WAC 208-660-150 Disclosure of significant developments.** (1) A licensee must notify the director in writing within
20 thirty days after the occurrence of any of the following developments:

- 21 . . .
22 (3) A licensee must notify the director in writing within five days after a change in the licensee's:
23 . . . (f) Standing with the state of Washington secretary of state.

24 **WAC 208-660-160 License application denial or condition; license suspension or revocation.** The director may
25 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:

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

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