

# Terms Completed

## ORDER SUMMARY – Case Number: C-03-070

**Name(s):** Brian P. Tierney

**Order Number:** C-03-070-05-CO02

**Effective Date:** April 7, 2005

**License Number:** none

**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  
If applicable, you must specifically note the ending dates of terms.

**License Effect:** Prohibition from industry for 5 years as principal, officer, employee or loan originator.

**Not Apply Until:** \_\_\_\_\_

**Not Eligible Until:** April 7, 2010

**Prohibition/Ban Until:** April 7, 2010

|  |    |   |   |      |
|--|----|---|---|------|
| <b>Investigation Costs</b>             | \$ | Due   | Paid<br><input type="checkbox"/> Y <input type="checkbox"/> N | Date |
|  |    |   |   |      |
| <b>Fine</b>                            | \$ | Due   | Paid<br><input type="checkbox"/> Y <input type="checkbox"/> N | Date |
|  |    |   |   |      |
| <b>Assessment(s)</b>                   | \$ | Due   | Paid<br><input type="checkbox"/> Y <input type="checkbox"/> N | Date |
|  |    |   |   |      |
| <b>Restitution</b>                     | \$ | Due   | Paid<br><input type="checkbox"/> Y <input type="checkbox"/> N | Date |
|  |    |   |   |      |
| <b>Judgment</b>                        | \$ | Due   | Paid<br><input type="checkbox"/> Y <input type="checkbox"/> N | Date |
|  |    |   |   |      |
| <b>Satisfaction of Judgment Filed?</b> |    | <input type="checkbox"/> Y <input type="checkbox"/> N |   |      |
| No. of<br>Victims:                     |    |   |   |      |

**Comments:** \_\_\_\_\_

---



---



---



---



---

APR 04 2005

CONSUMER SERVICES DIVISION  
DEPT OF FINANCIAL INSTITUTIONS

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

In the Matter of:

NO. C-03-070-05-CO02

NORTH COUNTY REAL ESTATE INC.,  
dba HMC FUNDING,

**CONSENT ORDER**  
**BRIAN P. TIERNEY**

and BRIAN P. TIERNEY,

Respondents

COMES NOW the Acting Director of the Department of Financial Institutions (Director), through her designee Chuck Cross, Division Director, Division of Consumer Services, and Brian Tierney (hereinafter Respondent), 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 31.04 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 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-03-070-03-SC01 (Statement of Charges), entered July 22, 2003, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees 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.

\\

1 Based upon the foregoing:

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

4 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing  
5 before an administrative law judge, and that Respondent has waived this right to a hearing and any and all  
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

7 Accordingly, Respondent agrees to withdraw his request for hearing and to inform the Office of Administrative  
8 Hearings in writing of this request.

9 C. **Prohibition from Industry.** It is AGREED that upon entry of this Consent Order Respondent shall  
10 be prohibited for a period of five (5) years from participation in the affairs of any licensee in the consumer loan  
11 industry in Washington as an officer, principal, employee or loan originator.

12 D. **Application for License.** It is AGREED that upon entry of this Consent Order Respondent shall  
13 refrain from applying for a consumer loan license under any name in the State of Washington for a period of  
14 five (5) years.

15 E. **Compliance with the Law.** It is AGREED that Respondent shall comply with the Consumer Loan  
16 Act and the rules adopted thereunder.

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

21 G. **Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into  
22 this Consent Order, which is effective when signed by the Director's designee.

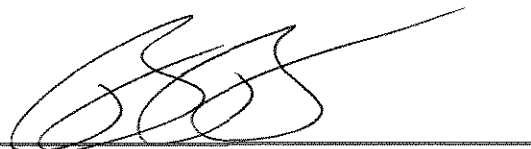
23 H. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent  
24 Order in its entirety and fully understands and agrees to all of the same.

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

\\

**RESPONDENT:**

**BRIAN P. TIERNEY**

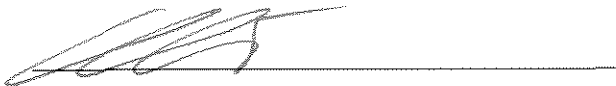


**BRIAN P. TIERNEY**

3/30/05  
Date

**DO NOT WRITE BELOW THIS LINE**

THIS ORDER ENTERED THIS 8th DAY OF April, 2005.



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

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

In the Matter of:

NORTH COUNTY REAL ESTATE INC.,  
dba HMC FUNDING,

and BRIAN P. TIERNEY,

Respondents.

NO. C-03-070-03-SC01

STATEMENT OF CHARGES AND  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO REVOKE LICENSE, IMPOSE  
FINES, COLLECT INVESTIGATIVE  
COSTS, AND PROHIBIT FROM  
PARTICIPATION IN THE INDUSTRY

**I. INTRODUCTION**

Pursuant to RCW 31.04.165, the Director of the Department of Financial Institutions (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of July 21, 2003, the Director institutes this proceeding and finds as follows:

**II. FACTUAL ALLEGATIONS**

**A. Respondents:**

1. **North County Real Estate Inc., dba HMC Funding (North County).** The business location for North County is 2386 Faraday Avenue, Suite 130, Carlsbad, California 92008.
2. **Brian P. Tierney (Tierney).** Tierney was identified in the application to the Department as president of North County.

**B. License:** On November 6, 2000, North County, through Tierney, submitted an application to be licensed in the State of Washington to do business as a consumer loan company under chapter RCW 31.04 RCW, the Consumer Loan Act. Based on the information contained in North County's application, the Department issued a license to do business as a consumer loan company in the state of Washington on February 2, 2001, license Number 520-CL-2119-00 (New No. 18021). North County continues to be licensed to date.

STATEMENT OF CHARGES and NOTICE OF INTENT  
TO REVOKE LICENSE, IMPOSE FINES, COLLECT  
INVESTIGATIVE COSTS, AND PROHIBIT FROM  
PARTICIPATION IN THE INDUSTRY

C-03-070-03-SC01 - North County Real Estate Inc.

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

1 **C. Application for License:**

2 **1. Addendum 7 - References from Other States:**

3 a) **Application Requirements:** The application for a consumer loan license requests information in  
4 Addendum 7 concerning the applicant's licensing in other states. The Department specifically  
5 requests:

6 "If the applicant is or has ever been licensed to engage in the business of lending or brokering in any  
7 other state, follow these instructions

- 8 1. Provide a list of all states in which you are or were licensed. This list should include the name of  
9 licensee; type of license; name, address, phone, fax, and contact person of the regulatory entity  
10 issuing the license.  
11 2. Distribute the enclosed Reference Form:  
12 ...."

13 b) **Information Submitted by Respondent:** On November 6, 2000, North County, through Tierney,  
14 submitted a response to Addendum 7 by providing the following list of states in which it was or had  
15 been licensed: California, Colorado, Indiana, Idaho, Iowa, Minnesota, Montana, Nebraska, New  
16 Mexico, Oklahoma, Oregon, South Dakota, Utah and Wyoming. Respondent provided Reference  
17 Forms for those states listed above.

18 **2. Addendum 8 - Disciplinary History**

19 a) **Application Requirements:** The application further requests information in Addendum 8 concerning  
20 the applicant's disciplinary history. The Department specifically requests:

21 "Is there presently or has there ever been any regulatory enforcement action (including the suspension  
22 of license) against the applicant in any state? If the answer to this question is 'yes' please list all  
23 regulatory actions taken against the applicant and provide a detailed explanation of each."

24 c) **Information Submitted by Respondent:** On November 6, 2000, North County, through Tierney,  
25 submitted a response to Addendum 8, stating: "No enforcement action has been taken by any state."

**D. Falsification of Application:** North County and Tierney provided false statements in obtaining a license. In  
Addendum 7, North County and Tierney did not include the states of Rhode Island or Georgia in the list of states in  
which it had been licensed. In Addendum 8, North County and Tierney also did not include enforcement orders entered  
by the states of Georgia and Rhode Island. On June 25, 1999, the State of Georgia Department of Banking and Finance

1 revoked a license held by North County. On June 8, 2000, the State of Rhode Island Department of Business  
2 Regulations revoked North County's license numbers 98000899LL and 98000900LB.

3 Tierney signed the application for a consumer loan license as the "Authorized Official" of North County for  
4 submission of the application. Contained within the application is a "Signature and Oath of Applicant" which reads in  
5 part:

6 "Any false statement or omission of material information in connection with this application shall be  
7 punished as provided by law and may subject the applicant to denial of a license or the revocation of  
8 any license granted."

9 **E. Director's Responsibility for Licensing:** Pursuant to RCW 31.04.055, the Director is entrusted to measure and  
10 determine that the "financial responsibility, experience, character, and general fitness of the applicant are such as to  
11 command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly,  
12 and efficiently within the purposes of this chapter."

13 North County's licensing and enforcement history, and its failure to provide full and honest answers to the  
14 questions on the application, are material in determining North County's "financial responsibility, experience, character,  
15 and general fitness" for the purposes of the Director forming a "belief that the business will be operated honestly, fairly,  
16 and efficiently within the purposes of this chapter."

17 **F. Finding Regarding Respondents' Character:** Based on the false statements by Tierney and North County and the  
18 license revocations in the states of Rhode Island and Georgia, North County does not exhibit the character and general fitness  
19 such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly  
20 and efficiently within the purposes of the Act.

### 21 **III. GROUNDS FOR ENTRY OF ORDER**

22 **A. Director's Authority:** Pursuant to RCW 31.04.165(1), the Director has the power, and broad administrative  
23 discretion, to administer and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by  
24 loan companies subject to this chapter.

1 **B. Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(c), the Director may suspend or revoke a license  
2 issued under this chapter if the director finds that a fact or condition exists that, if it had existed at the time of the original  
3 application for the license, clearly would have allowed the director to deny the application for the original license.

4 **C. Authority Not to Issue License:** Pursuant to RCW 31.04.055(1)(c) and RCW 31.04.055(2), the Director shall not  
5 issue a license to an applicant if the Director finds that the applicant has held a license in another state that has been revoked or  
6 suspended within the five years of the filing of the application.

7 **D. Authority Not to Issue License:** Pursuant to RCW 31.04.055(1)(e) and RCW 31.04.055(2), the Director shall not  
8 issue a license to an applicant if the Director finds that the character and general fitness of the applicant do not command the  
9 confidence of the community and/or warrant a belief that the business will be operated honestly and fairly.

10 **E. Authority to Impose Fine:** Pursuant to RCW 31.04.093(4)(a), the Director may impose a monetary penalty of up to  
11 one hundred dollars per day for violations of the Act.

12 **F. Authority to Prohibit from the Industry:** Pursuant to RCW 31.04.093(6)(a), the Director may issue an order  
13 removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee or  
14 loan originator, or any person subject to this chapter for false statements or omission of material information from an  
15 application for a license that, if known, would have allowed the Director to deny the original application for a license.

16 **G. Authority to Charge Investigative Costs:** Pursuant to RCW 31.04.145, every licensee examined or investigated by  
17 the Director or the Director's designee shall pay to the Director the cost of the examination or investigation of each licensed  
18 place of business as determined by rule by the Director.

#### 19 **IV. NOTICE OF INTENTION TO ENTER AN ORDER**

20 Based on the foregoing Factual Allegations and Grounds for Entry of Order it is the Director's intention to ORDER:

- 21 A. That North County's license to do business in the state of Washington as a consumer loan licensee be  
22 revoked for a period of five (5) years; and
- 23 B. That North County and Tierney pay investigation fees in the amount of \$414.06, calculated at \$69.01 per  
24 hour for six hours; and
- 25 C. That North County and Tierney pay a monetary penalty of \$3000.00, calculated at \$100.00 for 30 days;
- D. That Tierney be prohibited for a period of five (5) years from participation in the affairs of any licensee in  
the consumer loan industry in Washington as an officer, principal, employee or loan originator.

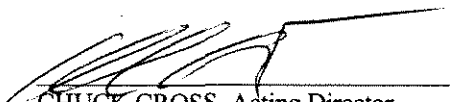


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

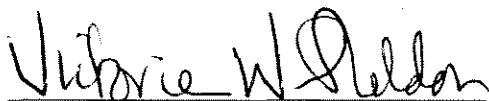
V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fines, Collect Investigative Costs, and Prohibit from Participation in the Industry is entered pursuant to the provisions of RCW 31.04.055, RCW 31.04.165, RCW 31.04.202, RCW 31.04.205, and chapter 34.05 RCW. The Respondent may make a written request for a hearing as set forth in the Notice of Opportunity to Defend and Opportunity for Hearing accompanying the Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fines, and Prohibit from Participation in the Industry.

DATED this 22nd day of JULY, 2003.

  
CHUCK CROSS, Acting Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

  
Victoria W. Sheldon  
Financial Legal Examiner

