



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

ROBERT FLATH,

Respondent.

NO. C-05-088-09-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Procedural History. 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 September 9, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry and Collect Investigation Fee (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 September 10, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Robert Flath. The Department served the Statement of Charges, cover letter dated September 10, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Robert Flath on Respondent by First-Class mail and Federal Express overnight delivery. On September 11, 2009, the documents sent via Federal Express overnight delivery were delivered. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service.

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

4 B. Record Presented. The record presented to the Director's designee for her review and
5 for entry of a final decision included the following:

- 6 1. Statement of Charges;
- 7 2. Cover letter dated September 10, 2009;
- 8 3. Notice of Opportunity to Defend and Opportunity for Hearing; and
- 9 4. Blank Application for Adjudicative Hearing for Robert Flath, 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 Based upon the foregoing, and the Director's designee having considered the record and
14 being otherwise fully advised, NOW, THEREFORE:

15 A. IT IS HEREBY ORDERED, That:

- 16 1. Respondent Robert Flath is prohibited from participation in the conduct of the affairs
17 of any licensed consumer loan company, in any manner, for a period of ten (10) years;
18 and
- 19 2. Respondent Robert Flath pay an investigation fee of \$1,607.93.

20 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
21 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
22 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
23 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
24 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
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1 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
2 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

12 E. Non-compliance with Order. If you do not comply with the terms of this order, the
13 Department may seek its enforcement by the Office of Attorney General to include the collection of the
14 fees imposed herein.

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

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19 DATED this 3rd day of November, 2009.



21 STATE OF WASHINGTON
22 DEPARTMENT OF FINANCIAL INSTITUTIONS

23 
24 DEBORAH BORTNER
25 DIRECTOR
DIVISION OF CONSUMER SERVICES

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

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

Robert Flath,

Respondent.

NO. C-05-088-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO PROHIBIT FROM INDUSTRY
AND COLLECT INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, 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. Robert Flath (Respondent Flath) was a loan originator with American Residential Funding, Inc. (American Residential Funding) at the time of the alleged violations. American Residential Funding held a Consumer Loan license from June 21, 2000, through December 15, 2004, when American Residential Funding surrendered its license. Respondent Flath is known to have conducted business at the following locations:

American Residential Funding, Inc.
619 S. Verde St.
Tacoma, WA 98405

Pierce Mortgage, Inc.
4306 6th Ave. Ste. 4
Tacoma, WA 98406

Home Finance USA, Inc.
4002 Tacoma Mall Blvd. Ste 105
Tacoma, WA 98405

STATEMENT OF CHARGES
C-05-088-07-SC01
Robert Flath

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 **1.2 Investigation.** In or around August, 2003, in Pierce County, Washington, Respondent Flath converted
2 a \$7,842.50 check that was due to American Residential Funding for his own personal purposes. After an
3 investigation into the matter, on June 20, 2006, the Department referred the case to the Washington State
4 Attorney General's Office for criminal prosecution.

5 **1.3 Criminal Conviction of a Gross Misdemeanor.** On February 26, 2007, in the Superior Court of Pierce
6 County, in Cause No. 06-1-03549-8, Respondent Flath was convicted of Theft in the Third Degree – RCW
7 9A.56.050, a gross misdemeanor, for the wrongful conversion of the broker's fee.

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

9 **2.1 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent is in
10 apparent violation of RCW 31.04.027(1), (2), and (3) for directly or indirectly employing any scheme, device,
11 or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any
12 person; directly or indirectly engaging in any unfair or deceptive practice toward any person; and directly or
13 indirectly obtaining property by fraud or misrepresentation.

14 **III. AUTHORITY TO IMPOSE SANCTIONS**

15 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(b) and (e), the Director
16 may issue an order prohibiting from participation in the affairs of any licensee, any officer, principal, employee
17 or loan originator, or any person subject to the Act for conviction of a gross misdemeanor involving dishonesty
18 or financial misconduct or a felony or for any violation of RCW 31.04.027.

19 **3.2 Authority to Charge Examination Fee and Investigation Fee.** Pursuant to RCW 31.04.145(3) and
20 WAC 208-620-590, every licensee examined or investigated by the Director or the Director's designee shall
21 pay for the cost of the examination or investigation, calculated at the rate of sixty-nine dollars and one cent
22 (\$69.01) per staff hour devoted to the examination or investigation, and shall pay travel costs if the licensee
23 maintains its records outside the state.

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

2 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
3 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 31.04.093, RCW 31.04.165, and RCW 31.04.205. Therefore, it is the
5 Director's intention to ORDER that:

6 4.1 Respondent Robert Flath be prohibited from participation in the conduct of the affairs of any licensed
7 consumer loan company, in any manner, for a period of ten years; and

8 4.2 Respondent Robert Flath pay an investigation fee which as of the date of these charges totals \$1,607.93
9 calculated at \$69.01 per hour for 23.3 staff hours devoted to the investigation.

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1 **V. AUTHORITY AND PROCEDURE**

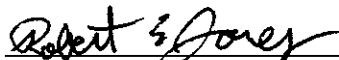
2 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry and
3 Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW
4 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The
5 Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the
6 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
7 Statement of Charges.

8 Dated this 9th day of September, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

12 Presented by:

13 
14 ROBERT E. JONES
Financial Legal Examiner



15 Approved by:

16 
17 JAMES R. BRUSELBACK
18 Enforcement Chief