

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 Mortgage
6 Broker Practices Act of Washington by:

C-06-005-06-TD01

7 ELIZA V. BAUTISTA aka LIZA BAUTISTA,

TEMPORARY ORDER TO
CEASE AND DESIST

8 Respondent.

9 THE STATE OF WASHINGTON TO:

Eliza V. Bautista AKA Liza Bautista
16351 53rd Place South
Tukwila, WA 98188

c/o National Lending Corporation
507 Industry Drive, Building 1
Tukwila, WA 98188

c/o William F. Wright, Attorney at Law
4423 Point Fosdick Road NW, Suite 100
Gig Harbor, WA 98335

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13 COMES NOW the Director of the Washington State Department of Financial Institutions (Director), by
14 and through his designee Chuck Cross, Division Director, Division of Consumer Services (designee), and finding
15 that the public is likely to be substantially injured by delay in issuing a cease and desist order, the Director,
16 through his designee, enters this Temporary Cease and Desist Order pursuant to chapter 19.146 RCW, the
17 Mortgage Broker Practices Act (Act), based on the following findings. The referenced statutes (RCW) and rules
18 (WAC) are attached, in pertinent part.

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1 **I. FACTUAL FINDINGS**

2 1.1 **Respondent.** Eliza V. Bautista AKA Liza Bautista (Respondent) is currently employed as an
3 Independent Contractor for a branch office of National Lending Corporation located at 507 Industry Drive,
4 Building 1, Tukwila, WA 98188. Prior to commencing employment with National Lending Corporation, Bautista
5 was employed as an independent contractor with Abacus Mortgage, Inc. at its main office, located at 130 Andover
6 Park East, Suite 205, Tukwila, WA 98188. Bautista was terminated from Abacus Mortgage, Inc. in August 2006.

7 1.2 **Complaints.** The Department has received several complaints against Respondent dating back
8 to 2003, each of which alleged numerous violations of the Mortgage Broker Practices Act. Since October of
9 2005, the Department has received three complaints alleging egregious violations of the Act. On August 30,
10 2006, the Department received a complaint filed by Lydia Pagdilao, alleging that while Ms. Pagdilao was in the
11 Philippines, Respondent fraudulently obtained a residential mortgage loan in Ms. Pagdilao's name for property
12 located at 2828 Riverview Boulevard, Everett, WA 98203.

13 1.4 **Fraud.** As stated in paragraph 1.2, the Department has reason to believe that Respondent
14 fraudulently obtained a residential mortgage loan in Ms. Pagdilao's name using Ms. Pagdilao's personal and
15 financial information. Ms. Pagdilao has provided the Department with copies of the entire loan file obtained
16 from the lender, Argent Mortgage Company, LLC (Argent). On August 21, 2006, Ms. Pagdilao submitted a
17 letter to Argent, which stated:

18 This is to certify that I, LYDIA CLARITA C. PAGDILAO, did
19 not buy property located at this address 2828 Riverview Blvd,
20 Everett, WA 98203. Any transaction or signed document related
to the purchase of said property should be considered as
fraudulent.

21 1.5 **Forgery.** The Department has reason to believe that Respondent, or an agent for Respondent
22 acting under Respondent's direction, forged Ms. Pagdilao's signature on the deed of trust as well as all other
23 documents contained in the loan file. The signatures on the loan documents bear no resemblance to Ms.
24 Pagdilao's actual signature, which appears on the letter submitted to Argent.

25 1.6 **Substantial Injury to Public.** The Department has reason to believe that Respondent has

1 caused, and continues to cause, substantial injury to the public. In July 2006, it appears that Respondent
2 fraudulently obtained a loan, as discussed in paragraph 1.3 and 1.4, and committed forgery as discussed in
3 paragraph 1.5. Based on this conduct and other conduct known to the Department, there is reasonable cause to
4 believe that the threat exists for Respondent to do or continue the acts and conduct described in paragraphs 1.3
5 through 1.5.

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

7 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12), a "Mortgage Broker" is
8 defined as any person who for compensation or gain, or in the expectation of compensation or gain (a) makes a
9 residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or
10 (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining
11 or applying to obtain a residential mortgage loan.

12 **2.2 Prohibited Acts.** Pursuant to RCW 19.146.0201, it is unlawful for a loan originator, mortgage
13 broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter
14 under RCW 19.146.020(1)(d) or (f) in connection with a residential mortgage loan to:

- 15 (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead
16 borrowers or lenders or defraud any person;
- 17 (2) Engage in any unfair or deceptive practice toward any person;
- 18 (3) Obtain property by fraud or misrepresentation.

19 Respondent is in apparent violation of these sections by conducting business practices as described in Section I.
20 It is clear to the Director that harm has occurred to Lydia C. Pagdilao. Based on the Department's investigation
21 to date and additional consumer complaints, the Director has grounds to believe that other consumers have
22 suffered harm or will suffer harm at the hands of Respondent.

23 **2.12 Effective Date of Temporary Cease and Desist Order.** Pursuant to RCW
24 19.146.220(2)(d)(1) and 19.146.227, whenever the Director determines that the public is likely to be
25 substantially injured by delay in issuing a cease and desist order, the Director may immediately issue a

1 Temporary Cease and Desist Order. The Order shall become effective at the time specified in the order.

2 Based upon the foregoing facts, findings, and apparent violations, the Director has determined that the public is
3 likely to be substantially injured by delay in issuing a cease and desist order.

4 **III. ORDER**

5 Based on the above Factual Findings and Grounds for Entry of Order, the Director finds that
6 Respondent has violated RCW 19.146.0201(1), (2) and (3), and has conducted business in a manner injurious to
7 the public. Therefore, the Director ORDERS that:

8 3.1 Respondent Bautista is to immediately cease and desist from making and/or assisting people in
9 obtaining or applying to obtain residential mortgage loans and/or holding herself out as able to make residential
10 mortgage loans and/or assist people in applying to obtain residential mortgage loans in the State of Washington
11 from any location without first obtaining a license.

12 3.2 Respondent Bautista is to retain copies and immediately transfer all of the originals of any
13 open residential mortgage loan files for further processing, closing, and funding to another mortgage broker or
14 lender as follows:

15 1. Such mortgage broker or lender shall be located within the State of Washington and be duly licensed,
16 or exempt from licensing, by the Director.

17 2. Such mortgage broker or lender shall not currently be the subject of any investigation or enforcement
18 order filed by this state or any other state within the United States related to the business of mortgage brokers.

19 3. Such mortgage broker or lender shall not be required to provide any compensation to Respondent for
20 the transfer of these loan files, and shall be provided a full copy of this order.

21 4. Such transfer shall take place within five (5) business days of the service of this order and Respondent
22 shall notify the Department prior to transfer of the files identifying which mortgage broker or lender has been
23 chosen for receipt of the transfer of the files, along with a list of the borrower names and addresses transferred
24 to the other mortgage broker or lender.

1 5. Such transfer shall include a notice upon the date of transfer to each consumer whose loan has been
2 transferred that shall read exactly as follows:

3 ELIZA V. BAUTISTA aka LIZA BAUTISTA HAS BEEN ORDERED TO CEASE AND DESIST THE
4 BUSINESS OF A MORTGAGE BROKER WITHIN THE STATE OF WASHINGTON. YOUR LOAN HAS
5 BEEN TRANSFERRED TO THE FOLLOWING MORTGAGE BROKER (PROVIDE NAME, ADDRESS,
6 TELEPHONE NUMBER) SO THAT THE PROCESSING OF YOUR LOAN MAY CONTINUE. ANY
7 QUESTIONS REGARDING THE CEASE AND DESIST ORDER OR THE TRANSFER OF YOUR FILE
8 SHOULD BE DIRECTED TO STEVE SHERMAN, FINANCIAL LEGAL EXAMINER SUPERVISOR,
9 DEPARTMENT OF FINANCIAL INSTITUTIONS, DIVISION OF CONSUMER SERVICES,
10 ENFORCEMENT UNIT, PO BOX 41200, OLYMPIA, WA 98504, (360) 902-0523

11 3.3 This order shall take effect immediately.

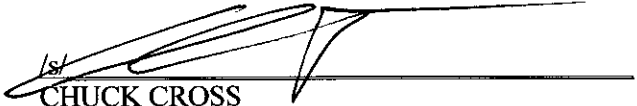
12 **NOTICE**

13 YOU ARE ENTITLED TO A HEARING PURSUANT TO CHAPTER 19.146 RCW TO DETERMINE
14 WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A HEARING, THEN YOU
15 MUST RETURN THE ATTACHED APPLICATION FOR ADJUDICATIVE HEARING INCORPORATED
16 HEREIN BY THIS REFERENCE. FAILURE TO COMPLETE AND RETURN THE APPLICATION FOR
17 ADJUDICATIVE HEARING FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF FINANCIAL
18 INSTITUTIONS WITHIN TWENTY (20) DAYS OF THE DATE THAT THIS ORDER WAS SERVED ON
19 YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO A
20 HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID, TO
21 YOUR LAST KNOWN ADDRESS OR PERSONAL SERVICE. BE ADVISED THAT DEFAULT WILL
22 RESULT IN THIS ORDER TO CEASE AND DESIST BECOMING PERMANENT ON THE TWENTY-FIRST
23 (21ST) DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU. ANY HEARING WILL BE HELD
24 WITHIN FOURTEEN (14) DAYS FROM THE DATE THE DEPARTMENT OF FINANCIAL INSTITUTIONS
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1 RECEIVES YOUR APPLICATION FOR ADJUDICATIVE HEARING OR ON SUCH LATER DATE AS IS
2 REQUESTED.

3 DATED this 1st day of September, 2006.



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6 CHUCK CROSS
7 Director and Enforcement Chief
8 Division of Consumer Services
9 Department of Financial Institutions
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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 mortgage
3 broker otherwise exempted from this chapter under RCW 19.146.020(1) (d) or (f) in connection with a residential mortgage
4 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 ...

10 [1997 c 106 § 3; 1994 c 33 § 6; 1993 c 468 § 4.]

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

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

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

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

17 (b) Suspend or revoke licenses for:

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

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

22 (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
23 19.146.265;

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

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

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

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of
this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any
person subject to licensing under this chapter for:

1 (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),
or 19.146.265; or

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

4 (iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a
license; or

5 (iv) Failure to comply with any directive or order of the director.

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

7 (4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

8 (5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW
9 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
10 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.

11 [1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

12 **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
13 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
14 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.

15 [1994 c 33 § 13.]

16 **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.

17 [1994 c 33 § 2.]

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
imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall
19 be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

20 [1994 c 33 § 16; 1993 c 468 § 10.]

21 **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
22 a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of every
licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or claim to act
23 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.

24 The director or designated person may direct or order the attendance of and examine under oath all persons whose
testimony may be required about the loans or the business or subject matter of any such examination or investigation, and
25 may direct or order such person to produce books, accounts, records, files, and any other documents the director or

1 designated person deems relevant to the inquiry. If a person who receives such a directive or order does not attend and
testify, or does not produce the requested books, records, files, or other documents within the time period established in the
2 directive or order, then the director or designated person may issue a subpoena requiring attendance or compelling
production of books, records, files, or other documents. No person subject to examination or investigation under this
3 chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other
information.

4 Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or
places of business to conduct a compliance examination. The director may examine, either personally or by designee, a
5 sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and
undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this chapter.
6 For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered to have
been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license, the
7 director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been
taken or to investigate a complaint.

8 [1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

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

10 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
11 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
12 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.

13 [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.]