

Terms Completed

ORDER SUMMARY – Case Number: C-06-044

Name(s): Northwest Home Mortgage LLC
Jeffrey J. Naughton

Order Number: C-06-044-07-CO01

Effective Date: November 27, 2007

License Number: DFI: 20191 [NMLS: 117826] -Northwest
Or NMLS Identifier [U/L] DFI: 22092 [NMLS: 121300]

(Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.
 n/a

License Effect: n/a

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: _____

| | | | | |
|--|------------|---|--|------------------|
| Investigation Costs | \$522.28 | Due | Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Date 8.3.07 |
| Fine | \$3,750 | Due | Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Date 8.3.07 |
| Assessment(s) | \$ | Due | Paid <input type="checkbox"/> Y <input type="checkbox"/> N | Date |
| Restitution | \$4,095.27 | Due | Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Date 11.27.07 |
| Judgment | \$ | Due | Paid <input type="checkbox"/> Y <input type="checkbox"/> N | Date |
| Satisfaction of Judgment Filed? | | <input type="checkbox"/> Y <input type="checkbox"/> N | | |
| No. of Victims: | | | | |

Comments: _____

RECEIVED

AUG 15 2007

CONSUMER SERVICES DIVISION
FINANCIAL INSTITUTIONS
OLYMPIA, WASHINGTON

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:

NO. C-06-044-07-CO01

NORTHWEST HOME MORTGAGE LLC, and
JEFFREY J. NAUGHTON, Owner, Managing
Member, and Designated Broker,
Respondents.

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Northwest Home Mortgage LLC, Jeffrey J. Naughton, Owner, Managing Member, and Designated Broker, (collectively Respondents), 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 19.146 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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-06-044-07-SC01 (Statement of Charges), entered February 8, 2007, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree 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 and agree that Respondents do not admit any wrongdoing by its entry. Respondents are agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

CONSENT ORDER

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

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

3 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
4 before an administrative law judge, and that they have waived their right to a hearing and any and all administrative
5 and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly,
6 Respondents agree to withdraw their appeal and to inform the Office of Administrative Hearings in writing of their
7 withdrawal.

8 C. **No Admission of Liability.** The parties intend this Consent Order to fully resolve the Statement of
9 Charges and agree that Respondents do not admit to any wrongdoing by its entry.

10 D. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$3,750, in the form of a
11 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

12 E. **Restitution.** It is AGREED that Respondents shall pay to the borrower \$4,095.27 in the form of a
13 cashier's check or money order and will provide the Department with a photocopy of the cashier's check or money
14 order, upon entry of this Consent Order.

15 F. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee of
16 \$522.28, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
17 Consent Order.

18 G. **Authority to Execute Order.** It is AGREED that the undersigned Respondents have represented and
19 warranted that they have the full power and right to execute this Consent Order on behalf of the parties represented.

20 H. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide by
21 the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of
22 such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing
23 such action, including but not limited to, attorney fees.

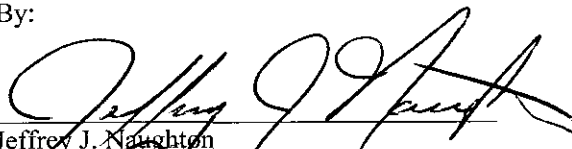
24 I. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into
25 this Consent Order, which is effective when signed by the Director's designee.

1 J. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read this Consent
2 Order in its entirety and fully understand and agree to all of the same.

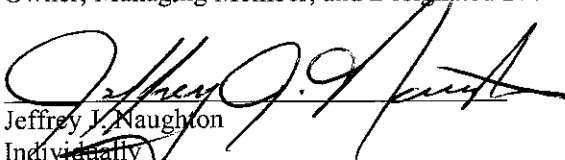
3 **RESPONDENTS:**

4 **Northwest Home Mortgage, LLC**

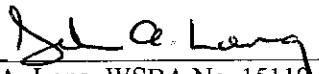
5 By:

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7 Jeffrey J. Naughton
8 Owner, Managing Member, and Designated Broker

8/3/2007
Date

9 
10 Jeffrey J. Naughton
11 Individually

8/3/2007
Date

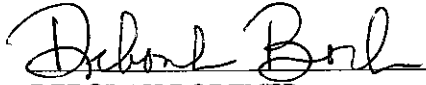
12 
13 John A. Long, WSBA No. 15119
14 Attorney at Law
15 Attorney for Respondents

8/8/07
Date

16 DO NOT WRITE BELOW THIS LINE

17 THIS ORDER ENTERED THIS 27th DAY OF November, 2007.



18 
19 DEBORAH BORTNER
20 Director
21 Division of Consumer Services
22 Department of Financial Institutions

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**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:

NO. C-06-044-07-SC01

NORTHWEST HOME MORTGAGE, LLC, and
JEFFREY J. NAUGHTON, Owner, Managing
Member, and Designated Broker,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO IMPOSE FINE, ORDER
RESTITUTION, AND COLLECT INVESTIGATION
FEE

Respondents.

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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). After having conducted an investigation pursuant to RCW 19.146.235, and
based upon the facts available as of February 8, 2007, the Director, through his designee, Deborah Bortner, Acting
Division Director, Division of Consumer Services, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **Northwest Home Mortgage, LLC, (Respondent Northwest)** was licensed by the Department
of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on
January 20, 2000, and continues to be licensed to date. Respondent Northwest is licensed to conduct the
business of a mortgage broker at two locations. Respondent Northwest's main office is located at 1201 East
Howell St., Seattle, WA 98118.

B. **Jeffrey J. Naughton (Respondent Naughton)** is Owner, Managing Member, and Designated
Broker of Respondent Northwest. Respondent Naughton was named Designated Broker of Respondent
Northwest on January 20, 2000, and continues as Designated Broker to date.

1 **1.2 Failure to Make Required Disclosures.** On July 15, 2004, the Department received a complaint from
2 Borrowers. By Directive dated July 20, 2004, the Department requested copies of various loan documents,
3 including all disclosures related to Borrowers' loan. In response to the Department's Directive, Respondents
4 provided the following documents:

- 5 1. Borrowers' loan application, signed and dated June 5, 2004
- 6 2. Borrowers' GFE, signed and dated June 5, 2004
- 7 3. Borrowers' Truth in Lending (TIL) disclosure, unsigned, bearing a preparation date of
8 June 4, 2005
- 9 4. Borrowers' Rate Lock Agreement, signed and dated June 5, 2004
- 10 5. Borrowers' Affidavit of Occupancy, signed and dated June 5, 2004
- 11 6. Borrowers' Note, unsigned and undated
- 12 7. Borrower's final HUD-1, unsigned

13 The Department also sent a Directive to the lender, Flagstar Bank, dated November 17, 2005. In response to the
14 Department's Directive, Flagstar Bank produced Borrowers' credit report, dated May 25, 2004, as well as
15 Borrowers' Rate Lock, dated May 26, 2004. The date of the credit report, May 25, 2004, triggered the three
16 day disclosure requirement under the Act. The required disclosures, including the GFE and TIL, were not
17 provided until June 5, 2004.

18 The GFE signed by Borrowers on June 5, 2004, disclosed a Yield Spread Premium (YSP) of \$359.00
19 based on a Rate Lock received from a particular lender. During the course of the transaction, the broker
20 decided to use a different lender. At closing, Respondents were paid a YSP of \$4,454.27, as indicated on the
21 final (amended) HUD-1. Neither the change in lender nor the change in the amount of the YSP was disclosed
22 to Borrowers prior to closing.

23 Finally, Respondents failed to properly label the YSP on the final HUD-1 statement. Line 813 of the
24 HUD-1 statement indicates a "rebate" payable to Respondent Northwest in the amount of \$4,454.27.

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1 **1.3 Failure to Respond Completely to Directive.** By Directive dated July 20, 2004, the Department
2 directed Respondents to provide, in part “[a]ll disclosures required pursuant to RCW 19.146.030...” and “[a]ny
3 other documentation or explanation that will assist the Department in assessing the complaint.” Among the
4 documents Respondents provided was a Rate Lock Agreement signed and dated by Borrowers on June 5, 2004.
5 Respondents did not disclose to the Department, however, that this Rate Lock Agreement was from the original
6 lender for a loan that did not fund. Respondents did not disclose that the lender that funded the loan submitted
7 its own Rate Lock Agreement, nor did Respondents provide a copy of the final Rate Lock Agreement to the
8 Department, as required by the Directive.

9 **1.4 False Statements of Material Fact.** In its response to the Department’s Directive, Respondents made
10 an assertion that each of the requested documents had been provided when, in fact, they had not. Respondents
11 failed to provide the Department with the actual Rate Lock Agreement provided by the lender that funded
12 Borrowers’ loan, and instead provided a Rate Lock Agreement for a loan that did not fund.

13 Additionally, Respondents provided the following explanation for failing to disclose the actual amount
14 of the YSP prior to closing: “the exact amount of the YSP was unknowable at the time the disclosures were
15 made as the exact investor was even still unknown.” Respondents, however, had obtained two Rate Lock
16 Agreements on Borrowers’ behalf at the time the disclosures were provided and signed. The Rate Lock from
17 Greenpoint Mortgage yielded a \$359 YSP, and the Rate Lock from Flagstar Bank yielded a \$4,454.27 YSP.
18 Respondents did not disclose the \$4,454.27 YSP.

19 **1.5 On-Going Investigation.** The Department’s investigation into the alleged violations of the Act by
20 Respondents continues to date.

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

2 **2.1 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
3 apparent violation of RCW 19.146.0201(2), (6), (8), (10), and (14) for engaging in an unfair or deceptive
4 practice toward any person, failing to make disclosures to loan applicants as required by RCW 19.146.030 and
5 any other applicable state or federal law, and negligently making a false statement or knowingly and willfully
6 making an omission of material fact in connection with any reports filed by a mortgage broker or in connection
7 with an investigation conducted by the Department.

8 **2.2 Requirement to Disclose Residential Mortgage Loan Fees:** Based on the Factual Allegations set
9 forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1) for failing to provide
10 Borrowers with full written disclosures containing an itemization and explanation of all fees and costs that the
11 Borrowers were required to pay in connection with obtaining a residential mortgage loan within three (3) days
12 following receipt of a loan application or any moneys from the Borrowers.

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14 **III. AUTHORITY TO IMPOSE SANCTIONS**

15 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the
16 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to
17 the Act for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030, or for failure to
18 comply with a directive or order of the Director.

19 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(d)(ii), the Director may issue orders
20 directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to an
21 injured borrower.

22 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and
23 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person
24 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
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1 the cost of the investigation. The investigation charge will be calculated at the rate of forty-seven dollars and
2 seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

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

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

9 **4.1** Respondents Northwest Home Mortgage, LLC, and Jeffrey J. Naughton jointly and severally pay a fine of
10 \$11,250.00 for:
11 a. Violating RCW 19.146.0201(2), calculated at \$100 per day for 30 days
12 b. Violating RCW 19.146.0201(6) and RCW 19.146.030, calculated at \$100 per day for 30 days
13 c. Violating RCW 19.146.0201(8), calculated at \$100 per day for 30 days
14 d. Violating RCW 19.146.235, calculated at \$75 per day for 30 days

15 **4.2** Respondents Northwest Home Mortgage, LLC, and Jeffrey J. Naughton jointly and severally pay
16 restitution in the amount of \$7,552.27 to Borrowers, who were injured by Respondents' failure to provide
17 proper residential mortgage loan disclosures to borrowers, and charging borrowers fees in excess of those
18 initially disclosed. This amount reflects the fees that inured to Respondents' benefit in the course of the
19 transaction with Borrowers, and includes: an origination fee of \$2,848.00; a yield spread premium of
20 \$4,454.27; and a processing fee of \$250.00.

21 **4.3** Respondents Northwest Home Mortgage, LLC, and Jeffrey J. Naughton jointly and severally pay an
22 investigation fee in the amount of \$522.28, calculated at \$47.78 per hour for the eleven (11) staff hours
23 devoted to the investigation.

24 **4.4** Respondents maintain records in compliance with the Act and provide the Department with the location of
25 the books, records and other information relating to Respondent Northwest Home Mortgage, LLC's,
mortgage broker business, and the name, address and telephone number of the individual responsible for
maintenance of such records in compliance with the Act.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) 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.

Dated this 8th day of February, 2007.



DEBORAH BORTNER
Acting Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



RAYNE PEARSON
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief