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JUN 26 2009

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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

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

NO. C-06-248-09-CO01

GREATER ACCEPTANCE MORTGAGE
CORPORATION, and
JOHN PAUL ROCK, Principal Owner and
President, and
MICHAEL E. SMITH, Principal Owner, Vice
President, Secretary and Treasurer,

CONSENT ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Greater Acceptance Mortgage Corporation (hereinafter Respondent Greater), John Paul Rock, Principal Owner and President (hereinafter Respondent Rock), and Michael E. Smith, Principal Owner, Vice President, and Secretary and Treasurer (hereinafter Respondent Smith), 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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-06-248-08-SC01 (Statement of Charges), entered July 8, 2008, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan 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

CONSENT ORDER
C-08-248-08-CO01
GREATER ACCEPTANCE MORTGAGE
CORPORATION AND JOHN PAUL ROCK AND
MICHEAL E. SMITH

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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 to fully resolve the Statement of Charges. Respondents are agreeing not to contest the Statement of Charges in
2 consideration of the terms of this Consent Order.

3 Based upon the foregoing:

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

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

11 C. **Financial Affidavit.** It is AGREED that Respondents shall not pay to the Department a fine given
12 their financial situation, but will file, as part of this Consent Order, financial affidavits outlining their inability to
13 satisfy any fine imposed by the Department. The financial affidavits are incorporated herein by reference.

14 D. **Prohibition from Industry.** It is AGREED that Respondents are prohibited from participating in the
15 conduct of the affairs of any consumer lender licensed by the Department or any person subject to licensure or
16 regulation by the Department for 30 years from the date of entry of this Consent Order in any capacity, including
17 but not limited to: (1) any financial capacity whether active or passive or (2) as an officer, director, principal,
18 designated broker, employee, or loan originator or (3) any management, control, oversight or maintenance of any
19 trust account(s) in any way related to any residential mortgage transaction or (4) receiving, disbursing, managing or
20 controlling in any way, consumer trust funds in any way related to any residential mortgage transaction.

21 E. **Restitution.** It is AGREED that Respondents shall pay restitution to the following borrowers in the
22 amounts stated below upon entry of this Consent Order.

| Borrower | Fee Charged | Allowable Fee | Refund Due |
|---------------------------|-------------|---------------|------------|
| Gardner Loan # 1315085 | \$1,164 | \$928.26 | \$235.74 |

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| Borrower | Underwriting Fee | Processing Fee | Funding Fee | Refund Due |
|------------------------------|------------------|----------------|---------------------|-------------------|
| F. Espinosa Loan # 25043 | \$250 | \$250 | \$150 | \$650 |
| A. Hamodeh Loan # 25096 | \$119 | \$250 | \$90 | \$459 |
| B. Howard Loan # 14842305 | \$250 | \$250 | \$150 | \$650 |
| // | // | // | Total Refund | \$1,914.74 |

F. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee of \$2,085.26, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

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

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

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

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

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RESPONDENTS:

CONSENT ORDER
C-08-248-08-CO01
GREATER ACCEPTANCE MORTGAGE
CORPORATION AND JOHN PAUL ROCK AND
MICHEAL E. SMITH

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
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Greater Acceptance Mortgage Corporation

By:



Greater Acceptance Mortgage Corporation
Representative

6/19/09
Date



John Paul Rock
Principal Owner and President

6/19/09
Date



Michael E. Smith
Principal Owner, Vice-President, Secretary and Treasurer
Secretary and Treasurer

6/19/09
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 5th DAY OF August, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



WILLIAM HALSTEAD
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

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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:

NO. C-06-248-08-SC01

**GREATER ACCEPTANCE MORTGAGE
CORPORATION, and
JOHN PAUL ROCK, Principal Owner and
President, and
MICHAEL E. SMITH, Principal Owner, Vice
President, Secretary and Treasurer,**

**STATEMENT OF CHARGES and NOTICE OF
INTENTION TO ENTER AN ORDER TO REVOKE
LICENSE, IMPOSE FINE, ORDER RESTITUTION,
PROHIBIT FROM INDUSTRY, COLLECT
INVESTIGATION FEE AND MAINTAIN RECORDS**

Respondents.

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 Respondents.

A. Greater Acceptance Mortgage Corporation (Respondent GAMC) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on April 9, 2002. Respondent GAMC surrendered its license on October 3, 2005.

B. John Paul Rock (Respondent Rock) is a Principal Owner and President of Respondent Greater Acceptance Mortgage Corporation.

C. Michael E. Smith (Respondent Smith) is a Principal Owner, Vice President, Secretary and Treasurer of Respondent Greater Acceptance Mortgage Corporation.

1 **1.2 Licensed Location:** Respondent GAMC was licensed to conduct the business of a Consumer Lender at
2 940 Town and Country Road, Orange, California 92868.

3 **1.3 Examination.** On May 23, 2005, through May 26, 2005, the Department conducted an on-site
4 examination of Respondent GAMC at 888 Town and Country Road, Orange, California 92868. The
5 examination included a review of the loan portfolio and business practices of Respondent GAMC for the period
6 of April 9, 2002, through May 20, 2005. As a result of the examination, the Department discovered violations
7 of the Act.

8 **1.4 Excessive Junior Lien Loan Origination Fee.** On February 27, 2004, Borrower G (account number
9 1315085) was loaned \$26,413. This loan was a junior lien. Respondent GAMC charged Borrower G an
10 origination fee of \$1,164 when the maximum fee allowed was \$928.26 (4% of first \$20,000 and 2% thereafter).

11 **1.5 Untimely Junior Lien Prepayment Penalty Disclosures.** Respondent GAMC did not disclose to 9
12 borrowers, whether junior lien loans contained a prepayment penalty within three days of receiving the
13 borrowers' loan applications.

14 **1.6 Untimely Disclosures.** Respondent GAMC did not provide a Good Faith Estimate to 15 borrowers
15 within three days of receiving a loan application. In addition, the same 15 borrowers did not receive an
16 Annual Percentage Rate (APR) disclosure or a prepayment penalty disclosure.

17 **1.7 Charging Fees for Junior Liens.** Respondent GAMC charged junior lien fees to three borrowers that
18 are not allowed by the Act. Borrowers FE (loan # 25042), AH (loan # 25096), and BH (loan # 14842305) were
19 charged underwriting fees, processing fees and funding fees.

20 **1.8 Unlicensed Activity.** The examination, outlined in Section 1.3, took place at 888 Town and Country
21 Road, Orange, California. The examination revealed business activities including compliance, accounting,
22 appraisal review and underwriting taking place at the 888 Town and Country Road location. This location has
23 never been licensed by the Department.

24 **1.9 Exit Meeting.** On May 26, 2005, the examiner in charge conducted an exit meeting with Respondent

1 Smith to review the examination findings. Respondent Smith was informed of the discovered violations of the Act.
2 Respondent Smith agreed to take the necessary steps, including providing refunds to borrowers, to correct the
3 violations. The Respondents were to provide proof to the Department that the violations, including any refunds
4 owed, were remedied. Respondents GAMC, Rock, and Smith did not provide proof to the Department that the
5 violations were corrected.

6 **1.10 Failing to Pay Annual Assessments:** An annual assessment fee is due to the Department on or before
7 the first day of March of each year, relating to the previous calendar year. Respondent GAMC did not pay the
8 entire annual assessment fees owed for the 2003, 2004, and 2005 calendar years. The Department collected the
9 assessments by filing a bond claim with Respondent GAMC's surety.

10 **1.11 Failing to Pay Examination Fee:** The Department conducted the examination, as set forth in Section
11 1.3, of the records of Respondent GAMC. An invoice for the expenses related to this examination was mailed
12 to Respondents on or around October 7, 2005. The Respondents did not pay the invoice. The Department
13 collected the examination fee by filing a bond claim with the Respondent GAMC's surety.

14 **1.12 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by
15 Respondents continues to date.

16 II. GROUNDS FOR ENTRY OF ORDER

17 **2.1 Disclosures.** Based on the Factual Allegations set for in Section I above, Respondents are in apparent
18 violation of RCW 31.04.027(6) and RCW 31.04.102(2) and (3) for failure to provide GFE and TIL disclosures
19 within three business days of receiving a loan application and for failure to disclose APR and prepayment
20 penalties.

21 **2.2 Fees.** Based upon the Factual Allegations set forth in Section I above, Respondents are in apparent
22 violation of RCW 31.04.105(2) for charging origination fees exceeding four percent of the first twenty thousand
23 dollars loaned and two percent thereafter of the principal amount of the loan and for charging fees not allowed
24 by the Act.

1 **2.3 Deceptive and Unfair Practices.** Based Upon the Factual Allegations set forth in Section I above,
2 the Respondents are in apparent violation of RCW 31.04.027(2) for directly or indirectly engaging in any unfair
3 or deceptive practice toward any person.

4 **2.4 Fraudulent Activity.** Based upon the Factual Allegations set forth in Section I above, the Respondents
5 are in apparent violation of RCW 31.04.027(1) for directly or indirectly employing any scheme or device, or
6 artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any
7 person.

8 **2.5 Requirement to Calculate and Pay Annual Assessment:** Based on the Factual Allegations set forth
9 in Section I above, Respondents are in apparent violation of RCW 31.04.085 for failing to pay to the Director
10 an annual assessment fee on or before the first day of March, relating to the previous calendar year.

11 **2.6 Requirement to Obtain License.** Based on the Factual Allegations set forth in Section I above,
12 Respondents are in apparent violation of RCW 31.04.075 for maintaining an unlicensed place of business.

13 **2.7 Requirement to Comply with Investigations.** Based on the Factual Allegations set forth in Section I
14 above, Respondents are in apparent violation of RCW 31.04.027(8) for negligently making a false statement to
15 the Department in connection with an investigation conducted by the Department.

16 **III. AUTHORITY TO IMPOSE SANCTION**

17 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a
18 license if a licensee fails to pay any fee due the state of Washington, or fails to comply with any specific order
19 or demand of the Director, or violates any provision of the Act or any rule adopted under the Act.

20 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4)(a), the Director may impose fines of up to
21 one hundred dollars per day upon the licensee for any violation of the Act.

22 **3.3 Authority to Issue Orders to Pay Restitution.** Pursuant to RCW 31.04.093(5), the Director may issue
23 an order directing a licensee, its employee, or any other person subject to the Act to make restitution to a borrower
24 or other person who is damaged as a result of a violation of the Act.

1 **3.4 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(d), the Director may issue
2 an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any
3 officer, principal, employee, or loan originator, or any person subject to the Act, for failure to comply with any
4 order or subpoena issued under the Act or for a violation of RCW 31.04.027.

5 **3.5 Authority to Charge Investigation Fees.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
6 every licensee examined or investigated by the Director or the Director's designee shall pay for the cost of the
7 examination or investigation, calculated at the rate of sixty-nine dollars and one cent (\$69.01) per staff hour.

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

9 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
10 the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under
11 RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

- 12 a. Respondent Greater Acceptance Mortgage Corp's, license to conduct the business of a
13 Consumer Loan Company be revoked;
- 14 b. Respondents Greater Acceptance Mortgage Corp, John Paul Rock, and Michael E. Smith jointly
15 and severally pay a fine which as of the date of these charges totals \$27,375;
- 16 c. Respondents Greater Acceptance Mortgage Corp, John Paul Rock, and Michael E. Smith jointly
17 and severally pay restitution to the borrowers injured by Respondents' violations of the Act in an
18 amount to be determined at hearing;
- 19 d. Respondents Greater Acceptance Mortgage Corp, John Paul Rock, and Michael E. Smith be
20 prohibited from participation in the conduct of the affairs of any licensed consumer loan company,
21 in any manner, for a period of five years;
- 22 e. Respondents Greater Acceptance Mortgage Corp, John Paul Rock, and Michael E. Smith jointly
23 and severally pay an investigative fee which as of the date of these charges is \$1,725.25, calculated
24 at \$69.01 per hour for 25 staff hours devoted to the investigation;
- 25 f. Respondents Greater Acceptance Mortgage Corp, John Paul Rock, and Michael E. Smith maintain
records in compliance with the Act and provide the Director with the location of the books, records
and other information relating to Respondent GAMC's consumer loan company 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 Revoke License, Impose Fine, Order Restitution, Prohibit from Industry, Collect Investigation Fees, and Maintain Records (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, 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 July, 2008.

Deborah Bortner
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

William Halstead
WILLIAM HALSTEAD
Financial Legal Examiner

Approved by:

James R. Brusselback
JAMES R. BRUSSELBACK
Enforcement Chief

