

# Terms Completed

## ORDER SUMMARY – Case Number: C-07-025

**Name(s):** John Douglas Fagan

**Order Number:** C-07-025-07-FO01

**Effective Date:** July 20, 2007

**License Number:** DFI: 31539 [NMLS: 184749]

**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)

**License Effect:** Denial  
If applicable, you must specifically note the ending dates of terms.

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

**Not Eligible Until:** \_\_\_\_\_

**Prohibition/Ban Until:** \_\_\_\_\_

<b>Investigation Costs</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$	Due	Paid <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 Victims:				

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

---



---



---



---

1  
2  
3  
4  
5  
6  
7  
8

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

IN THE MATTER OF INVESTIGATING  
the Loan Originator License Application under the  
Mortgage Broker Practices Act of Washington by:

NO. C-07-025-07-FO01

JOHN DOUGLAS FAGAN,  
Respondent.

FINAL ORDER

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**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) pursuant to RCW 34.05.464. On February 12, 2007, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application (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 February 12, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served the Statement of Charges, cover letter dated February 12, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on February 13, 2007 via first class mail and on February 14, 2007 via Federal Express overnight delivery.

On February 22, 2007, Respondent filed an Application for Adjudicative Hearing. On March 15, 2007, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On March 29, 2007, OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ

1 Michael W. Furtado (ALJ Furtado) to preside over prehearing and hearing proceedings and issue an  
2 Initial Decision. On April 11, 2007, ALJ Furtado issued a Notice of Pre-hearing Conference  
3 scheduling a pre-hearing conference on Wednesday, April 18, 2007 at 2:30 p.m.

4 On April 19, 2007, representatives for the Department and Respondent's counsel attended a  
5 telephonic pre-hearing conference. On April 30, 2007, ALJ Furtado issued a Notice of Hearing setting  
6 deadlines of May 30, 2007 for the Department to submit a Motion for Summary Judgment and June  
7 13, 2007 for Respondent to submit a response to such Motion, and scheduling a hearing on July 12,  
8 2007.

9  
10 On May 29, 2007, the Department submitted a Motion for Summary Judgment, a  
11 Memorandum in Support of the Motion, a Declaration of Mark Olson in Support of the Motion, and a  
12 Declaration of Martin Cordell in Support of the Motion. Respondent did not submit a response to the  
13 Motion. On June 14, 2007, ALJ Furtado issued an Initial Order on Motion for Summary Judgment  
14 (Initial Decision and Order). This Initial Decision and Order –

- 15 • Adopted the Findings of Fact presented in the Memorandum in Support of the Motion for  
16 Summary Judgment
- 17 • Concluded that Respondent was precluded from having a loan originator license because:
  - 18 ○ Respondent had such license suspended or revoked within five years of his current  
19 application;
  - 20 ○ Respondent was denied registration as a securities salesperson, broker-dealer,  
21 investment advisor, or investment advisor representative in the State of Washington for  
22 a period of ten (10) years from the date of entry of the Department's Securities  
23 Division, dated January 21, 2004; and
  - 24 ○ Respondent, based on the findings in the Final Order dated January 21, 2004, did not  
25 demonstrate the character and general fitness requisite to earn the confidence of the  
community, and to warrant a belief that Respondent's business would be operated  
honestly and fairly, and further continued to lack the requisite character and fitness of a  
loan originator by failing to pay the \$20,000 fine assessed in that Final Order.
- Ordered that the Department's Motion for Summary Judgment was granted in its entirety

On June 14, 2007, ALJ Furtado mailed the Initial Decision and Order to Respondent.

1 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the  
2 date of service of the Initial Decision and Order to file a Petition for Review of the Initial Decision and  
3 Order. Respondent did not file a Petition for Review during the statutory period.

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

- 6 1. Statement of Charges, cover letter dated February 12, 2007, and Notice of  
7 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 8 2. Application for Adjudicative Hearing;
- 9 3. Request to OAH for Assignment of Administrative Law Judge;
- 10 4. Notice of Assignment of Administrative Law Judge dated March 29, 2007, with  
11 documentation of service;
- 12 5. Notice of Pre-hearing Conference dated April 11, 2007, with documentation of  
13 service;
- 14 6. Notice of Hearing dated April 30, 2007, with documentation of service;
- 15 7. Motion for Summary Judgment, Memorandum in Support of Motion for Summary  
16 Judgment, and Declarations of Mark Olson and Martin Cordell in Support of Motion  
17 for Summary Judgment, with documentation of service;
- 18 8. Initial Order on Motion for Summary Judgment dated June 14, 2007, with  
19 documentation of service.

20 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director  
21 hereby adopts the Initial Order on Motion for Summary Judgment, which is attached hereto.

22 //  
23 //  
24 //  
25 //

1 II. FINAL ORDER

2 Based upon the foregoing, and the Director having considered the record and being  
3 otherwise fully advised, NOW, THEREFORE:

4 A. IT IS HEREBY ORDERED, That:

5 Respondent John Douglas Fagan's application for a loan originator license is denied.

6 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a  
7 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition  
8 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150  
9 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,  
10 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The  
11 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for  
12 Reconsideration a prerequisite for seeking judicial review in this matter.  
13

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

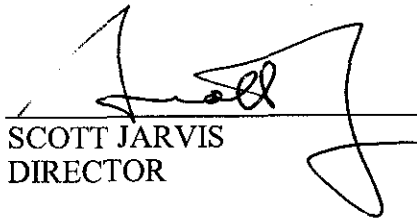
17 C. Stay of Order. The Director has determined not to consider a Petition to Stay the  
18 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial  
19 Review made under chapter 34.05 RCW and RCW 34.05.550.  
20

21 D. Judicial Review. Respondent has the right to petition the superior court for judicial  
22 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing  
23 a Petition for Judicial Review, see RCW 34.05.510 and sections following.  
24

1 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for  
2 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
3 attached hereto.

4 DATED this 20<sup>th</sup> day of July, 2007.

5 STATE OF WASHINGTON  
6 DEPARTMENT OF FINANCIAL INSTITUTIONS

7   
8 \_\_\_\_\_  
9 SCOTT JARVIS  
10 DIRECTOR



12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

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

IN THE MATTER OF INVESTIGATING  
the Loan Originator License Application under the  
Mortgage Broker Practices Act of Washington by:

JOHN D. FAGAN,

Respondent.

NO. C-07-025-07-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO DENY LICENSE APPLICATION

**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 19.146.310, and based upon the facts available as of February 12, 2007, the Director, through his designee, Acting Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent. John D. Fagan (Fagan)** submitted an application to the Department of Financial Institutions of the State of Washington, Division of Consumer Services (Department-CS) for a loan originator license under West Horizon Financial, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department-CS on December 7, 2006.

**1.2 Prior Administrative Action.** On January 21, 2004, the Department of Financial Institutions of the State of Washington, Securities Division (Department-SD) entered Final Order S-02-284-03-FO01 (Final Order) against Fagan. In this Final Order, the Department-SD:

- found that, as a result of Fagan's actions as a securities salesperson, two elderly women lost approximately \$374,000 in investment accounts;

- 1 • made conclusions of law that Fagan willfully violated or willfully failed to comply with chapter
- 2 21.20 RCW, the Securities Act of Washington;
- 3 • made conclusions of law that Fagan engaged in dishonest or unethical practices in the securities
- 4 or commodities business;
- 5 • ordered that Fagan be denied registration as a securities salesperson, broker-dealer, investment
- 6 adviser, or investment adviser representative in the State of Washington for a period of ten (10)
- 7 years from the date of entry of the Final Order; and
- 8 • ordered that Fagan pay a fine of \$20,000.00.

9 To date, Fagan has not paid the \$20,000.00 fine due to the Department-SD.

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

11 **2.1 Requirement of No Prior License Suspension or Revocation.** Based on the Factual Allegations set  
12 forth in Section I above, Respondent Fagan fails to meet the requirements of RCW 19.146.310(1)(c) and WAC  
13 208-660-350(2)(b) by having a license issued under this chapter or any similar state statute suspended or  
14 revoked within five years of the filing of the present application.

15 **2.2 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set  
16 forth in Section I above, Respondent Fagan fails to meet the requirements of RCW 19.146.310(1)(g) and WAC  
17 208-660-350(2)(a) for failing to demonstrate character and general fitness such as to command the confidence  
18 of the community and to warrant a belief that the business will be operated honestly and fairly within the  
19 purposes of the Act.

20 **III. AUTHORITY TO IMPOSE SANCTIONS**

21 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the  
22 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the  
23 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by  
24 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application  
25 of the denial.



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

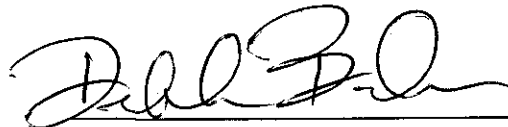
2 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
3 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis  
4 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.  
5 Therefore, it is the Director's intention to ORDER that:

6 4.1 Respondent John D. Fagan's application for a loan originator license be denied.

7 **V. AUTHORITY AND PROCEDURE**

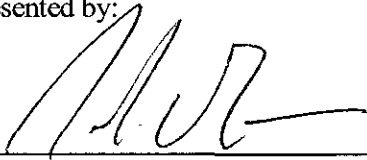
8 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application (Statement of  
9 Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and  
10 RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act).  
11 Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO  
12 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

13 Dated this 12<sup>th</sup> day of February, 2007.

14  
15 

16 DEBORAH BORTNER  
17 Acting Director  
18 Division of Consumer Services  
19 Department of Financial Institutions

18 Presented by:

19 

20 MARK T. OLSON  
21 Financial Examiner

22 Approved by:

23  
24  
25 JAMES R. BRUSSELBACK  
Enforcement Chief

