

1 STATE OF WASHINGTON  
2 DEPARTMENT OF FINANCIAL INSTITUTIONS  
3 DIVISION OF CONSUMER SERVICES

4 IN THE MATTER OF DETERMINING  
5 Whether there has been a violation of the  
6 Mortgage Broker Practices Act of Washington by:

7 MITCHELL L. SWEETEN

8 Respondent.

9 NO. C-07-043-07-FO01

10 FINAL ORDER

11 I. DIRECTOR'S CONSIDERATION

12 A. Default. This matter has come before the Director of the Department of  
13 Financial Institutions of the State of Washington (Director), through his designee, Consumer Services  
14 Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On February 28, 2007, the  
15 Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of  
16 Charges and Notice of Intention to Enter an Order to Cease and Desist, Impose Fine, Prohibit from  
17 Industry, and Collect Investigation Fee (Statement of Charges). A copy of the Statement of Charges  
18 is attached and incorporated into this order by this reference. The Statement of Charges was  
19 accompanied by a cover letter dated February 28, 2007, a Notice of Opportunity to Defend and  
20 Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served  
21 the Statement of Charges, cover letter dated February 28, 2007, Notice of Opportunity to Defend and  
22 Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on February  
23 28, 2007 by first class mail and Federal Express overnight delivery to 11818 64<sup>th</sup> Ave Ct NW, Gig  
24 Harbor Washington, 98332 (Gig Harbor address). On March 14, 2007, the documents sent via Federal  
25 Express overnight delivery were returned to the Department as undeliverable. The documents sent via  
first class mail were not returned to the Department by the United States Postal Service. On March 14,

1 2007, the Department received confirmation from the Gig Harbor Branch Office of the United States  
2 Postal Service that mail addressed to Respondent was being delivered to the Gig Harbor address.

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

6 B. Record Presented. The record presented to the Director for his review and for entry of  
7 a final decision included the Statement of Charges, cover letter dated February 28, 2007, Notice of  
8 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing,  
9 with documentation of service, and Post Office Address Verification Request form completed by the Gig  
10 Harbor Branch Office of the United States Postal Service received by the Department March 14, 2007.

11 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the  
12 Director's designee hereby adopts the Statement of Charges, which is attached hereto.  
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1 II. FINAL ORDER

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

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent Mitchell L. Sweeten cease and desist participation in the conduct of the  
6 affairs of any mortgage broker subject to licensure by the Director, in any manner; and  
7 2. Respondent Mitchell L. Sweeten pay a fine of \$61,200.00 for failing to comply with  
8 an order of the Director for 567 days and for operating from an unlicensed location for  
9 45 days; and  
10 3. Respondent Mitchell L. Sweeten is prohibited from participation in the conduct of the  
11 affairs of any mortgage broker subject to licensure by the Director, in any manner, for  
12 a period of ten (10) years; and  
13 4. Respondent Mitchell L. Sweeten pay an investigation fee of \$907.82.

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

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

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

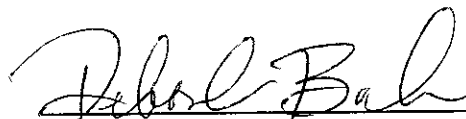
4 D. Judicial Review. Respondent has the right to petition the superior court for judicial  
5 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing  
6 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

7 E. Non-compliance with Order. If you do not comply with the terms of this order, the  
8 Department may seek its enforcement by the Office of Attorney General to include the collection of the  
9 fines, fees and restitution imposed herein.

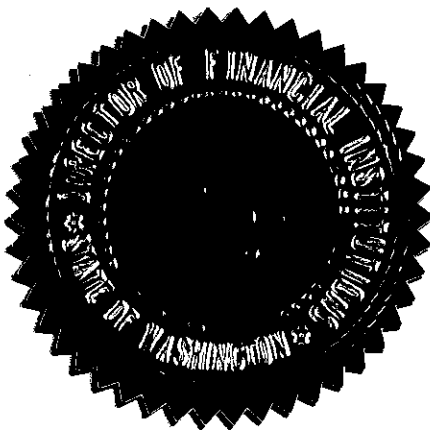
10 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for  
11 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
12 attached hereto.

13  
14 DATED this 17<sup>th</sup> day of April, 2007.

15 STATE OF WASHINGTON  
16 DEPARTMENT OF FINANCIAL INSTITUTIONS

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18 DEBORAH BORTNER  
19 DIRECTOR  
20 DIVISION OF CONSUMER SERVICES



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

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IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

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MITCHELL L. SWEETEN,

Respondent.

NO. C-07-043-07-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO CEASE AND DESIST, IMPOSE FINE,  
PROHIBIT FROM INDUSTRY, AND COLLECT  
INVESTIGATION FEE

**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)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.235, 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 Mitchell L. Sweeten (Respondent Sweeten)** was prohibited from participation in the conduct of the affairs of any licensed mortgage broker, in any manner, for a period of five (5) years by the Department of Financial Institutions (Department) on September 23, 2003.

**1.2 Final Order of the Director.** On September 23, 2003, former Director Helen P. Howell entered Final Order C-03-050-03-FO01 (Final Order) against Respondent Sweeten and Liberty Financial Corp. (Liberty)<sup>2</sup>. The Final Order prohibited Respondent Sweeten from participating in the conduct of the affairs of any licensed

<sup>1</sup> RCW 19.146 (1994)

<sup>2</sup> Liberty held a license to conduct the business of a mortgage broker from the Department from January 3, 2000 until it was revoked by the Final Order. Respondent Sweeten was the Designated Broker for Liberty.

1 mortgage broker, in any manner, for a period of five (5) years, and ordered Respondent Sweeten to pay  
2 \$4,028.42 to the Department for delinquent Annual Assessments, fines, and investigation fees.

- 3 • The Final Order was personally served on Respondent Sweeten on May 31, 2004.
- 4 • On July 7, 2005, the Department mailed Respondent Sweeten a letter requesting payment of the  
5 amount due to the Department, with a copy of the Final Order enclosed.
- 6 • On August 8, 2005, Assistant Attorney General Charles E. Clark (AAG Clark) mailed Respondent  
7 Sweeten a letter requesting payment of the amount due to the Department.
- 8 • On August 19, 2005, after being contacted by Respondent Sweeten, AAG Clark mailed Respondent  
9 Sweeten a letter, to a Post Office Box address provided by Respondent Sweeten, requesting  
10 payment of the amount due to the Department and confirming Respondent Sweeten's promise to  
11 pay the amount due.
- 12 • In September 2005, Respondent Sweeten paid the \$4,028.42 due to the Department.
- 13 • On December 12, 2005, AAG Clark mailed Respondent Sweeten a letter confirming receipt of the  
14 \$4,028.42 and reminded Respondent Sweeten of his prohibition from participation in the Mortgage  
15 Broker industry in any manner, and enclosed a copy of the Final Order.

16 **1.3 Failure to Comply with Final Order.**

17 A. On or around June 14, 2005, Respondent Sweeten entered into an independent contractor  
18 agreement with America One Finance, Inc. (America One). America One is currently licensed by the  
19 Department to conduct the business of a mortgage broker.

20 B. From January 2005 through at least July 2006, Respondent Sweeten assisted at least thirteen  
21 (13) borrowers in obtaining residential mortgage loans on property located in the State of Washington. The  
22 borrowers involved in these residential mortgage loans paid fees to America One totaling over one hundred ten  
23 thousand dollars (\$110,000).

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1 **1.4 Unlicensed Location.** Respondent Sweeten assisted at least 5 of the borrowers discussed in paragraph  
2 1.3 from the following location:

3 11818 64<sup>th</sup> Ave Ct NW  
4 Gig Harbor, WA 98332

5 To date, neither Respondent Sweeten nor America One have ever applied for, or received, a license from the  
6 Department to conduct the business of a mortgage broker from this location. To date, the Department has not  
7 issued a license to any person to conduct the business of a mortgage broker from this location.

8 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
9 Respondent continues to date.

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

11 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29),  
12 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or  
13 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential  
14 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a  
15 person in obtaining or applying to obtain a residential mortgage loan.

16 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is in  
17 apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or  
18 artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or deceptive practice  
19 toward any person, and obtaining property by fraud or misrepresentation.

20 **2.3 Action by the Director.** Based on the Factual Allegations set forth in Section I above, Respondent is  
21 in apparent violation of RCW 19.146.221 for failing to comply with an order of the Director.

22 **2.4 Requirement to Obtain and Maintain License and Branch License.** Based on the Factual  
23 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.200 and RCW  
24 19.146.265 for engaging in the business of a mortgage broker without first obtaining and maintaining a license  
25 under the Act, and for engaging in the business of a mortgage broker from a fixed physical location without first  
obtaining and maintaining a branch license for that fixed physical location under the Act.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(2)(d)(i), the Director  
3 may issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to cease and  
4 desist from conducting business in a manner that is injurious to the public or violates any provision of the Act.

5 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the  
6 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to  
7 the Act for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.200, RCW 19.146.265, or  
8 failure to comply with a directive or order of the Director.

9 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director  
10 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a  
11 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage  
12 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or  
13 (12), RCW 19.146.200, RCW 19.146.265, or failure to comply with a directive or order of the Director.

14 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and  
15 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person  
16 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover  
17 the cost of the investigation. The investigation charge will be calculated at the rate of forty-seven dollars and  
18 seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

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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 and RCW 19.146.223. Therefore, it is the  
5 Director's intention to ORDER that:

- 6 **4.1** Respondent Mitchell L. Sweeten cease and desist participation in the conduct of the affairs of any mortgage  
broker subject to licensure by the Director, in any manner;
- 7 **4.2** Respondent Mitchell L. Sweeten pay a fine of \$61,200.00 for failing to comply with an order of the  
8 Director for 567 days and for operating from an unlicensed location for 45 days;
- 9 **4.3** Respondent Mitchell L. Sweeten be prohibited from participation in the conduct of the affairs of any  
mortgage broker subject to licensure by the Director, in any manner, for a period of ten (10) years; and
- 10 **4.4** Respondent Mitchell L. Sweeten pay an investigation fee in the amount of \$907.82.

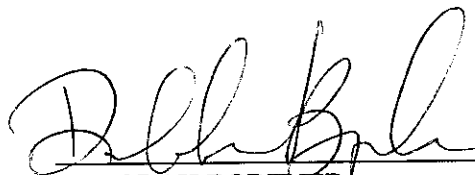
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**V. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Impose Fine, Prohibit from Industry, 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). Respondent 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 20<sup>th</sup> day of February, 2007.



DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:



MARK T. OLSON  
Financial Examiner



Approved by:



JAMES R. BRUSSELBACK  
Enforcement Chief

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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:

C-07-043-07-SC01

MITCHELL L. SWEETEN,  
Respondent.

NOTICE OF OPPORTUNITY TO DEFEND  
AND OPPORTUNITY FOR HEARING

THE STATE OF WASHINGTON TO:

MITCHELL L. SWEETEN

YOU ARE HEREBY NOTIFIED that a STATEMENT OF CHARGES has been filed by the Department of Financial Institutions, a true and correct copy of which is attached and made a part hereof.

YOU ARE HEREBY NOTIFIED that you may file an application for an adjudicative hearing before the Washington State Department of Financial Institutions on the Statement of Charges. Service of this notice is deemed complete upon deposit in the United States mail. YOUR APPLICATION MUST BE RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS FROM THE DATE YOU RECEIVED THIS NOTICE. If you demand a hearing, you will be notified of the time and place for the hearing at least seven (7) days in advance of the hearing date.

At the hearing, you may appear personally, and by counsel, if you desire. The hearing will be as informal as is practical within the requirements of the Administrative Procedure Act (see chapter 34.05 RCW). The hearing will be recorded. The primary concern will be getting to the truth of the matter insofar as the Statement of Charges is concerned. Technical rules of evidence will not be binding at the hearing except for the rules of privilege recognized by law. You have the right to present evidence and witnesses in your own behalf, and to cross-examine those witnesses presented in support of the Statement of Charges. You may require the attendance of witnesses by subpoena. If you are limited English-speaking or hearing impaired, you have the right to have an interpreter appointed at no cost to you, as discussed below.

INTERPRETER AVAILABILITY. If you or a witness for you is a person who, because of non-English-speaking cultural background, cannot readily speak or understand the English language, or if you or a witness for

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NOTICE OF OPPORTUNITY TO DEFEND  
AND OPPORTUNITY FOR HEARING

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

1 you is a person who, because of a hearing impairment or speech defect, cannot readily understand or communicate  
2 in spoken language, including persons who are deaf, deaf and blind, or hard of hearing, AND YOU NEED AN  
3 INTERPRETER, then a qualified interpreter will be appointed at no cost to you or to the witness. You may request  
4 the appointment of a qualified interpreter by indicating your request on the attached Application for Adjudicative  
5 Hearing form.

6 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE the  
7 Application for Adjudicative Hearing form within twenty (20) days from the date you received this notice, this will  
8 constitute a waiver of your right to a hearing and the Director will find that you do not contest the allegations of the  
9 Statement of Charges. Upon such a finding by the Director a final order will be immediately entered disposing of  
10 this matter as described in the Statement of Charges. If you desire a hearing in this matter, please return the  
11 attached Application for Adjudicative Hearing to:

12 Department of Financial Institutions  
13 Division of Consumer Services  
14 Attn: Fatima Batie  
15 PO Box 41200  
16 Olympia, Washington 98504-1200

17 Dated this 28th day of February, 2007.



18 *Deborah Bortner*

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