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

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

KENNETH C. BAILEY,

Respondent.

NO. C-07-084-07-FO01.

FINAL ORDER

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), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.464. On April 5, 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 and Prohibit from Industry (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Department served the Statement of Charges on Respondent on April 6, 2007 by first class mail.

On April 27, 2007, Respondent filed an Application for Adjudicative Hearing. On May 4, 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 May 15, 2007, ALJ Brian O. Watkins (ALJ Watkins) issued a Notice of Prehearing Conference by Telephone scheduling a prehearing conference on Tuesday, June 5, 2007 at 9:30 a.m.

On June 5, 2007, all parties attended the scheduled telephonic prehearing conference. On June 6, 2007, ALJ Watkins issued an Order Following Prehearing Conference Setting Telephonic Motion

FINAL ORDER -  
KENNETH C. BAILEY  
C-07-084-07-FO01

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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 Hearing and Status Conference setting deadlines of July 10, 2007 for the Department to submit a  
2 Motion for Summary Judgment and July 31, 2007 for Respondent to submit a response to such  
3 Motion, and scheduling a Telephonic Hearing on the Motion for Summary Judgment for August 15,  
4 2007.

5 On July 2, 2007, the Department submitted a Motion for Summary Judgment, a Memorandum  
6 in Support of the Motion, and a Declaration of Mark Olson in Support of the Motion. Respondent did  
7 not submit a response to the Motion. On August 15, 2007, the Department attended the scheduled  
8 telephonic hearing on the Motion. Respondent did not appear.

9 On September 24, 2007, ALJ Watkins issued Initial Order Holding the Respondent in Default  
10 and Granting Department's Motion for Summary Judgment (Initial Order). Pursuant to this Initial  
11 Order –

- 12 • Respondent is in default pursuant to RCW 34.05.440
- 13 • Department's Motion for Summary Judgment is granted
- 14 • Respondent's application for a loan originator license is denied pursuant to RCW  
15 19.146.310(1)(b) and (d)
- 16 • Respondent is prohibited from working in the mortgage broker industry in any capacity  
17 through December 30, 2013 pursuant to RCW 19.146.220(5)(2007)

18 On September 24, 2007, OAH mailed the Initial Order to Respondent.

19 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the  
20 date of service of the Initial Order to file a Petition for Review of the Initial Order. Respondent did not  
21 file a Petition for Review during the statutory period.  
22

1           B.     Record Presented.     The record presented to the Director's designee for her review and  
2 for entry of a final decision included the following:

- 3                     1. Statement of Charges;
- 4                     2. Application for Adjudicative Hearing;
- 5                     3. Request to OAH for Assignment of Administrative Law Judge;
- 6                     4. Notice of Prehearing Conference dated May 15, 2007, with documentation of service;
- 7                     5. Order Following Prehearing Conference Setting Telephonic Motion Hearing and  
8                         Status Conference dated June 6, 2007, with documentation of service;
- 9                     6. Motion for Summary Judgment, Memorandum in Support of Motion for Summary  
10                        Judgment, and Declaration of Mark Olson in Support of Motion for Summary  
11                        Judgment, with documentation of service;
- 12                     7. Initial Order Holding the Respondent in Default and Granting Department's Motion  
13                        for Summary Judgment dated September 24, 2007, with documentation of service.

14           C.     Factual Findings and Grounds For Order.     Pursuant to RCW 34.05.461, the Director's  
15 designee hereby adopts the Statement of Charges, Motion for Summary Judgment (with attached  
16 Memorandum in Support and Declaration in Support), and Initial Order, which are attached hereto.

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II. FINAL ORDER

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

A. IT IS HEREBY ORDERED, That:

1. Respondent Kenneth C. Bailey's application for a loan originator license is denied;  
and
2. Respondent Kenneth C. Baily is prohibited from participation in the conduct of the affairs of any licensed mortgage broker, in any manner, through December 30, 2013.

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

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

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

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

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

DATED this 13<sup>th</sup> day of November, 2007.

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS



DEBORAH BORTNER  
DIRECTOR  
DIVISION OF CONSUMER SERVICES



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**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-07-084-07-SC01

KENNETH C. BAILEY,

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO DENY LICENSE APPLICATION  
AND PROHIBIT FROM INDUSTRY

Respondent.

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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)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.310, 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 Kenneth C. Bailey (Respondent Bailey)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under A+ Mortgage, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 30, 2006.

**1.2 Prior Criminal Acts.** The following information relates to Pierce County Superior Court cause number 031028462:

- A.** On or about June 11, 2003, Respondent Bailey was charged with Theft of Rental, Leased, or Lease-Purchased Property valued at \$1,500.00 or more, a felony pursuant to RCW 9A.56.096;

<sup>1</sup> RCW 19.146 (Amended 2006; Effective January 1, 2007)

1           **B.** On or about October 16, 2006, the charge against Respondent Bailey was amended to  
 2           Possession of Stolen Property in the Third Degree, a gross misdemeanor pursuant to RCW  
 3           9A.56.170, and Respondent Bailey entered a guilty plea and was convicted.

4 **1.3 Responses to Application Questions.** The “Criminal Disclosure” section of the loan originator license  
 5 application consists of eight questions, and includes the following instruction:

6           “If the answer to any of the following is “YES”, provide complete details of all events or proceedings.”

7 Respondent Bailey answered “no” to the following questions on the “Criminal Disclosure” section of his loan  
 8 originator license application:

- 9           • 2-Have you ever been charged with any felony?
- 10          • 5-Have you ever been convicted of or plead guilty or nolo contendere (“no contest”) in a  
 11           domestic, foreign, or military court to misdemeanor involving: financial services or a financial  
 12           services-related business or any fraud, false statements or omissions, theft or any wrongful  
 13           taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to  
 14           commit any of these offenses?
- 15          • 6-Have you ever been charged with a misdemeanor specified in 5?

16 Respondent Bailey was obligated by statute to answer questions on the loan originator license application  
 17 truthfully and to provide the Department with complete details of all events or proceedings.

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

19 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,  
 20 Respondent Bailey fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by  
 21 having been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony within  
 22 seven years of the filing of the present application.

23 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent  
 24 Bailey is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making  
 25 any false statement or willfully making any omission of material fact in connection with any application or any

1 information filed by a licensee in connection with any application, examination or investigation conducted by  
2 the Department.

3 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set  
4 forth in Section I above, Respondent Bailey fails to meet the requirements of RCW 19.146.300(1) and (2) and  
5 RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form  
6 prescribed by the Director.

7 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set  
8 forth in Section I above, Respondent Bailey fails to meet the requirements of RCW 19.146.310(1)(g) and WAC  
9 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence of  
10 the community and to warrant a belief that the business will be operated honestly and fairly within the purposes  
11 of the Act.

### 12 **III. AUTHORITY TO IMPOSE SANCTIONS**

13 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the  
14 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the  
15 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by  
16 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application  
17 of the denial.

18 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue  
19 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed  
20 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker  
21 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

### 22 **IV. NOTICE OF INTENTION TO ENTER ORDER**

23 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
24 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis  
25



1 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.


2 Therefore, it is the Director's intention to ORDER that:

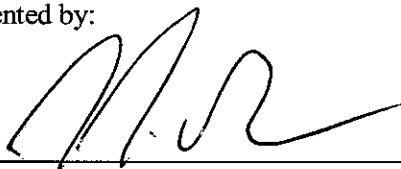
- 3 4.1 Respondent Kenneth C. Bailey's application for a loan originator license be denied;
- 4 4.2 Respondent Kenneth C. Bailey be prohibited from participation in the conduct of the affairs of any licensed mortgage broker, in any manner, through December 30, 2013.

5 **V. AUTHORITY AND PROCEDURE**


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

12 Dated this 5<sup>th</sup> day of April, 2007.

14   
 15 \_\_\_\_\_  
 16 DEBORAH BORTNER  
 17 Director  
 18 Division of Consumer Services  
 19 Department of Financial Institutions

20 Presented by:  
 21   
 22 \_\_\_\_\_  
 23 MARK OLSON  
 24 Financial Examiner



25 Approved by:  
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 27 \_\_\_\_\_  
 28 JAMES R. BRUSSELBACK  
 29 Enforcement Chief

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**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:

C-07-084-07-SC01

KENNETH C. BAILEY,  
Respondent.

NOTICE OF OPPORTUNITY TO DEFEND  
AND OPPORTUNITY FOR HEARING

THE STATE OF WASHINGTON TO: Kenneth C. Bailey

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.

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

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

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

19                            Dated this 5<sup>th</sup> day of April, 2007.



20                            *Deborah Bortner*

21                            \_\_\_\_\_  
22                            DEBORAH BORTNER  
23                            Director  
24                            Division of Consumer Services  
25                            Department of Financial Institutions