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DEPT OF 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-07-108-07-CO01

CONSENT ORDER

NIGUEL CAPITAL, INC.,
JEFFREY A. PETERSON, President and 50%
Owner, and
RYAN E.M. VANRENSELAER, Treasurer
and 50% Owner,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Niguel Capital, Inc., (hereinafter Respondent Niguel), Jeffrey A. Peterson, President and 50% Owner (hereinafter Respondent Peterson), and Ryan E.M. Van Rensselaer, Treasurer and 50% Owner (hereinafter Respondent Van Rensselaer), 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 the 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-07-108-07-SC01 (Statement of Charges), entered August 17, 2007, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the

1 Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order
2 and further agree that the issues raised in the above captioned matter may be economically and efficiently
3 settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the
4 Statement of Charges. Respondents are agreeing not to contest the Statement of Charges in consideration
5 of the terms of this Consent Order.

6 Based upon the foregoing:

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

9 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
10 hearing before an administrative law judge, and that they have waived their right to a hearing and any and
11 all administrative and judicial review of the issues raised in this matter, or of the resolution reached
12 herein.

13 C. **Revocation.** It is AGREED that Respondents' license to conduct business as a mortgage
14 broker in Washington is revoked.

15 D. **Prohibition from Industry.** It is AGREED that Respondents are prohibited from
16 participating in the conduct of the affairs of any mortgage broker licensed by the Department or any
17 mortgage broker exempt from Washington law under RCW 19.146.020(1)(b) or (g) for five (5) years
18 from the date of entry of this Consent Order in any capacity, including but not limited to: (1) any financial
19 capacity whether active or passive or (2) as an officer, director, principal, designated broker, employee, or
20 loan originator or (3) any management, control, oversight or maintenance of any trust account(s) in any
21 way related to any residential mortgage transaction or (4) receiving, disbursing, managing or controlling
22 in any way, consumer trust funds in any way related to any residential mortgage transaction.
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1 **E. Application for Mortgage Broker License.** It is AGREED that Respondents shall not apply
2 to the Department for any license issued pursuant to chapter 19.146 RCW under any name for a period of
3 five (5) years from the date of entry of this Consent Order. It is further AGREED that, should any
4 Respondent apply to the Department for a mortgage broker license at any time later than five (5) years
5 from the date of entry of this Consent Order, that Respondent shall be required to meet any and all
6 application requirements in effect at that time.

7 **F. Past Due Annual Assessment Fees.** It is AGREED that Respondents shall pay past due
8 annual assessment fees totaling \$750.86, in the form of a cashier's check made payable to the
9 "Washington State Treasurer," upon entry of this Consent Order.

10 **G. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
11 investigation fee of \$479.12, in the form of a cashier's check made payable to the "Washington State
12 Treasurer," upon entry of this Consent Order. Respondents may pay both the past due annual assessment
13 fees and the investigation fee together in one cashier's check made payable to the "Washington State
14 Treasurer," upon entry of this Consent Order.

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

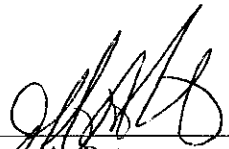
19 **I. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
20 entered into this Consent Order, which is effective when signed by the Director's designee.

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


1 **RESPONDENTS:**

2 **Niguel Capital, Inc.**


3 By:

4 
5 Jeffrey A. Peterson
6 President


Dec 2, 07
Date

7 
8 Ryan E.M. Van Rensselaer
9 Treasurer

12.2.07
Date

10 
11 Jeffrey A. Peterson
12 Individually


Dec 2, 2007
Date

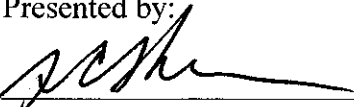
13 
14 Ryan E.M. Van Rensselaer
15 Individually

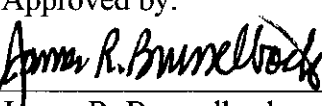
12.2.07
Date

16 **DO NOT WRITE BELOW THIS LINE**

17 THIS ORDER ENTERED THIS 2nd DAY OF January, 2008.

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

23 Presented by:
24 
25 Steven C. Sherman
Financial Legal Examiner

26 Approved by:
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 DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of
Washington by:

NIGUEL CAPITAL, INC.,
JEFFREY A. PETERSON, President and
50% Owner, and
RYAN E.M. VANRENSELAER, Treasurer
and 50% Owner,

Respondents.

NO. C-07-108-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE,
COLLECT ANNUAL ASSESSMENTS,
IMPOSE FINE, PROHIBIT FROM INDUSTRY,
AND COLLECT INVESTIGATION FEE

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INTRODUCTION

12 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial
13 Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146
14 RCW, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to
15 RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the
16 Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this
17 proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

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1.1 Respondents.

22 A. **Niguel Capital, Inc. (Niguel)** was licensed by the Department of Financial Institutions
23 of the State of Washington (Department) to conduct business as a mortgage broker on August 31,
24 2005, and has continued to be licensed to date. Respondent Niguel is licensed to conduct the business
25 of a mortgage broker at one (1) location: 27651 La Paz Road, Laguna Niguel, California 92677.

B. **Jeffrey A. Peterson (Peterson)** is President and 50% owner of Respondent Niguel.

¹ RCW 19.146 (1994) and (2006)

1 C. **Ryan E.M. VanRensselaer (VanRensselaer)** is Treasurer and 50% owner of
2 Respondent Niguel.

3 **1.2 Failure to Pay Annual Assessments.** Pursuant to 19.146 RCW (1994), an annual assessment
4 fee for each license was due to the Department no later than the last business day of the month the
5 original license was issued and was applied to the preceding year. To date, the Department has not
6 received Respondent's annual assessment of \$530.86 that was due by August 31, 2006. Effective
7 January 1, 2007, the due date for annual assessments was modified and made prospective.
8 Respondent's prorated annual assessment of \$220 for the year 2007 is due on or before August 31,
9 2007, and has not been received by the Department to date.

10 **1.3 Failure to Replace Designated Broker.** On or about August 1, 2006, the Department was
11 notified by Respondent Niguel's designated broker Paul Neuvirth that he was resigning as designated
12 broker for Respondent Niguel effective August 7, 2006. To date, Respondents have not replaced the
13 designated broker.
14

15 **1.4 Failure to Respond to Directive.** On September 6, 2006, the Department served a directive
16 on Respondents at their business address by certified mail and first class mail. The directive served by
17 certified mail was signed for by Respondents' representative on September 11, 2006. The directive
18 sent by first class mail was not returned. The directive required Respondents to pay the annual
19 assessment that had been due August 31, 2006, provide a certificate of completion for Continuing
20 Education by Respondents' designated broker, and to disclose several significant developments,
21 including Respondents' change of standing with the Washington Secretary of State. To date, the
22 Department has not received a response to the directive.
23

24 **1.5 Failure to Notify Department of Significant Developments.** Respondent Niguel's corporate
25 license, maintained with the State of Washington Secretary of State, expired on August 31, 2006. To

1 date, Respondents have not notified the Department of this change in standing with the State of
2 Washington Secretary of State.

3 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the
4 Act by Respondents continues to date.

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

6 **2.1 Requirement to Pay Annual Assessments.** Based on the Factual Allegations set forth in
7 Section I above, Respondents are in apparent violation of former RCW 19.146.228(1), former WAC
8 208-660-060(3), and former WAC 208-660-061 for failing to pay to the Director an annual assessment
9 fee no later than the last business day of the month in which the anniversary date of the issuance of the
10 mortgage broker's license occurs.

11 **2.2 Failure to Replace Designated Broker.** Based on the Factual Allegations set forth in Section
12 I above, Respondents are in apparent violation of current WAC 208-660-180 for failing to replace
13 their designated broker within thirty (30) days of the departure of their previous designated broker.

14 **2.3 Failure to Respond to Directive.** Based on the Factual Allegations set forth in Section I
15 above, Respondents are in apparent violation of former and current RCW 19.146.235 for failing to
16 respond to a directive from the Department.

17 **2.4 Requirement to Notify Department of Significant Developments.** Based on the Factual
18 Allegations set forth in Section I above, Respondents are in apparent violation of former WAC 208-
19 660-150(3)(f) and current WAC 208-660-400(17) for failing to notify the Director in writing within
20 five business days after a change in Respondents' standing with the State of Washington Secretary of
21 State.
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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License.** Pursuant to former RCW 19.146.220(2) (b)(ii) and (iii) and
3 former WAC 208-660-160, the Director may revoke a license for failure to pay a fee required by the
4 Director and for failure to comply with any directive or order of the Director. Pursuant to current
5 RCW 19.146.220(2)(e), the Director may revoke a license for any violation of chapter 19.146 RCW.

6 **3.2 Authority to Impose Fine.** Pursuant to former RCW 19.146.220(2)(c)(ii) and former WAC
7 208-660-165, the Director may impose fines on a licensee, employee or loan originator of the licensee,
8 or other person subject to the Act for failure to comply with a directive or order of the Director.
9 Pursuant to current RCW 19.146.220 (2)(e), the Director may impose fines for any violation of chapter
10 19.146 RCW.

11 **3.3 Authority to Prohibit from the Industry.** Pursuant to former RCW 19.146.220(2)(e)(iv) and
12 current RCW 19.146.220(5)(d), the Director may issue orders removing from office or prohibiting
13 from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer,
14 principal, employee, or loan originator of any licensed mortgage broker or any person subject to
15 licensing under the Act for failure to comply with a directive or order of the Director.

16 **3.4 Authority to Collect Investigation Fee.** Pursuant to former and current RCW 19.146.228(2),
17 former WAC 208-660-060, former WAC 208-660-061, and current WAC 208-660-550(5)(a), the
18 Director may impose a fee to cover the costs of any investigation of the books and records of a licensee.
19 The investigation charge will be calculated at the rate of forty-seven dollars and seventy-eight cents
20 (\$47.78) per hour prior to January 1, 2007, and forty-eight dollars (\$48) per hour after January 1, 2007.

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

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

- 6 **4.1** Respondent Niguel Capital, Inc.'s license to conduct the business of a mortgage broker be
7 revoked; and
- 8 **4.2** Respondents Niguel Capital, Inc., Jeffrey A. Peterson, and Ryan E.M. VanRensselaer jointly and
9 severally pay the cumulative delinquent main office Annual Assessments due through August 31,
2007, totaling \$750.86, as calculated in paragraph 1.2; and
- 10 **4.3** Respondents Niguel Capital, Inc., Jeffrey A. Peterson, and Ryan E.M. VanRensselaer jointly and
11 severally pay a fine of \$6,000;
- 12 **4.4** Respondent Niguel Capital, Inc. be prohibited from participation in the conduct of the affairs of
13 any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)
years; and
- 14 **4.5** Respondent Jeffrey A. Peterson be prohibited from participation in the conduct of the affairs of
15 any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)
years; and
- 16 **4.6** Respondent Ryan E.M. VanRensselaer be prohibited from participation in the conduct of the
17 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of
five (5) years; and
- 18 **4.7** Respondents Niguel Capital, Inc., Jeffrey A. Peterson, and Ryan E.M. VanRensselaer jointly and
19 severally pay an investigation fee in the amount of \$479.12; calculated at \$47.78 per hour for the
20 four (4) staff hours devoted to the investigation prior to January 1, 2007, and \$48 per hour for the
six (6) staff hours devoted to the investigation after January 1, 2007; and
- 21 **4.8** Respondents Niguel Capital, Inc., Jeffrey A. Peterson, and Ryan E.M. VanRensselaer maintain
22 records in compliance with the Act and provide the Department with the location of the books,
23 records and other information relating to Respondent Niguel Capital, Inc.'s mortgage broker
business, and the name, address and telephone number of the individual responsible for
24 maintenance of such records in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License,
3 Collect Annual Assessments, Impose Fine, Prohibit from Industry, and Collect Investigation Fee
4 (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221,
5 RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The
6 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
7 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this Statement of Charges.
9

10 Dated this 17th day of August, 2007.
11

12 

13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 

19 STEVEN C. SHERMAN
20 Financial Legal Examiner



22 Approved by:

23 

24 JAMES R. BRUSSELBACK
25 Enforcement Chief