

# TERMS COMPLETED

## CONSENT ORDER SUMMARY - Case Number: C-07-121

**Name(s)** Joel Ryan Gutierrez

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**Order Number** C-07-121-07-CO01

**Effective Date** January 3, 2008

**License Number** \_\_\_\_\_

**License Effect** Denied

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**Not Apply until** February 1, 2014

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**Prohibition/Ban until** January 31, 2014

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<b>Investigation Costs</b>	\$	Due	Paid Y N	Date
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	\$	Due	Paid Y N	Date
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	\$	Due	Paid Y N	Date
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	\$	Due	Paid Y N	Date
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**Other** \_\_\_\_\_

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**Special Instructions** \_\_\_\_\_

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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-07-121-07-CO01

JOEL RYAN GUTIERREZ,  
Respondent.

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Joel Ryan Gutierrez (hereinafter Respondent Gutierrez), 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 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 Respondent Gutierrez have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-121-07-SC01 (Statement of Charges), entered May 8, 2007, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent Gutierrez hereby agrees to the Department's entry of this Consent Order and further agrees 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 to fully resolve the Statement of Charges.

Based upon the foregoing:

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

CONSENT ORDER –  
JOEL RYAN GUTIERREZ  
C-07-121-07-CO01

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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           **B. Waiver of Hearing.** It is AGREED that Respondent Gutierrez has been informed of the right to a  
2 hearing before an administrative law judge, and that he has waived his right to a hearing and any and all  
3 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.  
4 Accordingly, Respondent Gutierrez agrees to withdraw his appeal and to inform the Office of Administrative  
5 Hearings in writing of his withdrawal.

6           **C. No Admission of Violations.** It is AGREED that Respondent Gutierrez does not admit to a violation  
7 of RCW 19.146.0201(8) or WAC 208-660-500(3) by the entry of this Consent Order.

8           **D. Loan Originator License Application Denial.** It is AGREED that Respondent Gutierrez's  
9 application for a loan originator license is denied. It is further AGREED that Respondent Gutierrez shall not  
10 apply to the Department for a mortgage broker license or loan originator license under any name at any time prior  
11 to February 1, 2014. It is further AGREED that, should Respondent Gutierrez apply to the Department for a  
12 mortgage broker license or loan originator license on February 1, 2014 or at any time thereafter, Respondent  
13 Gutierrez shall be required to meet any and all application requirements in effect at the time of such application.

14           **E. Prohibition from Industry.** It is AGREED that Respondent Gutierrez is prohibited from  
15 participating in the conduct of the affairs of any mortgage broker subject to licensure by the Department through  
16 January 31, 2014 in any capacity, including but not limited to: (1) any financial capacity whether active or passive  
17 or (2) as an officer, director, principal, designated broker, employee, or loan originator.

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

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

1 H. **Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into  
2 this Consent Order, which is effective when signed by the Director's designee.

3 I. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent Gutierrez has read this  
4 Consent Order in its entirety and fully understands and agrees to all of the same.

5 **RESPONDENT:**

6 [Redacted Signature]  
7 JOEL RYAN GUTIERREZ

12/24/07  
Date

8 [Redacted Signature]  
9 Richard Bartheld, WSBA No.11287  
10 Attorney at Law  
11 Attorney for Respondents

12/18/07  
Date

12 DO NOT WRITE BELOW THIS LINE

13 THIS ORDER ENTERED THIS 3<sup>rd</sup> DAY OF January, 2007. *SB*

14 [Redacted Signature]  
15 DEBORAH BORTNER  
16 Director  
17 Division of Consumer Services  
18 Department of Financial Institutions

17 Presented by:  
18 [Redacted Signature]  
19 MARK OLSON  
20 Financial Examiner

21 Approved by:  
22 [Redacted Signature]  
23 JAMES R. BRUSSELBACK  
24 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:

NO. C-07-121-07-SC01

JOEL R. GUTIERREZ,

Respondent.

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

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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 Joel R. Gutierrez (Respondent Gutierrez)** 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 January 31, 2007.

**1.2 Prior Criminal Acts.** On or about August 11, 2006, Respondent Gutierrez was convicted under Yakima County Superior Court cause number 05-1-02302-9 of [REDACTED], a felony pursuant to RCW [REDACTED].

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

1 **1.3 Responses to Application Questions.** The "Criminal Disclosure" section of the loan originator license  
2 application consists of eight questions, and includes the following instruction:

3 "If the answer to any of the following is "YES", provide complete details of all events or proceedings"

4 Respondent Gutierrez answered "no" to the following question on the "Criminal Disclosure" section of his loan  
5 originator license application:

- 6 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a  
7 domestic, foreign, or military court to any felony? If Yes, when and where?

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

## 10 II. GROUNDS FOR ENTRY OF ORDER

11 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,  
12 Respondent Gutierrez fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by  
13 having been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony within  
14 seven years of the filing of the present application.

15 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent  
16 Gutierrez is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making  
17 any false statement or willfully making any omission of material fact in connection with any application or any  
18 information filed by a licensee in connection with any application, examination or investigation conducted by  
19 the Department.

20 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set  
21 forth in Section I above, Respondent Gutierrez fails to meet the requirements of RCW 19.146.300(1) and (2)  
22 and RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form  
23 prescribed by the Director.

24 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set  
25 forth in Section I above, Respondent Gutierrez fails to meet the requirements of RCW 19.146.310(1)(g) and

1 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the  
2 confidence of the community and to warrant a belief that the business will be operated honestly and fairly  
3 within the purposes of the Act.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the  
6 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the  
7 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by  
8 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application  
9 of the denial.

10 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue  
11 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed  
12 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker  
13 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

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

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

- 19 **4.1** Respondent Joel R. Gutierrez's application for a loan originator license be denied.  
20 **4.2** Respondent Joel R. Gutierrez be prohibited from participation in the conduct of the affairs of any  
21 mortgage broker subject to licensure by the Director, in any manner, through January 31, 2014.

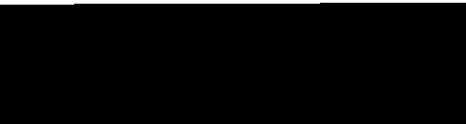
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**V. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Prohibit from Industry (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 8<sup>th</sup> day of May, 2007.

  
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:   
  
MARK OLSON  
Financial Examiner

Approved by:  
  
FATIMA BATIE  
Financial Legal Examiner Supervisor

