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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:

DAVID NEAL GOUGH,
Respondent.

NO. C-07-229-07-FO01

FINAL ORDER

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I. DIRECTOR'S CONSIDERATION

A. Default. 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 34.05.440(1). On July 10, 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 Statement of Charges was accompanied by a cover letter dated July 11, 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 July 11, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on August 1, 2007, by Federal Express overnight delivery. On August 1, 2007, the documents sent via Federal Express overnight delivery were delivered. The documents sent via first class mail were returned to the Department as undeliverable.

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

4 B. Record Presented. The record presented to the Director's designee for her review and
5 for entry of a final decision included the Statement of Charges, cover letter dated July 11, 2007, Notice of
6 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing,
7 with documentation of service.

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

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11 II. FINAL ORDER

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

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondent David Neal Gough's application for a loan originator license is denied;
16 and
17 2. Respondent David Neal Gough is banned from participation in the conduct of the
18 affairs of any mortgage broker subject to licensure by the Director, in any manner,
through December 29, 2013.

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

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

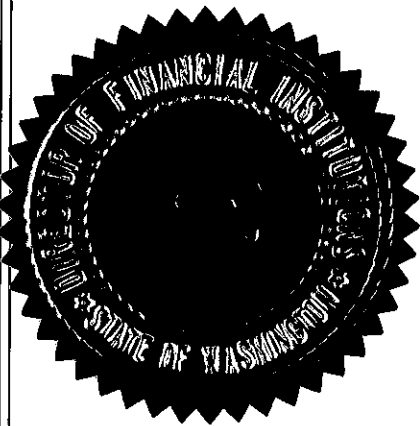
6 C. Stay of Order. The Director's designee has determined not to consider a Petition
7 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
8 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

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


12 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
13 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
14 attached hereto.
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16 DATED this 10th day of September, 2007.

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18 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS



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DEBORAH BORTNER
DIRECTOR
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 INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

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DAVID NEAL GOUGH,

Respondent.

NO. C-07-229-07-SC01

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)¹. 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 David Neal Gough (Respondent Gough) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Metropolitan Mortgage Group Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 29, 2006.

1.2 Prior Criminal Acts. On August 8, 2000 the Respondent was convicted of Reckless Burning in the First Degree (RCW 9A.48.040(1)), a class C Felony, in the Superior Court of Washington for Grant County (Cause No.00-1-435-7). On May 7, 1993, the Respondent was convicted of Malicious Mischief in the First Degree (RCW 9A.48.070), a class B Felony, in the Superior Court of Washington for King County.

¹ 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 Gough answered "no" to the following questions 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 • 2- Have you ever been charged with a felony?

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

11 Respondent Gough failed to disclose, to the Department, the fact that he had been charged and convicted of the
12 two felony offenses listed in Section 1.2.

13 In addition, the Respondent failed to disclose to the Department that he had been charged, on or about
14 October 5, 2006, with Theft of Rental, Leased or Lease-Purchased Property of \$250 or more pursuant to
15 RCW9A.56.096(5)(b), a class C Felony, in the Superior Court of Washington for Snohomish County (Cause
16 No. 06-1-2455-3). A bench warrant was issued for the arrest of the Respondent on April 17, 2007, which
17 continues to be outstanding as of the date of this Statement of Charges.

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 Gough 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 felony within seven years of the filing of the present application.

22 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
23 Gough is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making
24 any false statement or willfully making any omission of material fact in connection with any application or any
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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 Gough 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 III. AUTHORITY TO IMPOSE SANCTIONS

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

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

17 IV. NOTICE OF INTENTION TO ENTER ORDER

18 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
19 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
20 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.

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

22 **4.1** Respondent David Neal Gough's application for a loan originator license be denied.

23 **4.2** Respondent David Neal Gough be prohibited from participation in the conduct of the affairs of any
24 mortgage broker subject to licensure by the Director, in any manner, through December 29, 2013.

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1 **V. AUTHORITY AND PROCEDURE**

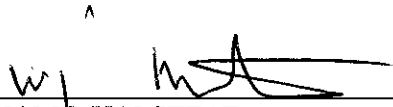
2 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and
3 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter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

8 Dated this 10th day of July, 2007.

10 

11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

13 Presented by:

14 
15 WILLIAM J. HALSTEAD
16 Financial Legal Examiner



17 Approved by:

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19 FATIMA BATIE
20 Financial Legal Examiner Supervisor

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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-07-229-07-SC01

DAVID NEAL GOUGH,
Respondent.

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR HEARING

THE STATE OF WASHINGTON TO:

David Neal Gough

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 10th day of July 2007.



20 *Deborah Bortner*

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