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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:

JOHN DANIEL HOLLOWAY II,
Respondent.

NO. C-07-376-07-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), Scott Jarvis, pursuant to RCW 34.05.440(2). On September 26, 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. (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 September 25, 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 September 25, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on October 11, 2007, by first class mail and Federal Express overnight delivery.

On October 19, 2007, Respondent filed an Application for Adjudicative Hearing. On October 22, 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. OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ Robert P. Kingsley

1 (ALJ Kingsley) to preside over prehearing and hearing proceedings and issue an Initial Decision. On
2 April 3, 2008, ALJ Kingsley issued a Notice of Pre-hearing Conference by Telephone scheduling a
3 prehearing conference on Tuesday, April 22, 2008 at 2:00 p.m. That Notice contained the following
4 instruction to the parties: "Parties shall appear by calling ... ten minutes before the time designated
5 above, making adjustment for your time zone." The Notice also stated, "Default: If you fail to appear
6 or participate in the prehearing conference, hearing, or any other scheduled stage of these proceedings,
7 you may lose your right to a hearing as described in RCW 34.05.440."
8

9 On April 22, 2008, the prehearing conference was convened by ALJ Kingsley at 2:00 p.m.
10 Respondent failed to appear and ALJ Kingsley was unable to contact Respondent at the last telephone
11 number provided by Respondent. The Department moved for an order of default based on
12 Respondent's failure to appear. On April 24, 2008, ALJ Kingsley issued an Order of Dismissal
13 Appellant Default (Order of Dismissal) affirming the Statement of Charges. On April 24, 2008, ALJ
14 Kingsley sent the Order of Dismissal to the address in Respondent's Application for Adjudicative
15 Hearing.

16 Pursuant to RCW 34.05.440(3), Respondent had seven (7) days from the date of service of the
17 Order of Dismissal to file a written motion with OAH requesting that the Order of Dismissal be
18 vacated, and stating the grounds relied upon. Respondent did not make a request to vacate during the
19 statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days
20 from the date of service of the Order of Dismissal to file a Petition for Review of the Order of
21 Dismissal with the Director. Respondent did not file a Petition for Review during the statutory period.
22

23 B. Record Presented. The record presented to the Director for his review and for entry of
24 a final decision included the following:

- 1 1. Statement of Charges, cover letter dated September 25, 2007, and Notice of
2 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 3 2. Application for Adjudicative Hearing;
- 4 3. Request to OAH for Assignment of Administrative Law Judge;
- 5 4. Notice of Prehearing Conference by Telephone dated April 3, 2008, with
6 documentation of service;
- 7 5. Order of Dismissal dated April 24, 2008, with documentation of service.

8 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the
9 Director hereby adopts the Statement of Charges, which is attached hereto.

10 II. FINAL ORDER

11 Based upon the foregoing, and the Director having considered the record and being
12 otherwise fully advised, NOW, THEREFORE:

13 A. IT IS HEREBY ORDERED, That Respondent John Daniel Holloway's application for a
14 loan originator license is denied.

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

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

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

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

10 E. 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 17th day of June 2008.



15 STATE OF WASHINGTON
16 DEPARTMENT OF FINANCIAL INSTITUTIONS

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19 SCOTT JARVIS
20 DIRECTOR
21 DEPARTMENT OF FINANCIAL INSTITUTIONS

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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:

NO. C-07-376-07-SC01

JOHN DANIEL HOLLOWAY II,

Respondent.

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION

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 John Daniel Holloway II (Respondent Holloway) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Mortgage Lending Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 12, 2006.

1.1 Existing Federal Tax Liens. On or about February 8, 2006, the United States Internal Revenue Service filed a federal tax lien on the residence of John Daniel Holloway II. The lien was filed with the King County Auditor in the State of Washington. The lien was filed as the result of unpaid federal taxes for the years ending 2002, 2003 and 2004. The amount of the outstanding tax lien is \$178,115.22.

¹ RCW 19.146 (Amended 2006; Effective January 1, 2007)

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

2 **2.1 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
3 forth in Section I above, Respondent Holloway fails to meet the requirements of RCW 19.146.310(1)(g) and
4 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
5 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
6 within the purposes of the Act.

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

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

18 **4.1** Respondent John Daniel Holloway's application for a loan originator license be denied.

19 **V. AUTHORITY AND PROCEDURE**

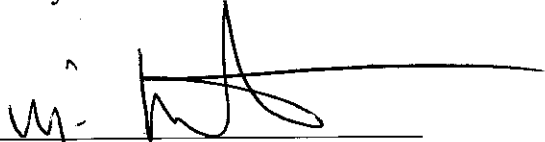
20 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application
21 (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW
22 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative
23 Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF
24 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of
25 Charges.

1 Dated this 26th day of September, 2007.

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4 DEBORAH BORTNER
5 Director
6 Division of Consumer Services
7 Department of Financial Institutions

8 Presented by:

9 

10 WILLIAM HALSTEAD
11 Financial Legal Examiner

12 Approved by:

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14 FATIMA BATIE
15 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-07-376-07-SC01

JOHN DANIEL HOLLOWAY II,
Respondent.

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR HEARING

THE STATE OF WASHINGTON TO:

John Daniel Holloway II

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 16th day of September 2007.



Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions