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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:

NO. C-07-391-07-FO01

YOUNG PHAN,

FINAL ORDER

Respondent.

**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 October 9, 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 October 10, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondent Young Phan (Respondent Phan). The Department served the Statement of Charges, cover letter dated October 10, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent Phan on October 10, 2007 by first class mail and Federal Express overnight delivery. On October 12, 2007, the documents sent via Federal Express overnight delivery were delivered to Respondent Phan's address and signed for by C. Phan. The documents sent via first class mail were not returned to the Department by the United States Post Office.

FINAL ORDER  
C-07-391-07-FO01  
YOUNG PHAN

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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 Respondent Phan 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 following:

6 Statement of Charges, cover letter dated October 9, 2007, Notice of Opportunity to  
7 Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for  
8 Respondent Phan, with documentation of service;

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

11  
12 II. FINAL ORDER

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

15 A. IT IS HEREBY ORDERED, That:

- 16 1. Respondent Phan's application for a license to conduct the business of a Loan  
17 Originator is denied; and  
18 2. Respondent Phan is banned from participation in the conduct of the affairs of any  
19 mortgage broker subject to licensure by the Director, in any manner, through January  
20 2, 2014.

21 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a  
22 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition  
23 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150  
24 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,

1 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The  
2 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for  
3 Reconsideration a prerequisite for seeking judicial review in this matter.

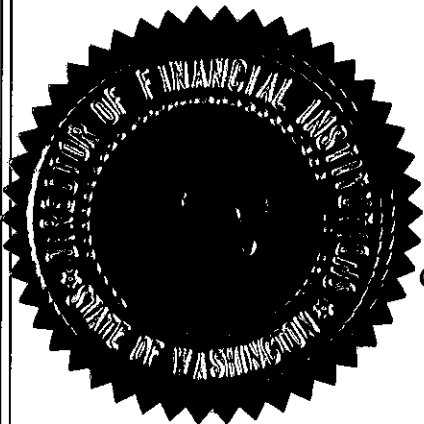
4 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date  
5 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written  
6 notice specifying the date by which it will act on a petition.

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

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

13 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for  
14 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
15 attached hereto.  
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17 DATED this 17<sup>th</sup> day of December, 2007.



18 STATE OF WASHINGTON  
19 DEPARTMENT OF FINANCIAL INSTITUTIONS

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23 DEBORAH BORTNER  
24 DIRECTOR  
25 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:

YOUNG PHAN,

Respondent.

NO. C-07-391-07-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)<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:

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**I. FACTUAL ALLEGATIONS**

**1.1 Respondent Young Phan (Respondent Phan)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Abacus Mortgage, Inc, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about January 2, 2007.

**1.2 Prior Criminal Acts.** On or about November 8, 2002, Respondent Phan was adjudged guilty of the offense of Conspiracy to Import over 100 Kilograms of Marijuana, in the United States District Court, Eastern District of Washington, a felony pursuant to Title 21, United States Code, Sections 960 and 963.

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

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

1 "If the answer to any of the following is "YES", provide complete details of all events or proceedings"  
2 Respondent Phan answered "no" to the following questions on the "Criminal Disclosure" section of his loan  
3 originator license application and stated "I am not sure of my status on this":

- 4 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a  
5 domestic, foreign, or military court to any felony? If yes, when and where?
- 6 • 2-Have you ever been charged with any felony?

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

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

10 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,  
11 Respondent Phan fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by  
12 having been convicted of a felony within seven years of the filing of the present application.

13 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent Phan  
14 is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making any false  
15 statement or willfully making any omission of material fact in connection with any application or any  
16 information filed by a licensee in connection with any application, examination or investigation conducted by  
17 the Department.

18 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set  
19 forth in Section I above, Respondent Phan fails to meet the requirements of RCW 19.146.300(1) and (2) and  
20 RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form  
21 prescribed by the Director.

22 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set  
23 forth in Section I above, Respondent Phan fails to meet the requirements of RCW 19.146.310(1)(g) and WAC  
24 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence of  
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1 confidence of the community and to warrant a belief that the business will be operated honestly and fairly  
2 within the purposes of the Act.

### 3 III. AUTHORITY TO IMPOSE SANCTIONS

4 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the  
5 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the  
6 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by  
7 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application  
8 of the denial.

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

### 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 Young Phan's application for a loan originator license be denied.

19 **4.2** Respondent Young Phan be prohibited from participation in the conduct of the affairs of any mortgage  
20 broker subject to licensure by the Director, in any manner, through January 2, 2014.

### 21 V. AUTHORITY AND PROCEDURE

22 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and  
23 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,  
24 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05  
25 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in

1 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
2 Statement of Charges.

3 Dated this 9<sup>th</sup> day of October, 2007  
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7 DEBORAH BORTNER  
8 Director  
9 Division of Consumer Services  
10 Department of Financial Institutions

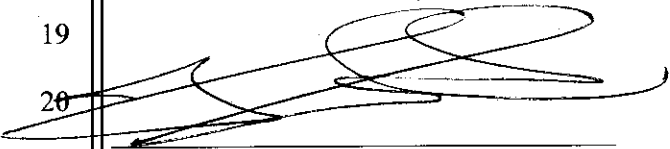
11 Presented by:

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13 CHARLES E. WOODE  
14 Financial Legal Examiner  
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16  
17 Approved by:

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21 FATIMA BATIE  
22 Financial Legal Examiner Supervisor  
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