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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:

JAMES WESLEY MCKIBBON,

Respondent.

NO. C-07-423-07-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:

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I. FACTUAL ALLEGATIONS

1.1 Respondent James Wesley McKibbon (Respondent McKibbon) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Greenlake Financial, Inc. a mortgage broker licensed under the Act until October 12, 2007. The on-line application was received by the Department on or about January 4, 2007.

1.2 Prior Criminal Acts. On May 19, 1999, Respondent McKibbon was charged with Possession of Cocaine a felony, pursuant to Chapter 893.13 Florida Statutes, in Pinellas County, Florida. On July 12, 1999, Respondent McKibbon entered a plea of No Contest to this charge.

On February 18, 2000, Respondent McKibbon was charged with Driving While License Suspended or Revoked a felony, pursuant to Chapter 322.34(5) Florida Statutes, in Pinellas County, Florida. On May 15,

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

1 2000, Respondent McKibbon entered a plea of Nolo Contendere to this charge. On May 15, 2000, Respondent
2 McKibbon was adjudicated guilty of Possession of Cocaine a felony, pursuant to Chapter 893.13 Florida
3 Statutes, and Driving While License Suspended or Revoked a felony, pursuant to Chapter 322.34(5) Florida
4 Statutes, in Pinellas County, Florida.

5 **1.3 Responses to Application Questions.** The "Criminal Disclosure" section of the loan originator license
6 application consists of eight questions, and includes the following instruction:

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

8 Respondent McKibbon answered "yes" to the following question on the "Criminal Disclosure" section of his
9 loan originator license application:

- 10 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a
11 domestic, foreign, or military court to any felony? If Yes, when and where?

12 Respondent McKibbon further stated "1999 Pinellas County Florida Cocaine Possession."

13 Respondent McKibbon answered "no" to the following question on the "Criminal Disclosure" section
14 of his loan originator license application:

- 15 • 2-Have you ever been charged with any felony?

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

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 McKibbon fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c)
21 by having been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony
22 within seven years of the filing of the present application.

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

1 or any information filed by a licensee in connection with any application, examination or investigation
2 conducted by 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 McKibbon fails to meet the requirements of RCW 19.146.300(1) and (2)
5 and 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 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
8 forth in Section I above, Respondent McKibbon fails to meet the requirements of RCW 19.146.310(1)(g) and
9 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
10 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
11 within the purposes of the Act.

12 **III. AUTHORITY TO IMPOSE SANCTIONS**

13 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
14 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
15 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
16 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
17 of the denial.

18 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
19 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
20 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
21 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

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

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


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

- 3 4.1 Respondent James Wesley McKibbon's application for a loan originator license be denied.
- 4 4.2 Respondent James Wesley McKibbon be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, through January 4, 2014.

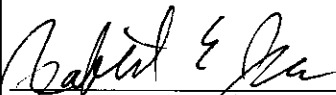
5 **V. AUTHORITY AND PROCEDURE**

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


12 Dated this 25th day of November, 2007.

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 16 DEBORAH BORTNER
 17 Director
 18 Division of Consumer Services
 19 Department of Financial Institutions

20 Presented by:

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 22 ROBERT E. JONES
 23 Financial Legal Examiner

24 Approved by:

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 FATIMA BATIE
 Financial Legal Examiner Supervisor

