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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

NO. C-07-452-08-FO01

CHALLENGE FINANCIAL INVESTORS
CORPORATION d/b/a CFIC HOME MORTGAGE,

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 February 11, 2008, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Prohibit from Industry, Collect Investigation Fee and Collect Examination Fee (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 February 12, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage. The Department served the Statement of Charges, cover letter dated February 12, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage, on Respondent at its registered agent, National Registered Agents Inc., on February 22, 2008 by Federal Express overnight delivery.

On February 25, 2007, the documents sent via Federal Express overnight delivery were delivered.

1 Respondent Challenge did not request an adjudicative hearing within twenty calendar days
2 after the Department served it with the Notice of Opportunity to Defend and Opportunity for Hearing,
3 as 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: Statement of Charges, cover letter dated February 12,
6 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
7 Adjudicative Hearing for Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage, with
8 documentation of service upon its registered agent;

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

12 II. FINAL ORDER

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

16 A. IT IS HEREBY ORDERED, That:

- 17 1. Respondent Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage's
18 license to conduct the business of a Consumer Lender is revoked; and
- 19 2. Respondent Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage
20 pay a fine of \$36,500; and
- 21 3. Respondent Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage is
22 banned from participation in the conduct of the affairs of any consumer lender subject
to licensure by the Director, in any manner, for a period of five (5) years; and
- 23 4. Respondent Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage
24 pay an examination fee in the amount of \$9,273.60 calculated at \$69 per hour for
25 134.40 staff hours devoted to the investigation and \$3,006.83 for the cost of travel for
a total examination fee of \$12,280.43; and

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2 5. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage
3 maintain records in compliance with the Act and provide the Director with the
4 location of the books, records, and other information relating to Respondent
5 Challenge Financial Investors Corporation's d/b/a CFIC Home Mortgage consumer
6 loan company business, and the name, address, and telephone number of the
7 individual responsible for maintenance of such records in compliance with the Act.

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

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

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

22 D. Judicial Review. Respondents have the right to petition the superior court for
23 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
24 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

1 E. Non-compliance with Order. If you do not comply with the terms of this order, the
2 Department may seek its enforcement by the Office of Attorney General to include the collection of the
3 fines, fees and restitution imposed herein.

4 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
5 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
6 attached hereto.

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8 DATED this 16th day of May, 2008.

9 STATE OF WASHINGTON
10 DEPARTMENT OF FINANCIAL INSTITUTIONS

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13 DEBORAH BORTNER
14 DIRECTOR
15 DIVISION OF CONSUMER SERVICES



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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
Consumer Loan Act of Washington by:

CHALLENGE FINANCIAL INVESTORS
CORPORATION d/b/a CFIC HOME
MORTGAGE,

Respondent.

NO. C-07-452-08-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, IMPOSE FINE,
PROHIBIT FROM INDUSTRY, COLLECT
INVESTIGATION FEE AND COLLECT
EXAMINATION FEE

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, 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

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1.1 Respondent Challenge Financial Investors Corporation d/b/a CFIC Home Mortgage (Challenge)

was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a consumer lender on July 27, 2004, under license # 520-CL-26331. On September 14, 2007, Respondent Challenge voluntarily surrendered its consumer loan license to the Department.

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1.2 Examination. The Department conducted an on-site examination of Respondent Challenge at its main office located at First Central Tower, 360 Central Avenue, Suite 600, St. Petersburg, Florida, 33701, from September 11, 2006 through September 14, 2006. The examination was limited to business conducted through August 31, 2006. Many of the factual allegations outlined herein are based upon information obtained during the on-site examination.

1 **1.3 Unlicensed Activity.** During the examination outlined in paragraph 1.2, the Department discovered
2 nine residential mortgage loans originated by Respondent Challenge for property located within the State of
3 Washington. The nine residential mortgage loans were originated at five different business locations of
4 Respondent Challenge that were not licensed by the Department.

5 **1.4 Insufficient Surety Bond.** For the period prior to July 7, 2006, Respondent Challenge held a bond in
6 the amount of \$830,000. During that same period, Respondent Challenge had thirteen branches performing
7 residential mortgage loans. The bond requirement for thirteen branches is \$880,000.

8 For the period July 7, 2006 through August 30, 2006, Respondent Challenge operated nine business
9 locations. The bond requirement for nine branch locations was \$840,000. During this same period, Respondent
10 Challenge held a bond in the amount of \$820,000, which is \$20,000 less than required by rule.

11 **1.5 Prepayment Penalty on Junior Liens.** Respondent Challenge provided Truth in Lending (TIL)
12 statements to two borrowers (loan numbers 2005-52319 and 2005-64711) for junior lien mortgages that
13 included prepayment penalty clauses.

14 **1.6 Recordkeeping.** During the examination conducted by the Department, Respondent Challenge could
15 not locate four adverse action files requested by the Department for review. In addition, the examination
16 revealed two residential loan files which did not contain the initial applications.

17 **1.7 Deceptive and Unfair Practice.** In January 2006, Respondent Challenge (through its compliance
18 officer) informed all of its branch loan officers to write the Company's corporate address of St. Petersburg,
19 Florida on all loan applications (1003) regardless of their origination location. For applications taken at branch
20 locations this required practice made it appear as if the loans were being originated at a location other than the
21 actual branch location. This practice is deceiving to borrowers and hinders the Department's ability to properly
22 account for branch locations conducting residential mortgage loans in the State of Washington.

23 **1.8 Fraudulent Activity.** In 2005, Borrower A.M. applied for residential mortgage loans on two properties
24 with Respondent Challenge. Both properties were secured by a first and second mortgage and were 100 percent
25 loan to value. The first loan (Loan #1) was originated on August 24, 2005, for the purchase of an owner

1 occupied, primary residence, duplex in Spokane, Washington. The second loan (Loan #2) was originated on
2 December 12, 2005, and was for the refinance of an owner occupied single family primary residence in
3 Buckley, Washington.

4 Loan #1 represented Borrower A.M. was purchasing the duplex with the intent of occupying it as her
5 primary residence. The documents associated with Loan #2 indicate the relocation of Borrower A.M. never
6 occurred. Borrower A.M.'s Loan #2 application indicates her employer and income did not change. In
7 addition, Borrower A.M. refinanced the Buckley, WA residence as a primary residence and Loan #2 indicated
8 the Spokane, Washington duplex was a rental property.

9 Both Loan #1 and Loan #2 were 2/28 Adjustable Rate Mortgages with stated income as the
10 employment documentation. An income of \$14,000 per month was reported on the loan applications. This
11 amount of income is inconsistent with Borrower A.M.'s employment.

12 Borrower A.M. also co-owned a third property in the State of Washington when she applied for Loans
13 #1 and #2. This property was disclosed in the application for Loan #1, but not Loan #2. Borrower A.M. also
14 owned a fourth property in the State of Montana when she applied for Loans #1 and #2. The Montana property
15 was not disclosed on the application for Loan #2.

16 **1.9 Disclosures.**

17 **A. Finance Charge Disclosures.** During the examination, the Department discovered at least two
18 loans (2005-64710 and 2006-73006) in which the TIL disclosed finance charges that were understated
19 by more than \$100. Both of these loans were brokered by Respondent Challenge to other lenders.

20 **B. Variable Rate Disclosures.** During the examination, the Department discovered Respondent
21 Challenge failed to provide initial variable rate disclosures for six adjustable rate mortgage (ARM)
22 residential loans (2005-56976, 2005-56977, 2006-69257, 2006-75215, 2005-64710 and 2005-62600).

23 **C. Good Faith Estimate and HUD-1 Disclosures.** During the examination, the Department
24 discovered three residential mortgage loans (2006-69257, 2006-73006 and 2006-69039) in which
25 Respondent Challenge listed broker fees as origination fees in line 801 of the GFE and the HUD-1.

1 **1.10 Failure to Respond to Directives.**

2 On September 17, 2007, the Department received notice from Respondent Challenge that they had
3 stopped originating loans in the State of Washington as of September 14, 2007. In addition, Respondent
4 Challenge surrendered its consumer loan license #520-CL-26331 effective September 14, 2007.

5 On October 10, 2007, the Department sent Respondent Challenge closure forms and an Annual
6 Assessment Worksheet that were to be completed and returned to the Department by October 24, 2007.
7 Respondent Challenge failed to submit the closure forms or the Annual Assessment Worksheet (and any
8 assessment due) to the Department as directed.

9 **1.11 Failure to Notify Department of Significant Developments - State of Georgia.**

10 On October 12, 2006, the State of Georgia Department of Banking and Finance filed a Notice of Intent
11 to Revoke Annual License against Respondent Challenge for numerous violations of Georgia Law. Respondent
12 Challenge failed to notify the Department of the Georgia action within 20 days of October 12, 2006.
13 Respondent Challenge did not notify the Department of the Georgia action until March 7, 2007. The action
14 brought by Georgia resulted in a Consent Order revoking Respondent Challenge's mortgage lender's license on
15 March 2, 2007.

16 **1.12 Ongoing Investigation.** The Department's investigation into the alleged violations of the Act by
17 Respondents continues to date.

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

19 **2.1 Unlicensed Activity.** Based upon the Factual Allegations set forth in Section I above, the Respondent
20 is in apparent violation of RCW 31.04.075 for failing to maintain licenses for all of its branch locations
21 originating residential mortgage loans for property located within the State of Washington.

22 **2.2 Failure to Maintain Sufficient Bond.** Based upon the Factual Allegations set forth in Section I above,
23 the Respondent is in apparent violation of RCW 31.04.093(3)(a) and WAC 208-620-320(2) for failing to
24 maintain an adequate surety bond.

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1 **2.3 Prepayment Penalty.** Based upon the Factual Allegations set forth in Section I above, the Respondent
2 is in apparent violation of WAC 208-620-130(7)¹ for imposing prepayment penalties on junior lien mortgages.

3 **2.4 Recordkeeping.** Based upon the Factual Allegations set forth in Section I above, the Respondent is in
4 apparent violation of RCW 31.04.155 for failing to maintain books, accounts, records, papers, documents, files
5 and other information to enable the Director to determine whether the licensee is complying with RCW 31.04
6 and rules adopted by the Director.

7 **2.5 Deceptive and Unfair Practices.** Based upon the Factual Allegations set forth in Section I above, the
8 Respondent is in apparent violation of RCW 31.04.027(2) for directly or indirectly engaging in any unfair or
9 deceptive practice toward any person.

10 **2.6 Fraudulent Activity.** Based upon the Factual Allegations set forth in Section I above, the Respondent
11 is in apparent violation of RCW 31.04.027(1) for directly or indirectly employing any scheme or device, or
12 artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any
13 person.

14 **2.7 Disclosures.** Based on the Factual Allegations set for in Section I above, Respondent is in apparent
15 violation of RCW 31.04.027(6) and RCW 31.04.102(2) and (3) for understating finance charges, failing to
16 provide initial variable rate disclosures for adjustable rate mortgage loans, and for listing broker fees as
17 origination fees in the Good Faith Estimate and HUD-1.

18 **2.8 Failure to Respond to Directives.** Based upon the Factual Allegations set forth in Section I, the
19 Respondent is in apparent violation of RCW 31.04.093(3)(a) for failing to timely submit closure forms and an
20 Annual Assessment Worksheet (with assessment) as requested by the Department.

21 **2.9 Failure to Notify Department of Significant Developments.** Based upon the Factual Allegations set
22 forth in Section I, the Respondent is in apparent violation of WAC 208-620-490(2)(e) and (3)(a) for failing to
23 notify the Department of revocation action by the State of Georgia.

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¹ WAC 208-620-130(7) was renumbered to WAC 208-620-560(7) on February 27, 2006.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a
3 license if a licensee fails to pay any fee due the state of Washington, fails to maintain in effect a bond, or fails to
4 comply with any specific order or demand of the Director lawfully made and directed to the licensee in
5 accordance with the Act, or violates any provision of the Act or any rule adopted under the Act either
6 knowingly or without exercise of due care. Pursuant to RCW 31.04.093(8), the Director may revoke a license,
7 collect fines and fees after a license has been surrendered for acts committed prior to the surrender.

8 **3.2 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4) and (8), the Director may impose fines of up
9 to one hundred dollars per day upon the licensee, its employee, or any other person subject to the Act for any
10 violation of the Act or failure to comply with any order under the Act.

11 **3.3 Authority to Prohibit from the Industry:** Pursuant to RCW 31.04.093(6)(c)(d) and (e), the Director
12 may issue an order prohibiting from participation in the affairs of any licensee, any officer, principal, employee,
13 or any other person subject to the Act for failure to comply with any order or subpoena issued under the Act, for
14 a violation of RCW 31.04.027, or for having a license to engage in lending or perform settlement service related
15 to lending in this state or another state revoked.

16 **3.4 Authority to Collect Investigation Fee:** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
17 every licensee investigated by the Director or the Director's designee shall pay for the cost of the investigation,
18 calculated at the rate of sixty-nine dollars (\$69) per staff hour devoted to the investigation.

19 **3.5 Authority to Collect Examination Fee.** Pursuant to RCW 31.04.145 and WAC 208-620-590, every
20 licensee examined by the Department shall pay for the cost of the examination calculated at sixty-nine dollars
21 (\$69) per staff hour, plus the cost of travel.

22 **3.6 Accounting Requirements:** Pursuant to RCW 31.04.155, a licensee shall maintain accurate and
23 current books and records and shall make such books and records readily available to the Director until at least
24 twenty-five months have elapsed following the effective period to which the books and records relate.
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1 **IV. NOTICE OF INTENTION TO ENTER ORDER**

2 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
3 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions constitute a basis for
4 the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW 31.04.205. Therefore, it is the Director's
5 intention to ORDER that:

- 6 a. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage's license to
7 conduct the business of a Consumer Loan Company be revoked;
- 8 b. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage pay a fine of
9 \$36,500 for the violations set forth above,
- 10 c. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage be prohibited
11 from participation in the conduct of the affairs of any mortgage broker or consumer lender subject
12 to licensure by the Director, in any manner, for a period of five (5) years; and
- 13 d. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage pay an
14 investigation fee in the amount of \$1,380 calculated at \$69 per hour for 20 staff hours devoted to
15 the investigation;
- 16 e. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage pay an
17 examination fee in the amount of \$9,273.60 calculated at \$69 per hour for 134.40 staff hours
18 devoted to the investigation and \$3,006.83 for the cost of travel for a total examination fee of
19 \$12,280.43;
- 20 f. Respondent Challenge Financial Investors Corporation d.b.a. CFIC Home Mortgage maintain
21 records in compliance with the Act and provide the Director with the location of the books,
22 records, and other information relating to Respondent Challenge Financial Investors Corporation's
23 d/b/a CFIC Home Mortgage consumer loan company business, and the name, address, and
24 telephone number of the individual responsible for maintenance of such records in compliance
25 with the Act.

19 **V. AUTHORITY AND PROCEDURE**

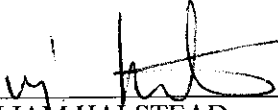
20 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine,
21 Prohibit from Industry, and Collect Examination and Investigation Fees (Statement of Charges) is entered
22 pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is
23 subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a
24 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
25 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

1 Dated this 11th day of February, 2008.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

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5 Presented by:



6
7 WILLIAM HALSTEAD
8 Financial Legal Examiner

9 Approved by:



10 JAMES R. BRUSSELBACK
11 Enforcement Chief



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