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4 **STATE OF WASHINGTON**
5 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
6 **DIVISION OF CONSUMER SERVICES**

7 IN THE MATTER OF INVESTIGATING
8 the Loan Originator License Application under the
9 Mortgage Broker Practices Act of Washington by:

10 JAMES MICHAEL ODELL,
11 Respondent.

NO. C-07-490-08-FO01

FINAL ORDER

12 **I. DIRECTOR'S CONSIDERATION**

13 A. Default. This matter has come before the Director of the Department of
14 Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.440(2). On
15 December 5, 2007, the Director, through Consumer Services Division Director Deborah Bortner,
16 entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License
17 Application and Prohibit from Industry (Statement of Charges). A copy of the Statement of Charges
18 is attached and incorporated into this order by this reference. The Statement of Charges was
19 accompanied by a cover letter dated December 5, 2007, a Notice of Opportunity to Defend and
20 Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served
21 the Statement of Charges, cover letter dated December 5, 2007, Notice of Opportunity to Defend and
22 Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on
23 December 5, 2007, by first class mail and Federal Express overnight delivery.

1 On December 14, 2007, Respondent filed an Application for Adjudicative Hearing. On
2 January 8, 2008, the Department made a request to the Office of Administrative Hearings (OAH) to
3 assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of
4 Charges. On March 19, 2008, OAH issued a Notice of Assignment of Administrative Law Judge
5 assigning ALJ Robert P. Kingsley (ALJ Kingsley) to preside over prehearing and hearing proceedings
6 and issue an Initial Decision. On April 2, 2008, ALJ Kingsley issued a Notice of Prehearing
7 Conference by Telephone scheduling a prehearing conference on Thursday, April 10, 2008, at 4:00
8 p.m. On April 10, 2008, a representative for the Department and Respondent attended the telephonic
9 prehearing conference, at which Respondent requested a continuance to permit him to retain an
10 attorney. On April 11, 2008, ALJ Kingsley continued the prehearing conference to Tuesday, April 22,
11 2008, at 11:00 a.m. On April 22, 2008, a representative for the Department and Respondent attended
12 the telephonic prehearing conference, at which Respondent again requested a continuance to permit
13 him to retain an attorney. On May 5, 2008, ALJ Kingsley issued a Prehearing Order continuing the
14 prehearing conference to Tuesday, May 13, 2008, at 1:30 p.m. That Order contained the following
15 instruction to the parties: **“Any party failing to appear, attend, or otherwise participate in the
16 hearing, at any stage of this proceeding, may be held in default and a decision may be entered
17 against their interest.”**
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19 On May 13, 2008, the prehearing conference was convened by ALJ Kingsley at 1:30 p.m.
20 Respondent failed to appear. The Department moved for an order of default based on Respondent’s
21 failure to appear. On May 15, 2008, ALJ Kingsley issued an Order of Dismissal Appellant Default
22 (Default Order) dismissing Respondent’s appeal. On May 15, 2008, ALJ Kingsley sent the Default
23 Order to the address in Respondent’s Application for Adjudicative Hearing.
24

1 Pursuant to RCW 34.05.440(3), Respondent had seven days from the date of service of the
2 Default Order to file a written motion with OAH requesting that the Default Order be vacated, and
3 stating the grounds relied upon. Respondent did not make a request to vacate during the statutory
4 period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty days from the date
5 of service of the Default Order to file a Petition for Review of the Default Order with the Director.
6 Respondent did not file a Petition for Review during the statutory period.

7 B. Record Presented. The record presented to the Director for review and for entry of a
8 final decision included the following:
9

- 10 1. Statement of Charges, cover letter dated December 5, 2007, and Notice of
Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 11 2. Application for Adjudicative Hearing;
- 12 3. Request to OAH for Assignment of Administrative Law Judge;
- 13 4. Notice of Assignment of Administrative Law Judge dated March 19, 2008, with
14 documentation of service;
- 15 5. Notice of Prehearing Conference by Telephone dated April 2, 2008, with
16 documentation of service;
- 17 6. Prehearing Order-Continuance dated April 11, 2008, with documentation of service;
- 18 7. Prehearing Order Continuing Prehearing Conference dated May 5, 2008, with
documentation of service;
- 19 8. Order of Dismissal Appellant Default dated May 15, 2008, with documentation of
20 service.

21 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the
22 Director hereby adopts the Statement of Charges, which is attached hereto.
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1 II. FINAL ORDER

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

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent James Michael Odell's application for a loan originator license is denied;
6 and
7 2. Respondent James Michael Odell is banned from participation in the conduct of the
8 affairs of any mortgage broker subject to licensure by the Director, in any manner,
through January 8, 2014.

9 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has 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 days of service of the Final Order upon Respondent. The Petition
14 for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a
15 prerequisite for seeking judicial review in this matter.
16

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

20 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
21 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
22 Review made under chapter 34.05 RCW and RCW 34.05.550.
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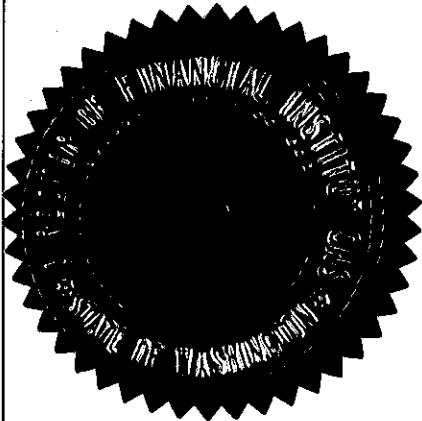
1 D. Judicial Review. Respondent has the right to petition the superior court for judicial
2 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
3 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

4 E. 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 21st day of July, 2008

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10 STATE OF WASHINGTON
11 DEPARTMENT OF FINANCIAL INSTITUTIONS

12 
13 SCOTT JARVIS
14 DIRECTOR



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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 MICHAEL ODELL,

Respondent.

NO. C-07-490-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION
AND PROHIBIT FROM INDUSTRY

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 James Michael Odell (Respondent Odell) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Loan Services, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about January 8, 2007.

1.2 Prior Criminal Acts. On April 4, 2003, Respondent Odell pled guilty in the City of Kent, Washington, Municipal Court to the crime of Making a False Statement to a Public Servant, a crime of dishonesty and a gross misdemeanor violation of RCW 9A.76.175.

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:

¹ 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 Odell answered "no" to the following questions on the "Criminal Disclosure" section of his loan
3 originator license application:

- 4 • 5-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a
5 domestic, foreign, or military court to a misdemeanor involving: financial services or a
6 financial services-related business or any fraud, false statements or omissions, theft or any
7 wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a
8 conspiracy to commit any of these offenses?
- 9 • 6-Have you ever been charged with a misdemeanor specified in 5?

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

10 II. GROUNDS FOR ENTRY OF ORDER

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

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

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

24 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
25 forth in Section I above, Respondent Odell fails to meet the requirements of RCW 19.146.310(1)(g) and WAC

1 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence of
2 the community and to warrant a belief that the business will be operated honestly and fairly within the purposes
3 of the Act.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

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

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

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

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

19 **4.1** Respondent James Michael Odell's application for a loan originator license be denied.

20 **4.2** Respondent James Michael Odell be prohibited from participation in the conduct of the affairs of any
21 mortgage broker subject to licensure by the Director, in any manner, through January 8, 2014.

22 **V. AUTHORITY AND PROCEDURE**

23 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and
24 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
25 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
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 5th day of December 2007.
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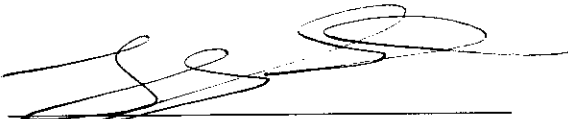
6 DEBORAH BORTNER
7 Director
8 Division of Consumer Services
9 Department of Financial Institutions

10 Presented by:

11 

12 STEVEN C. SHERMAN
13 Financial Legal Examiner

14 Approved by:

15 

16 FATIMA BATIE
17 Financial Legal Examiner Supervisor

