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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:

VITALY GOLYAKOV,
Respondent.

NO. C-07-494-08-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), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On December 17, 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 December 18, 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 December 18, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on December 18, 2007 by first class mail and Federal Express overnight delivery. On December 28, 2007, the documents sent via Federal Express overnight delivery were returned to the Department as undeliverable. The documents sent via first class mail were not returned to the Department by the United States Postal Service.

1 Respondent 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 Statement of Charges, cover letter dated December 18, 2007,
6 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative
7 Hearing, with documentation of service.

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

11 II. FINAL ORDER

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

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondent Vitaly Golyakov's application for a loan originator license is denied; and
- 16 2. Respondent Vitaly Golyakov is banned from participation in the conduct of the affairs
17 of any mortgage broker subject to licensure by the Director, in any manner, through
18 June 5, 2014.

19 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
20 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
21 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
22 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
23 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
24

1 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
2 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

12 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
13 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
14 attached hereto.
15

16 DATED this 4th day of August, 2008.



17 STATE OF WASHINGTON
18 DEPARTMENT OF FINANCIAL INSTITUTIONS

19 *Deborah Bortner*
20 DEBORAH BORTNER
21 DIRECTOR
22 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:

VITALY GOLYAKOV,

Respondent.

NO. C-07-494-07-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 Vitaly Golyakov (Respondent Golyakov) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Axis Financial LLC, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about June 5, 2007.

1.2 Prior Criminal Acts. On January 27, 2004, Respondent Golyakov was charged with one count of Conspiracy to Distribute Oxycodone HCI in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(c)

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

1 and 846, a Felony, in the United States District Court, Western District of Washington at Tacoma. On
2 August 10, 2005, Respondent Golyakov pled guilty to one count of Misprision of a Felony, in
3 violation of 18 U.S.C. § 4, a Felony and was sentenced to the same on January 12, 2006.

4 **1.3 Responses to Application Questions.** The “Criminal Disclosure” section of the loan
5 originator license application consists of eight questions, and includes the following instruction:

6 “If the answer to any of the following is “YES”, provide complete details of all events or
7 proceedings”
8

9 Respondent Golyakov answered “no” to the following questions on the “Criminal Disclosure” section
10 of his loan originator license application:

- 11 • 1-Have you ever been convicted of or plead guilty or nolo contendere (“no contest”) in
12 a domestic, foreign, or military court to any felony?
- 13 • 2- Been charged with any felony?

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

17 II. GROUNDS FOR ENTRY OF ORDER

18 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section
19 I above, Respondent Golyakov fails to meet the requirements of RCW 19.146.310(1)(d) and WAC
20 208-660-350(2)(c) by having been convicted of a gross misdemeanor involving dishonesty or financial
21 misconduct or a felony within seven years of the filing of the present application.
22

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

1 connection with any application or any information filed by a licensee in connection with any
2 application, examination or investigation conducted by the Department.

3 **2.3 Requirement to Provide Information on License Application.** Based on the Factual
4 Allegations set forth in Section I above, Respondent Golyakov fails to meet the requirements of RCW
5 19.146.300(1) and (2) and RCW 19.146.310(1)(b) by failing to provide an accurate and complete
6 license application in the form prescribed by the Director.

7
8 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual
9 Allegations set forth in Section I above, Respondent Golyakov fails to meet the requirements of RCW
10 19.146.310(1) (g) and WAC 208-660-350(2) (a) by failing to demonstrate character and general
11 fitness such as to command the confidence of the community and to warrant a belief that the business
12 will be operated honestly and fairly within the purposes of the Act.

13 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

19
20 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5) (a), the Director may
21 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
22 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
23 mortgage broker or any person subject to licensing under the Act for any violation of RCW
24 19.146.0201(1) through (9).

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

2 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
3 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
4 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW
5 19.146.223 and RCW 19.146.310. Therefore, it is the Director's intention to ORDER that:


- 6 **4.1** Respondent Vitaly Golyakov's application for a loan originator license be denied.
7
8 **4.2** Respondent Vitaly Golyakov be prohibited from participation in the conduct of the affairs of
9 any mortgage broker subject to licensure by the Director, in any manner, through June 5, 2014.

10 **V. AUTHORITY AND PROCEDURE**

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

17 Dated this 17th day of December, 2007.



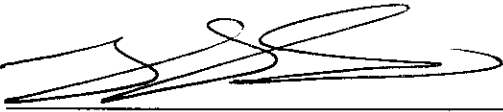
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20 DEBORAH BORTNER
21 Director
22 Division of Consumer Services
23 Department of Financial Institutions

24 Presented by:

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EDWARD JURSEK
Enforcement Attorney

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Approved by:



FATIMA BATIE
Financial Legal Examiner Supervisor