

TERMS COMPLETED

FINAL ORDER SUMMARY – Case Number: C-07-528

Name(s) Khai Cong Nguyen

Order Number C-07-528-09-FO01

Effective Date August 6, 2009

License Number 30802

License Effect Denied

Not Apply until January 23, 2014

Prohibition/Ban until January 22, 2014

\$	Due	Paid	Date
		Y N	

\$	Due	Paid	Date
		Y N	

\$	Due	Paid	Date
		Y N	

Other

Special Instructions



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

KHAI CONG NGUYEN,

Respondent.

NO. C-07-528-09-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. 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 17, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Khai Cong Nguyen. The Department served the Statement of Charges, cover letter dated December 17, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Khai Cong Nguyen on Respondent on December 18, 2007, by First-Class mail and Federal Express overnight delivery.

1 On January 2, 2008, Respondent filed an Application for Adjudicative Hearing. On January 3,
2 2008, the Department made a request to the Office of Administrative Hearings (OAH) to assign an
3 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On
4 January 28, 2008, OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ
5 Robert P. Kingsley (ALJ Kingsley) to preside over prehearing and hearing proceedings and issue an
6 Initial Decision. On February 5, 2008, ALJ Kingsley issued a Notice of Pre-Hearing Conference by
7 Telephone scheduling a prehearing conference on Tuesday, February 26, 2008, at 1:00 p.m.

8 On February 26, 2008, all parties attended a telephonic prehearing conference. On March 20,
9 2008, ALJ Kingsley issued a Prehearing Order scheduling a hearing on May 8, 2008. On May 8, 2008,
10 Respondent requested a continuance via telephone due to personal illness. ALJ Kingsley continued
11 the hearing to a date to be set later.
12

13 On March 3, 2009, ALJ Kingsley issued a Notice of Hearing rescheduling the hearing for
14 March 30, 2009, at 9:00 a.m. On March 30, 2009, all parties attended the hearing. On June 1, 2009,
15 ALJ Kingsley issued Findings of Fact, Conclusions of Law, and Initial Order (Initial Order). This
16 Initial Order –

- 17 • found that Respondent is not eligible for a loan originator's license; and
- 18 • ordered that Respondent is banned from participating in the affairs of a licensed mortgage
19 broker until after January 22, 2014.

20 On June 1, 2008, ALJ Kingsley mailed the Initial Decision and Order to Respondent at the address
21 Respondent provided on his Application for Adjudicative Hearing.

22 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had 20 days from the date of
23 service of the Initial Decision and Order to file a Petition for Review of the Initial Decision and Order.
24 Respondent did not file a Petition for Review during the statutory period.
25

1 B. Record Presented. The record presented to the Director for his review and for entry of
2 a final decision included the following:

- 3 1. Statement of Charges, cover letter dated December 18, 2007, and Notice of
4 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 5 2. Applications for Adjudicative Hearing for Khai Cong Nguyen;
- 6 3. Request to OAH for Assignment of Administrative Law Judge;
- 7 4. Notice of Assignment of Administrative Law Judge dated January 23, 2008, with
8 documentation of service;
- 9 5. Notice of Pre-Hearing Conference by Telephone dated February 5, 2008, with
10 documentation of service;
- 11 6. Prehearing Order dated March 20, 2008, with documentation of service;
- 12 7. Notice of Hearing dated March 3, 2009, with documentation of service; and
- 13 8. Findings of Fact, Conclusions of Law, and Initial Order dated June 1, 2009, with
14 documentation of service;

15 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director
16 hereby adopts the Findings of Fact, Conclusions of Law, and Initial Order, which is attached hereto.

17 II. FINAL ORDER

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

20 A. IT IS HEREBY ORDERED, that:

- 21 1. Respondent Khai Cong Nguyen's application for a license to conduct the business of a
22 Loan Originator is denied; and
- 23 2. Respondent insert Khai Cong Nguyen is banned from participation in the conduct of
24 the affairs of any mortgage broker subject to licensure by the Director, in any manner,
25 through January 22, 2014.

1 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
2 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
3 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
4 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten days of service of the Final Order upon Respondents. The Petition
6 for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a
7 prerequisite for seeking judicial review in this matter.

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

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

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

17 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
18 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
19 attached thereto.
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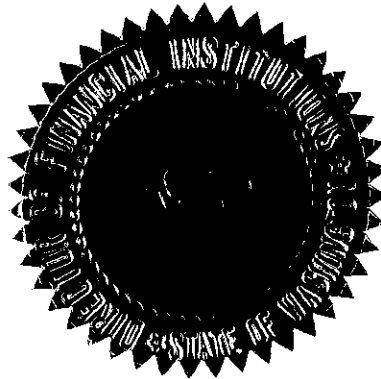
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1 DATED this 6th day of August 2009.

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3 STATE OF WASHINGTON
4 DEPARTMENT OF FINANCIAL INSTITUTIONS

5 [REDACTED]
6 SCOTT JARVIS
7 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:

KHAI CONG NGUYEN,

Respondent.

NO. C-07-528-07-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 Khai Cong Nguyen (Respondent Nguyen) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Property Network, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about January 22, 2007.

1.2 Prior Criminal Acts. On July 10, 2006, Respondent Nguyen was charged in the Superior Court of Washington for King County with three felony charges of [REDACTED] and two felony charges of [REDACTED]. Respondent Nguyen subsequently plead guilty on February 16, 2007, to all three felony charges of [REDACTED] and one of the felony charges of [REDACTED].

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

1 **1.3 Responses to Application Questions.** The "Criminal Disclosure" section of the loan originator license
2 application consists of eight questions, and includes the following instruction:

3 "If the answer to any of the following is "YES", provide complete details of all events or proceedings"
4 Respondent Nguyen answered "no" to the following question on the "Criminal Disclosure" section of his/her
5 loan originator license application:

- 6 • 2-Have you ever charged with any felony?

7 Respondent Nguyen 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 Nguyen 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
14 Nguyen is in apparent violation of RCW 19.146.020(8) and WAC 208-660-500(3)(i) for negligently making
15 any false 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 Nguyen 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 Nguyen fails to meet the requirements of RCW 19.146.310(1)(g) and
24 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
25

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 Khai Cong Nguyen's application for a loan originator license be denied.

19 **4.2** Respondent Khai Cong Nguyen be prohibited from participation in the conduct of the affairs of any
20 mortgage broker subject to licensure by the Director, in any manner, through January 22, 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 17th day of December, 2007.

4
5
6 DEBORAH BORTNER
7 Director
8 Division of Consumer Services
9 Department of Financial Institutions

10 Presented by:

11 STEVEN C. SHERMAN
12 Financial Legal Examiner

13 Approved by:

14
15 FATIMA BATIE
16 Financial Legal Examiner Supervisor

