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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-08-004-08-FO01

FIRST MORTGAGE OF AMERICA, INC., and  
PEPI ABAD, President and Owner,  
Respondents.

FINAL ORDER

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) pursuant to RCW 34.05.440(2). On March  
18, 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, Prohibit from  
Industry, Collect Annual Assessments, Impose Fine, and Collect Investigation 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 March 25, 2008, a  
Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for  
Adjudicative Hearing for First Mortgage of America, Inc. and Pepi Abad. The Department served the  
Statement of Charges, cover letter dated March 25, 2008, Notice of Opportunity to Defend and  
Opportunity for Hearing, and blank Applications for Adjudicative Hearing for First Mortgage of  
America, Inc. and Pepi Abad on Respondents, on March 25, 2008 by first class mail and Federal  
Express overnight delivery.

On April 7, 2008, Respondents each filed an Application for Adjudicative Hearing. On June  
27, 2008, the Department made a request to the Office of Administrative Hearings (OAH) to assign an

1 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On  
2 July 25<sup>th</sup>, 2008, ALJ Cindy L. Burdue (ALJ Burdue) issued a Notice of Prehearing Conference by  
3 Telephone, scheduling a prehearing conference on Monday, August 4, 2008 at 2:10 p.m. That Order  
4 noted "If you fail to appear or participate in the prehearing conference, hearing, or any other scheduled  
5 stage of these proceedings, you may lose your right to a hearing as described in RCW 34.05.440."

6 On August 4, 2008, the prehearing conference was convened by ALJ Burdue at 2:10 p.m.  
7 Respondents failed to appear for the scheduled hearing by 20 minutes past the appointed hearing time.  
8 The Department moved for an order of default based on Respondents' failure to appear. On August 7,  
9 2008, ALJ Burdue issued a Default Order/Order Dismissing Appeal and Affirming Statement of  
10 Charges and Department Action (Default Order) affirming the Statement of Charges. On August 7,  
11 2008, ALJ Burdue sent the Default Order to the address in Respondents' Applications for Adjudicative  
12 Hearing.  
13

14 Pursuant to RCW 34.05.440(3), Respondents had seven (7) days from the date of service of the  
15 Default Order to file a written motion with OAH requesting that the Default Order be vacated, and  
16 stating the grounds relied upon. Respondents did not make a request to vacate during the statutory  
17 period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty (20) days from  
18 the date of service of the Default Order to file a Petition for Review of the Default Order with the  
19 Director. Respondents did not file a Petition for Review during the statutory period.  
20

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

- 23 1. Statement of Charges, cover letter dated March 25, 2008, and Notice of Opportunity  
24 to Defend and Opportunity for Hearing, with documentation of service;

- 1 2. Applications for Adjudicative Hearing for First Mortgage of America, Inc. and Pepi  
2 Abad, President and Owner;
- 3 3. Request to OAH for Assignment of Administrative Law Judge;
- 4 4. Notice of Prehearing Conference by Telephone dated July 25, 2008, with  
5 documentation of service;
- 6 5. Default Order/Order Dismissing Appeal and Affirming Statement of Charges dated  
7 August 7, 2008, with documentation of service.

8 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the  
9 Director hereby adopts the Statement of Charges, which is attached hereto.

## 10 II. FINAL ORDER

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

### 13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent First Mortgage of America, Inc.'s license to conduct the business of a  
15 Consumer Loan company is revoked; and
- 16 2. Respondent First Mortgage of America, Inc. is banned from participation in the  
17 conduct of the affairs of any consumer loan company subject to licensure by the  
18 Director, in any manner, for a period of five (5) years; and
- 19 3. Respondent Pepi Abad is banned from participation in the conduct of the affairs of  
20 any consumer loan company subject to licensure by the Director, in any manner, for a  
21 period of five (5) years; and
- 22 4. Respondents First Mortgage of America, Inc. and Pepi Abad jointly and severally pay  
23 the cumulative delinquent Annual Assessment Late Penalties totaling \$41; and
- 24 5. Respondents First Mortgage of America, Inc. and Pepi Abad jointly and severally pay  
25 a fine of \$18,000; and
6. Respondents First Mortgage of America, Inc. and Pepi Abad jointly and severally pay  
an investigation fee of \$703.90; and

1 7. Respondents maintain records in compliance with the Act and provide the Department  
2 with the location of the books, records and other information relating to Respondent  
3 First Mortgage of America, Inc.'s consumer loan business, and the name, address and  
4 telephone number of the individual responsible for the maintenance of such records in  
5 compliance with the Act.

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

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

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

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

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

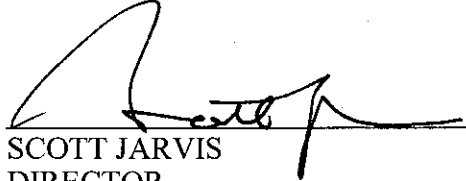
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F. Service. For purposes of filing a Petition for Reconsideration or a Petition for  
Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
attached hereto.

DATED this 2<sup>nd</sup> day of October, 2008.



STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

  
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SCOTT JARVIS  
DIRECTOR

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

FIRST MORTGAGE OF AMERICA, INC., and  
PEPI ABAD, President and Owner,

Respondents.

NO. C-08-004-08-SC01

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

**INTRODUCTION**

Pursuant to RCW 31.04.093, 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)<sup>1</sup>. 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:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondents.**

A. **First Mortgage of America, Inc. (First Mortgage)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to engage in the business of making secured or unsecured loans of money, credit, or things in action at interest rates authorized by the Act on October 5, 2005, and has continued to be licensed to date. Respondent First Mortgage is licensed to engage in the business of a consumer loan company at one (1) location.

B. **Pepi Abad (Abad)** is President, CEO and 100% owner of Respondent First Mortgage.

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<sup>1</sup> RCW 31.04

1 **1.2 Failure to Maintain Bond.** On June 22, 2007, the Department received notice from the Hartford Fire  
2 Insurance Company that Respondent First Mortgage's surety bond would be cancelled, effective July 22, 2007.  
3 To date, Respondents have failed to notify the Department of the cancellation of the surety bond, and have  
4 failed to provide the required surety bond or an approved alternative.

5 **1.3 Failure to Respond to Directives.** On July 17, 2007 and October 15, 2007, the Department served  
6 directives on Respondents by First Class mail. These directives were not returned by the United States Postal  
7 Service. These directives variously required Respondent to provide the second page of its 2006 Consolidated  
8 Annual Report, pay its remaining \$41 Annual Assessment Late Penalty, and provide a surety bond or  
9 acceptable alternative. To date, the Department has not received a response to these directives.

10 **1.4 Failure to Notify Department of Significant Developments.**

11 A. As stated in paragraph 1.2, to date, Respondents have not notified the Department of the  
12 cancellation of Respondent First Mortgage's surety bond.

13 B. To date, Respondents have not notified the Department of a change in location of Respondent  
14 First Mortgage's principal place of business. The Department learned in June of 2007 that Respondent's  
15 address had changed from 2823 S. Bristol St. Santa Ana, CA 92704 to 2911 S. Bristol St. Santa Ana, CA  
16 92704.

17 C. On July 17, 2007, the State of New Hampshire Banking Department (New Hampshire Banking  
18 Department) issued Staff Petition number 07-164 seeking, among other things, license revocation, fines and  
19 administrative penalties against Respondent First Mortgage. On September 10, 2007, the New Hampshire  
20 Banking Department issued an Order of Default Judgment revoking Respondent First Mortgage's license and  
21 imposing an administrative fine in the amount of \$5,000. To date, Respondents have not notified the  
22 Department of this action.

23 D. On January 18, 2008, the State of Illinois Department of Financial and Professional Regulation  
24 Division of Banking (Illinois Division of Banking) issued Order No. 2008-MBR-21 suspending the license of  
25

1 Respondent First Mortgage. Also on January 18, 2008 the Illinois Division of Banking issued Order No. 2008-  
2 MBR-21-b assessing a fine of \$5,000. To date, Respondents have not notified the Department of this action.

3 E. On July 26, 2007 the State of Connecticut Department of Banking (Connecticut Department of  
4 Banking) issued a notice of automatic suspension, notice of intent to revoke first mortgage broker license and  
5 notice of right to hearing seeking to revoke Respondent First Mortgage's license. On August 28, 2007 the  
6 Connecticut Department of Banking issued an order revoking Respondent First Mortgage's license. To date,  
7 Respondents have not notified the Department of this action.

8 **1.5 Failure to Pay Annual Assessment Late Penalty.** An annual assessment fee for each license is due to  
9 the Department no later than the 1<sup>st</sup> day of March of the following year. To date, the Department has not  
10 received the following annual assessment late penalty due from Respondents, totaling \$41. Payment of the  
11 annual assessment of \$187.62 for the year ended December 31, 2006 was due to the Department no later than  
12 the 1st day of March, 2007. Respondent paid this annual assessment on March 2, 2007. Additionally,  
13 Respondent paid \$59.00 of the \$100.00 late penalty on March 2, 2007. In addition, payment of the annual  
14 assessment for the year ended December 31, 2007 will be due to the Department no later than March 1<sup>st</sup>, 2008.

15 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
16 Respondents continues to date.

## 17 II. GROUNDS FOR ENTRY OF ORDER

18 **2.1 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I  
19 above, Respondents are in apparent violation of RCW 31.04.045(3) and WAC 208-620-320 for failing to file  
20 and maintain a surety bond or approved alternative with the Department.

21 **2.2 Requirement to Respond to Directive.** Based on the Factual Allegations set forth in Section I above,  
22 Respondents are in apparent violation of RCW 31.04.145 for failure to comply with a directive issued by the  
23 Department.

24 **2.3 Requirement to Notify Department of Significant Developments.** Based on the factual allegations  
25 set forth in Section I above, Respondents are in apparent violation of WAC 208-620-490(2) for failure to notify



1 the director in writing within ten days after an occurrence of a change in mailing address, telephone number, fax  
2 number, or e-mail address; cancellation or expiration of its Washington state master business license; change in  
3 its standing with the state of Washington secretary of state, including the resignation or change of the registered  
4 agent; failure to maintain the appropriate unimpaired capital under WAC 208-620-340 or receipt of notification  
5 of cancellation of the licensee's surety bond. Respondents are in apparent violation of WAC 208-620-490(3)  
6 for failure to notify the director in writing within twenty days after receipt of notification of the institution of  
7 license revocation procedures in any state against the licensee; the filing of a felony indictment or information  
8 related to lending or brokering activities of the licensee, or any officer, board director, or principal of the  
9 licensee or an indictment or information involving dishonesty of the licensee, or any officer, board director, or  
10 principal of the licensee; the licensee, or any officer, director, or principal of the licensee is convicted of a  
11 felony, or a gross misdemeanor involving lending, brokering or financial misconduct; or the filing of any  
12 material litigation against the licensee.

13 **2.4 Requirement to Pay Annual Assessment.** Based on the Factual Allegations set forth in Section I  
14 above, Respondents are in apparent violation of RCW 31.04.085, WAC 208-620-430(1) and WAC 208-620-440  
15 for failing to pay to the Director an annual assessment late penalty.

### 16 III. AUTHORITY TO IMPOSE SANCTIONS

17 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3), the Director may revoke a license if a  
18 licensee fails to pay any fee due the state of Washington, or fails to comply with any specific order or demand  
19 of the Director lawfully made and directed to the licensee in accordance with the Act, or violates any provision  
20 of the Act or any rule adopted under the Act either knowingly or without exercise of due care.

21 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6), the Director may issue  
22 orders removing from office or prohibiting from participation in the conduct of the affairs of any licensee, or  
23 both, any officer, principal, employee, or loan originator or any person subject to the Act for suspension or  
24 revocation of a license to engage in lending, or perform a settlement service related to lending, in this state or  
25 another state or failure to comply with any order or subpoena issued under this chapter.

1 **3.3 Authority to Collect Annual Assessments and Late Fees.** Pursuant to RCW 31.04.085 and WAC 208  
2 620-430(1) each licensee must pay to the Director an annual assessment as determined in rule by the Director by  
3 March 1<sup>st</sup> of the following year. Pursuant to WAC 208-620-430(2) a licensee that fails to submit the required  
4 annual report and worksheet by the March 1<sup>st</sup> due date is subject to a penalty of fifty dollars per report for each day  
5 of delay.

6 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one  
7 hundred dollars per day on a licensee, its employee or loan originator, or other person subject to the Act for any  
8 violations of the Act, or failure to comply with any order or subpoena issued by the director under this chapter.

9 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590(1), upon  
10 completion of any investigation of the books and records of a licensee or other person subject to the Act, the  
11 Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the  
12 investigation. The investigation charge will be calculated at the rate of sixty nine dollars and one cent (\$69.01) per  
13 hour that each staff person devoted to the investigation.

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

15 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in  
16 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 31.04.093. Therefore, it is the Director's intention to ORDER that:

- 18 **4.1** Respondent First Mortgage Inc.'s license to conduct the business of a consumer loan company be  
19 revoked;
- 20 **4.2** Respondent First Mortgage, Inc. be prohibited from participation in the conduct of the affairs of any  
21 consumer loan company subject to licensure by the Director, in any manner, for a period of five (5) years;
- 22 **4.3** Respondent Pepi Abad be prohibited from participation in the conduct of the affairs of any consumer loan  
23 company subject to licensure by the Director, in any manner, for a period of five (5) years;
- 24 **4.4** Respondents First Mortgage Inc. and Pepi Abad jointly and severally pay the cumulative delinquent  
25 Annual Assessment Late Penalties totaling \$41, as calculated in paragraph 1.5.;
- 4.5** Respondents First Mortgage Inc. and Pepi Abad jointly and severally pay a fine of \$18,000;

1 4.6 Respondents First Mortgage Inc. and Pepi Abad jointly and severally pay an investigation fee in the  
2 amount of \$703.90 calculated at \$69.01 per hour for the ten and two tenths (10.2) staff hours devoted to the  
investigation up to the date of this Statement of Charges; and

3 4.7 Respondents maintain records in compliance with the Act and provide the Department with the location of  
4 the books, records and other information relating to Respondent First Mortgage's consumer loan business,  
and the name, address and telephone number of the individual responsible for maintenance of such records  
5 in compliance with the Act.

### 6 V. AUTHORITY AND PROCEDURE

7 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit from  
8 Industry, Collect Annual Assessments, Impose Fine, and Collect Investigation Fee (Statement of Charges) is  
9 entered pursuant to the provisions of RCW 31.04.093, and is subject to the provisions of chapter 34.05 RCW  
10 (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the  
11 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
Statement of Charges.

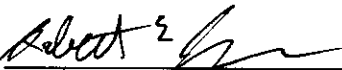
12 Dated this 18<sup>th</sup> day of March, 2008.



DEBORAH BORTNER

Director  
Division of Consumer Services  
Department of Financial Institutions

16 Presented by:



ROBERT E. JONES  
Financial Legal Examiner

20 Approved by:



JAMES R. BRUSSELBACK  
Enforcement Chief

