

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

KATHLEEN M. HOLMES,  
aka KATHLEEN M. NEWGAARD,  
aka K. MARY NEWGAARD  
Loan Originator,

Respondent.

NO. C-08-061-08-FO01

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), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On February 27, 2008, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, and Collect Investigative 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 28, 2008, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Kathleen M. Holmes. The Department served the Statement of Charges, cover letter dated February 28, 2008, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Kathleen M. Holmes on Respondent on February 28, 2008, by first class mail at her residence and by Federal Express overnight delivery at her place of employment. On March 3, 2008, the documents sent via Federal Express

1 overnight delivery were delivered to Respondent's place of business. Respondent telephoned the  
2 Department the same day and acknowledged receipt of the documents. The documents sent via first  
3 class mail were not returned to the Department by the United States Post Office as undeliverable.

4 A representative of the Department met with Respondent on March 4, 2008, and explained the  
5 documents Respondent had received. Additionally the Department's representative telephoned  
6 Respondent later the same day and reminded Respondent of the requirement to timely file the  
7 Application for Adjudicative Hearing to request a hearing. Respondent, however, did not request an  
8 adjudicative hearing within twenty calendar days after the Department served her with the Notice of  
9 Opportunity to Defend and Opportunity for Hearing, as provided for in WAC 208-08-050(2).  
10

11 B. Record Presented. The record presented to the Director's designee for her review and  
12 for entry of a final decision included the Statement of Charges, cover letter dated February 28, 2008,  
13 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative  
14 Hearing for Kathleen M. Holmes, with documentation of service;

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

## 17 II. FINAL ORDER

18 Based upon the foregoing, and the Director's designee having considered the record and  
19 being otherwise fully advised, NOW, THEREFORE:  
20

21 A. IT IS HEREBY ORDERED, That:

- 22 1. Respondent Kathleen M. Holmes is banned from participation in the conduct of the  
23 affairs of any mortgage broker subject to licensure by the Director, in any manner, for  
24 a period of one (1) year; and
- 25 2. Respondent Kathleen M. Holmes shall pay a fine of \$5,000; and



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

4 DATED this 7<sup>th</sup> day of April, 2008.



6 STATE OF WASHINGTON  
7 DEPARTMENT OF FINANCIAL INSTITUTIONS

8 A handwritten signature in black ink, appearing to read "Deborah Bortner".

9 DEBORAH BORTNER  
10 DIRECTOR  
11 DIVISION OF CONSUMER SERVICES

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9

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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

NO. C-08-061-08-SC01

KATHLEEN M. HOLMES,  
aka KATHLEEN M. NEWGAARD,  
aka K. MARY NEWGAARD  
Loan Originator,

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

Respondent.

10  
11  
12  
13  
14  
15  
16

**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)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.235, 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:

17  
18  
19  
20  
21  
22  
23  
24  
25

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent. Kathleen M. Holmes (Respondent Holmes)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) on or about April 20, 2007, for a license to conduct business as a loan originator. Respondent Holmes filed a Form MU4 on or about May 24, 2007, establishing a relationship with America One Finance, Inc., a licensed mortgage broker. America One Finance, Inc., notified the Department on or about June 11, 2007, that its relationship with Respondent Holmes had been terminated effective June 6, 2007. On June 8, 2007, Respondent Holmes filed a Form MU4 with the Department establishing a relationship with Washington Financial Group, Inc., effective May 25, 2007. Respondent Holmes was issued loan originator license 43292 on or about August 7, 2007, but as of the date of

---

<sup>1</sup> RCW 19.146 (2006)

1 this Statement of Charges Respondent Holmes has not renewed that license. Respondent Holmes is presently  
2 employed by Eagle Home Mortgage.

3 **1.2 Failure to Respond to Directives.** On November 14, 2007, the Department served a subpoena and  
4 directive on Respondent Holmes by U.S. First Class Mail at the address Respondent Holmes provided on her  
5 loan originator license application: 1664 Camillia Ln. SW, Apt. 27-302, Tumwater, Washington 98512. This  
6 directive was not returned to the Department as undeliverable, and the U.S. Post Office confirmed that  
7 Respondent Holmes received mail at that address. To date, the Department has not received a response to this  
8 directive.

9 On January 2, 2008, the Department served a subpoena and directive on Respondent Holmes by Federal  
10 Express Overnight Delivery at Respondent Holmes' place of employment; Eagle Home Mortgage. Respondent  
11 Holmes contacted the Department by telephone on January 3, 2008, and confirmed receipt of the subpoena and  
12 directive. Respondent Holmes informed the Department that she would provide the information required by the  
13 directive as soon as possible and bring it in to the receptionist personally, but to date the Department has not  
14 received a response to this directive.

15 **1.3 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 Failure to Respond to Directives.** Based on the Factual Allegations set forth in Section I above,  
19 Respondent Holmes is in apparent violation of RCW 19.146.235 for failing to respond to a directive or  
20 subpoena of the Director.

21 **2.2 Negligently Making False Statements.** Based on the Factual Allegations set forth in Section I above,  
22 Respondent Holmes is in apparent violation of RCW 19.146.0201(7) for negligently making a false statement in  
23 connection with an investigation conducted by the Department.

24

25

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a) and (b), the Director may impose fines on  
3 a loan originator any violations of RCW 19.146.0201(1) through (9), or for failure to comply with a directive  
4 or order of the Director.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a) and (d), the Director  
6 may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, any  
7 loan originator for any violation of RCW 19.146.0201(1) through (9), or for failure to comply with a directive  
8 or order of the Director.

9 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520(9), and  
10 WAC 208-660-550(5), the Department may collect the costs of investigation. The investigation charge will be  
11 calculated at the rate of forty-eight dollars (\$48) per hour that each staff person devoted to the investigation.

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

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

- 17 **4.1** Respondent Kathleen M. Holmes be prohibited from participation in the conduct of the affairs of any  
18 mortgage broker subject to licensure by the Director, in any manner, for a period of one (1) year; and  
19 **4.2** Respondent Kathleen M. Holmes pay a fine of \$5,000; and  
20 **4.3** Respondent Kathleen M. Holmes pay an investigation fee in the amount of \$624 calculated at \$48 per hour  
for the thirteen (13) staff hours devoted to the investigation to date.

21 //  
22 //  
23 //  
24 //

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, 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 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 27th day of February, 2008.

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Steven C. Sherman
Financial Legal Examiner



Approved by:

JAMES R. BRUSSELBACK
Enforcement Chief

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25