



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

NO. C-08-300-10-FO01

MORTGAGE GALERIA LLC and ROBERTA
LYNNE KELLY, President, Owner and
Designated Broker,
Respondents.

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 May 19, 2009, 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, 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 May 21, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Mortgage Galleria LLC and Roberta Lynne Kelly. On May 21, 2009, the Department of Financial Institutions (Department) served the Statement of Charges, cover letter dated May 21, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Mortgage Galleria LLC and Roberta Lynne Kelly on Respondents by Federal Express overnight delivery and First-Class mail. The documents sent via Federal Express overnight delivery were delivered to the

1 Respondents on May 27, 2009. The documents sent via First-Class mail were not returned to the
2 Department by the U.S. Postal Service.

3 On June 16, 2009, Respondents filed an Application for Adjudicative Hearing. On September
4 1, 2009, the Department made a request to the Office of Administrative Hearings (OAH) to assign an
5 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges.
6 OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ Gina L. Hale (ALJ
7 Hale) to preside over prehearing and hearing proceedings and issue an Initial Decision. On September
8 9, 2009, the Attorney General of Washington, through Assistant Attorney General Charles E. Clark,
9 filed a Notice of Appearance on behalf of the Department. On November 10, 2009, ALJ Hale issued a
10 Notice of Prehearing Conference scheduling a telephonic prehearing conference on December 1, 2009,
11 at 9:15 a.m. The hearing was rescheduled to December 2, 2009.
12

13 On December 2, 2009, all parties were present at the telephonic prehearing conference,
14 including Larry Olstad, the Respondents' representative. On December 2, 2009, ALJ Hale issued a
15 Prehearing Conference Order and Notice of Hearing on Motion for Summary Judgment scheduling a
16 hearing on April 2, 2010, at 8:30 a.m.

17 On April 2, 2010, Assistant Attorney General Charles Clark, attorney for the Department,
18 attended the hearing. Respondents did not appear at the hearing. On May 5, 2010, ALJ Hale issued a
19 Corrected Order of Dismissal Due to Respondent Default¹. OAH mailed the Corrected Order of
20 Dismissal Due to Respondent Default to Respondents and their representative, Larry Olstad.
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24 ¹ On April 2, 2010, ALJ Hale issued an Order of Default Due to Respondent Default, but there was no proof of service
25 accompanying the Order.

1 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty (20) days from the
2 date of service of the Corrected Order of Dismissal Due to Respondent Default to file a Petition for
3 Review of the Corrected Order of Dismissal Due to Respondent Default. Respondents did not file a
4 Petition for Review during the statutory period.

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

- 7 1. Statement of Charges, cover letter dated May 21, 2009, and Notice of Opportunity to
8 Defend and Opportunity for Hearing, with documentation of service;
- 9 2. Completed Applications for Adjudicative Hearing for Respondents;
- 10 3. Request to OAH for Assignment of Administrative Law Judge;
- 11 4. Notice of Prehearing Conference dated November 10, 2009, with documentation of
12 service;
- 13 5. Prehearing Conference Order and Notice of Hearing on Motion for Summary
14 Judgment dated December 2, 2009, with documentation of service;
- 15 6. Order of Dismissal Due to Respondent Default dated April 2, 2010;
- 16 7. Corrected Order of Dismissal Due to Respondent Default dated May 5, 2010, with
17 documentation of service.

18 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director
19 hereby adopts the Statement of Charges, which is attached hereto.

20 II. FINAL ORDER

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

23 A. IT IS HEREBY ORDERED, That:

- 1 1. Respondent Mortgage Galleria LLC is prohibited from participation in the conduct of
2 the affairs of any mortgage broker subject to licensure by the Director, in any manner,
3 for a period of 5 years;
- 4 2. Respondent Roberta Lynne Kelly is prohibited from participation in the conduct of the
5 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
6 a period of 5 years;
- 7 3. Respondents Mortgage Galleria LLC and Roberta Lynne Kelly jointly and severally
8 pay a fine of \$6,000;
- 9 4. Respondent Mortgage Galleria LLC pay a fine (in addition to the \$6,000 fine above)
10 of \$3,000;
- 11 5. Respondents Mortgage Galleria LLC and Roberta Lynne Kelly jointly and severally
12 pay the cumulative delinquent Annual Assessments due for 2006 and 2007, totaling
13 \$750.86 for:
 - 14 a. 2006 in the amount of \$530.86, and
 - 15 b. 2007 in the amount of \$220.
- 16 6. Respondents Mortgage Galleria LLC and Roberta Lynne Kelly jointly and severally
17 pay an investigation fee of \$768.
- 18 7. Respondent Mortgage Galeria LLC maintain records in compliance with the Act and
19 provide the Department with the location of the books, records and other information
20 relating to Respondent Mortgage Galeria LLC and Roberta Lynne Kelly's mortgage
21 broker business, and the name, address and telephone number of the individual
22 responsible for maintenance of such records in compliance with the Act.

17 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a

18 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
19 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
20 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
21 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
22 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
23 Reconsideration a prerequisite for seeking judicial review in this matter.
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1 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
2 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
3 notice specifying the date by which it will act on a petition.

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

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

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

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

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17 DATED this 23rd day of June, 2010.



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19 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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22 SCOTT JARVIS
DIRECTOR

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**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:

MORTGAGE GALERIA LLC and ROBERTA
LYNNE KELLY, President, Owner and
Designated Broker,
Respondents.

NO. C-08-300-09-SC01

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

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 19.146.235, and based upon the facts available as of the date of this document, 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. **Mortgage Galeria LLC (Galeria)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on July 22, 2004. Respondent Galeria's mortgage broker's license expired on December 31, 2008.

B. **Roberta Lynne Kelly (Kelly)** was owner and Designated Broker of Respondent Galeria. Respondent Kelly was named Designated Broker of Respondent Galeria on July 22, 2004, and continued in that capacity until Respondent Galeria's license expired. Respondent Kelly was issued a loan originator license on November 15, 2006, which expired on December 31, 2007.

¹ RCW 19.146 (2004) and (2006)

1 **1.2 Failure to Pay Annual Assessments.** An annual assessment fee for each licensee is due to the
2 Department no later than the last business day of the month in which the anniversary date of the issuance of the
3 mortgage broker's license occurred. To date, the Department has not received the following annual assessments
4 due from Respondents, totaling \$750.86:

5 A. Payment of the annual assessment of \$530.86 for 2006, which was due July 31, 2006.

6 B. Payment of the annual assessment of \$220 for 2007, which was due August 30, 2007.

7 **1.3 Failure to Submit Continuing Education Certificates.** A certificate of satisfactory completion of an
8 approved continuing education course by a licensee's Designated Broker is due to the Department no later than
9 the last business day of March of each year. To date, the Department has not received the required certificates
10 from Respondent Kelly for the years 2006 and 2007.

11 **1.4 Failure to Maintain Bond.** On August 28, 2007, the Department received notice from North
12 American Specialty Insurance Company that Respondent Galeria's surety bond would be cancelled, effective
13 September 28, 2007. To date, Respondents have failed to notify the Department of the cancellation of the
14 surety bond, and have failed to provide the required surety bond or an approved alternative through calendar
15 year 2008.

16 **1.5 Failure to Respond to Directives.** On June 15, 2006, the Department sent a directive to Respondents
17 reminding them of their obligation to pay their 2006 assessment of \$530.86 and to submit proof that the
18 continuing education requirements for 2006 had been satisfied. On August 20, 2007, the Department sent a
19 directive to the Respondents reminding them of their obligation to pay their 2006 and 2007 assessments and to
20 submit proof that the continuing education requirements for 2006 and 2007 had been satisfied. On August 25,
21 2008, the Department sent the Respondents a directive reminding them of their obligation to pay the
22 assessments and provide proof of the continuing education requirements for years 2006 and 2007. The
23 Respondents were given until September 4, 2008, to comply with the directive. To date, the Department has
24 not received the assessments or proof that the continuing education requirements have been satisfied. In
25 addition, on September 5, 2008, the Department received telephone calls from the Respondents and their

1 registered agent (he is the husband of Respondent Kelly) in which they informed the Department they have no
2 intention of paying the assessment fees.

3 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
4 Respondents continues to date.

5 **II. GROUNDS FOR ENTRY OF ORDER**

6 **2.1 Requirement to Pay Annual Assessments.** Based on the Factual Allegations set forth in Section I
7 above, Respondents are in apparent violation of RCW 19.146.228(1) and WAC 208-660-550 for failing to pay
8 to the Director an annual assessment fee no later than the last business day of the month in which the
9 anniversary date of the issuance of the mortgage broker's license occurs.

10 **2.2 Requirement to Submit Certificate of Completion of Continuing Education.** Based on the Factual
11 Allegations set forth in Section I above, Respondent Kelly is in apparent violation of RCW 19.146.215 and
12 WAC 208-660-270 for failing to complete the annual continuing education requirement and file a certificate of
13 satisfactory completion no later than the last business day of the month in which the anniversary date of the
14 issuance of the licensee's license occurs.

15 **2.3 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I
16 above, Respondents are in apparent violation of RCW 19.146.205(4)(a) and WAC 208-660-175 for failing to
17 file and maintain a surety bond or approved alternative with the Department.

18 **2.4 Requirement to Respond to Directives.** Based on the Factual Allegations set forth in Section I above,
19 Respondents are in apparent violation of RCW 19.146.235 and WAC 208-660-530 for failing to comply with
20 directives issued by the Department.

21 **III. AUTHORITY TO IMPOSE SANCTIONS**

22 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(iv) (2004) and RCW
23 19.146.220(5)(d) (2006), the Director may issue orders removing from office or prohibiting from participation
24 in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan
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1 originator of any licensed mortgage broker or any person subject to licensing under the Act for failure to
2 comply with a directive or order of the Director.

3 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(ii) (2004), RCW 19.146.220(2)(c)(d) and
4 (e) (2006), and WAC 208-660-530(6), the Director may impose fines on a licensee, employee or loan originator
5 of the licensee, or other person subject to the Act for failing to comply with a directive or order of the Director,
6 failing to pay a fee required by the director or maintain the required bond, or for any violation of the Act.

7 **3.3 Authority to Collect Annual Assessment Fee.** Pursuant to RCW 19.146.228 (2004 and 2006), the
8 director may establish and collect annual assessment fees from each licensee.

9 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) (2004 and 2006) and WAC
10 208-660-520, upon completion of any investigation of the books and records of a licensee or other person subject to
11 the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
12 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person
13 devoted to the investigation.

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

15 Respondents' 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 and RCW 19.146.223. Therefore, it is the
18 Director's intention to ORDER that:

- 19 **4.1** Respondent Mortgage Galeria LLC be prohibited from participation in the conduct of the affairs of any
20 mortgage broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 21 **4.2** Respondent Roberta Lynne Kelly be prohibited from participation in the conduct of the affairs of any
22 mortgage broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 23 **4.3** Respondents Mortgage Galeria LLC and Roberta Lynne Kelly jointly and severally pay the cumulative
24 delinquent Annual Assessments of \$750.86, which represents \$530.86 for 2006, and \$220 for 2007;
- 25 **4.4** Respondents Mortgage Galeria LLC and Roberta Lynne Kelly jointly and severally pay a fine which as of
the date of these charges totals \$9,000;

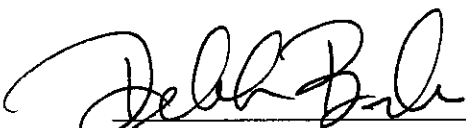
1 **4.5** Respondents Mortgage Galeria LLC and Roberta Lynne Kelly jointly and severally pay an investigation
2 fee which as of the date of these charges totals \$768 calculated at \$48 per hour for the 16 staff hours
3 devoted to the investigation; and

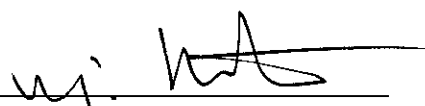
3 **4.6** Respondents Mortgage Galeria LLC and Roberta Lynne Kelly maintain records in compliance with the Act
4 and provide the Department with the location of the books, records and other information relating to
5 Respondent Mortgage Galeria LLC's and Roberta Lynne Kelly's mortgage broker business, and the name,
6 address and telephone number of the individual responsible for maintenance of such records in compliance
7 with the Act.

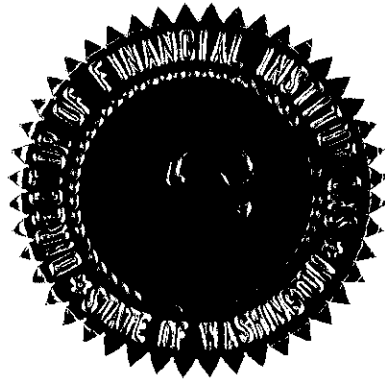
6 **V. AUTHORITY AND PROCEDURE**


7 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Collect
8 Annual Assessments, Impose Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to
9 the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject
10 to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a
11 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
12 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

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14 Dated this 19th day of May, 2009.

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16 
17 DEBORAH BORTNER
18 Director
19 Division of Consumer Services
20 Department of Financial Institutions

19 Presented by:
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21 
22 WILLIAM HALSTEAD
23 Financial Legal Examiner



23 Approved by:
24 
25 JAMES R. BRUSSELBACK
Enforcement Chief