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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 of Washington by:

No.: C-08-351-11-FO01

FINAL ORDER

US FUNDING GROUP-WASHINGTON INC.,
ROBERT DALTON, Loan Originator,
DARREN TOLAN, Loan Originator,

US FUNDING GROUP-WASHINGTON INC.
AND DARREN TOLAN

Respondents.

I. DIRECTOR'S CONSIDERATION

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 April 26, 2010 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 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 April 27, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents US Funding Group-Washington Inc (Respondent US Funding) and Darren Tolan (Respondent Tolan) (collectively Respondents). The Department served the Statement of Charges, cover letter, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing (Statement of Charges packet) on Respondents on April 27, 2010, by United States Postal Service First-Class mail (First-Class mail) and Federal Express overnight delivery.

1 On April 29, 2010, the documents sent via Federal Express overnight delivery to Respondent
2 US Funding were returned to the Department as undeliverable. The documents sent via First-Class
3 mail to Respondent US Funding were also returned to the Department by the United States Postal
4 Service.

5 On May 4, 2010, after obtaining a new address, the Department served the Statement of
6 Charges packet on Respondent US Funding via First-Class mail. The documents sent via First-Class
7 mail to Respondent US Funding were not returned to the Department by the United States Postal
8 Service.

9 On May 4, 2010, the documents sent via Federal Express overnight delivery to Respondent
10 Tolan were returned to the Department as undeliverable. The documents sent via First-Class mail to
11 Respondent Tolan were not returned to the Department by the United States Postal Service.

12 On September 21, 2010, out of an abundance of caution, the Department sent the Statement of
13 Charges packet to Respondent Tolan by United States Postal Service First-Class mail (First-Class
14 mail) and Federal Express overnight delivery. On September 28, 2010, the documents sent via
15 Federal Express overnight delivery were returned to the Department as undeliverable. The
16 documents sent to Respondent Tolan via First-Class mail were not returned to the Department by the
17 United States Postal Service.

18 On October 8, 2010, the Department received confirmation from the Dayton Ohio Branch
19 Office of the United States Post Office that mail addressed to Respondent Tolan was being delivered
20 to the address used by the Department for service of the Statement of Charges packet on both April
21 27, 2010, and September 21, 2010: 4351 Dobbin Circle, Dayton, Ohio, 45424.

1 Respondents did not request an adjudicative hearing within twenty calendar days after the
2 Department served them with the Notice of Opportunity to Defend and Opportunity for Hearing, as
3 provided for in WAC 208-08-050(2).

4 A. Record Presented. The record presented to the Director's designee for her review and
5 for entry of a final decision included the following: Statement of Charges, cover letter, Notice of
6 Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative
7 Hearing for Respondent US Funding and Respondent Tolan, with documentation for service, and
8 United States Postmaster address verification for Respondent Tolan.

9 B. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
10 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 being
13 otherwise fully advised, NOW, THEREFORE:

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondents US Funding Group-Washington Inc and Darren Tolan are prohibited
16 from participation in the conduct of the affairs of any mortgage broker subject to
licensure by the Director; in any manner, for a period of five (5) years; and
- 17 2. Respondents US Funding Group-Washington Inc and Darren Tolan jointly and
18 severally pay a fine of \$50,000; and
- 19 3. Respondents US Funding Group and Darren Tolan jointly and severally pay
investigation fees of \$2,866.80; and
- 20 4. Respondent US Funding Group-Washington Inc. maintain records in compliance
21 with the Act and provide the Department with the location of the books, records,
22 and other information relating to Respondent US Funding Group-Washington
23 Inc.'s mortgage broker business, and the name, address, and telephone number of
the individual responsible for maintenance of such records in compliance with the
Act.

1 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have 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
4 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
6 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
7 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

14 D. Judicial Review. Respondents have 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
16 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

17 E. Non-compliance with Order. If you do not comply with the terms of this order, the
18 Department may seek its enforcement by the Office of the Attorney General to include the collection
19 of the fines and fees imposed herein. The Department also may assign the amounts owed to a
20 collection agency for collection.

21 //

22 //

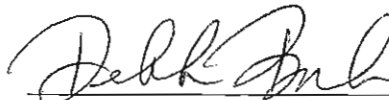
23 //

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

4 DATED this 11th day of February, 2011



6 STATE OF WASHINGTON
7 DEPARTMENT OF FINANCIAL INSTITUTIONS

8 

9 DEBORAH BORTNER

10 Director

11 Division of Consumer Services

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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:

US FUNDING GROUP – WASHINGTON INC.,
ROBERT DALTON, Loan Originator, and
DARREN TOLAN, Loan Originator,

Respondents.

NO. C-08-351-10-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO ENTER AN ORDER TO PROHIBIT
FROM INDUSTRY, 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 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. **US Funding Group – Washington Inc. (Respondent US Funding)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on April 10, 2003, through February 27, 2008, when it surrendered its license.

B. **Robert Dalton (Respondent Dalton)** was a loan originator working for Respondent US Funding during all relevant times for purposes of this Statement of Charges.

C. **Darren Tolan (Respondent Tolan)** was a loan originator working for Respondent US Funding during all times relevant to this Statement of Charges. In 2007, Respondent Tolan applied for a loan originator license with the Department, which was denied as he was ineligible due to his criminal history.

¹ RCW 19.146 (pre-2006)

1 **1.2 Prohibited Acts by Respondent Dalton.** Between at least July 1, 2006, and July 31, 2006,
2 Respondent Dalton worked as a loan originator for Respondent US Funding. While working for US Funding,
3 Respondent Dalton accepted money from borrowers in exchange for credit repair services and to “buy down”
4 the interest rate for a residential home loan. The money received by Respondent Dalton totaled over \$1,500 in
5 checks which were never forwarded to Respondent US Funding or the appropriate trust account. The checks
6 were cashed by Respondent Dalton although they were made payable to US Funding. Respondent Dalton led
7 the borrowers to believe their residential loan had been approved, when he had knowledge the loan had
8 previously been denied by the lender. Respondent Dalton did not provide any credit repair services to the
9 borrowers.

10 In August 2008, Respondent Dalton was charged in the Clark County Washington Superior Court with
11 Theft 1st Degree, Theft 2nd Degree (2 counts), and Mortgage Fraud (3 counts). On February 18, 2009,
12 Respondent Dalton was found guilty of the criminal charges, and Respondent Dalton was sentenced to a prison
13 term of 22 months and ordered to pay restitution to the borrowers.

14 **1.3 Prohibited Acts by Respondent Tolan.** Between at least January 1, 2005, and May 31, 2007,
15 Respondent Tolan, while working as a loan originator for Respondent US Funding, employed a scheme by
16 which he would alter documents, usually in the form of bank statements, in order to qualify borrowers for
17 residential home loans. During the period in question, Respondent Tolan assisted at least 10 borrowers in
18 obtaining at least 7 residential home loans, by creating documents that made it appear that the borrowers had
19 sufficient amounts of cash reserves in their bank accounts when they did not. Respondent Tolan did this by
20 creating false Verification of Deposits (VODs) and presenting them to lenders. The false VODs ranged
21 between \$20,000 and \$100,000. In addition, Respondent Tolan forged the signatures of borrowers on certain
22 loan documents.

23 **1.4 On-Going Investigation.** The Department’s investigation into the alleged violations of the Act by
24 Respondents continues to date.

25

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

2 **2.1 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
3 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (12), and (14) for directly or indirectly employing
4 a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or
5 deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to make
6 disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other
7 applicable state or federal law, making, in any manner, any false or deceptive statement or representation with
8 regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engaging in
9 bait and switch advertising, collecting, charging, attempting to collect or charge or using or proposing any
10 agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or RCW 19.146.070, failing
11 to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

12 **2.2 Requirement to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust.**
13 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
14 19.146.050, for failing to deposit funds received from a borrower or on behalf of a borrower for payment of
15 third-party provider services in a trust account of a federally insured financial institution located in this state,
16 prior to the end of the third business day following receipt of such monies.

17 **2.3 Responsibility for Independent Contractor's Violations.** Pursuant to RCW 19.146.200(1) and WAC
18 208-660-120, a person who independently contracts with a licensed mortgage broker need not be licensed if the
19 licensed mortgage broker and the independent contractor have on file with the Director a binding written
20 agreement under which the licensed mortgage broker assumes responsibility for the independent contractor's
21 violations of any provision of the Act.

22 **III. AUTHORITY TO IMPOSE SANCTIONS**

23 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(i) and (iii), the Director
24 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
25 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage

1 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
2 (12), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,
3 conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a
4 license.

5 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and WAC 208-660-165, the Director
6 may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act
7 for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW 19.146.080,
8 RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265.

9 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and
10 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person
11 subject to the Act, the Department may collect an investigation fee calculated at the rate of forty-seven dollars and
12 seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

13 IV. NOTICE OF INTENTION TO ENTER ORDER

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

- 18 **4.1** Respondent US Funding – Washington Inc. be prohibited from participation in the conduct of the affairs of
19 any mortgage broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 20 **4.2** Respondent Robert Dalton be prohibited from participation in the conduct of the affairs of any mortgage
21 broker subject to licensure by the Director, in any manner, for a period of 10 years;
- 22 **4.3** Respondent Darren Tolan be prohibited from participation in the conduct of the affairs of any mortgage
23 broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 24 **4.4** Respondents US Funding – Washington Inc., Robert Dalton, and Darren Tolan jointly and severally pay a
25 fine which, as of the date of this document, totals \$ 50,000;
- 4.5** Respondents US Funding – Washington Inc., Robert Dalton, and Darren Tolan jointly and severally pay an
investigation fee which, as of the date of this document, totals \$2,866.80, calculated at \$47.78 per hour for
the 60 staff hours devoted to the investigation; and

1 4.6 Respondent US Funding – Washington Inc., maintain records in compliance with the Act and provide the
2 Department with the location of the books, records and other information relating to Respondent U.S.
3 Funding – Washington Inc.’s mortgage broker business, and the name, address and telephone number of
4 the individual responsible for maintenance of such records in compliance with the Act.

5 **V. AUTHORITY AND PROCEDURE**

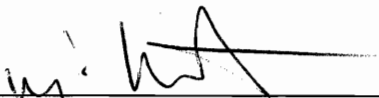
6 This Statement of Charges and Notice of Intention to Enter an Order Prohibit from Industry, Impose
7 Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of
8 RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions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

12 Dated this 26th day of April, 2010.

13 

14 DEBORAH BORTNER
15 Director
16 Division of Consumer Services
17 Department of Financial Institutions

18 Presented by:

19 

20 WILLIAM HALSTEAD
21 Financial Legal Examiner

22 Approved by:

23 

24 JAMES R. BRUSELBACK
25 Enforcement Chief

