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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
Consumer Loan Act of Washington by:

NO. C-08-369-09-CO01

EMPIRE EQUITY GROUP INC. d/b/a 1ST
METROPOLITAN MORTGAGE,

CONSENT ORDER

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Empire Equity Group, Inc, d/b/a 1st Metropolitan Mortgage (hereinafter Respondent), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-369-08-SC01 (Statement of Charges), entered December 8, 2008, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

CONSENT ORDER
C-08-369-09-CO01
EMPIRE EQUITY GROUP INC. d/b/a
1ST METROPOLITAN MORTGAGE,

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
2 before an administrative law judge, and that it has waived its right to a hearing and any and all administrative and
3 judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent,
4 by its signature below, withdraws its appeal to the Office of Administrative Hearings.

5 **C. License Revocation.** It is AGREED that Respondent's license to conduct the business of a consumer
6 loan company is revoked.

7 **D. Agreement Not to Apply.** It is AGREED the Respondent will not apply for a license with the
8 Department for a period of 5 years from the entry date of this Consent Order.

9 **E. Fine.** It is AGREED that Respondent shall pay the Department a fine of \$10,000, in the form of a
10 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

11 **F. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee
12 of \$2,622.38, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of
13 this Consent Order.

14 **G. Maintain Records.** It is AGREED that Respondent will maintain records in compliance with the Act
15 and provide the Director with the location of the books, records, and other information relating to Respondent's
16 consumer loan company business, and the name, address, and telephone number of the individual responsible for
17 maintenance of such records in compliance with the Act, upon entry of this Consent Order.

18 **H. Authority to Execute Order.** It is AGREED that the undersigned Respondent has represented and
19 warranted that it has the full power and right to execute this Consent Order on behalf of the parties represented.

20 **I. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide
21 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the
22 event of such legal action, Respondent may be responsible to reimburse the Director for the cost incurred in
23 pursuing such action, including but not limited to, attorney fees.

1 J. **Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into
2 this Consent Order, which is effective when signed by the Director's designee.

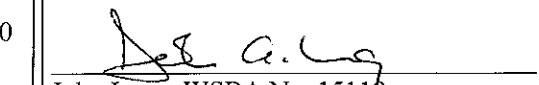
3 K. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent
4 Order in its entirety and fully understands and agrees to all of the same.

5 **RESPONDENT:**

6 EMPIRE EQUITY GROUP INC. d/b/a
7 1ST METROPOLITAN MORTGAGE By:

8 
9 Individual
Title(s):

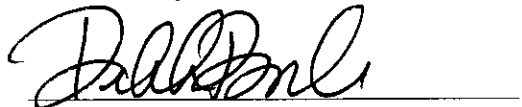
10/27/09
Date

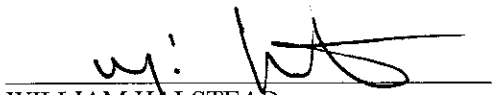
10 
11 John Long, WSBA No. 15119
12 Attorney at Law
Attorney for Respondent

10/28/09
Date


13 DO NOT WRITE BELOW THIS LINE

14 THIS ORDER ENTERED THIS 3rd DAY OF November, 2009.

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

19 Presented by:
20 
21 WILLIAM HALSTEAD
Financial Legal Examiner



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

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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
Consumer Loan Act of Washington by:

EMPIRE EQUITY GROUP INC. d/b/a 1ST
METROPOLITAN MORTGAGE,

Respondent.

NO. C-08-369-08-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO ENTER AN ORDER TO REVOKE OR
SUSPEND LICENSE, PROHIBIT FROM INDUSTRY,
IMPOSE FINE, ORDER RESTITUTION AND COLLECT
INVESTIGATION AND EXAMINATION FEES

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, 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). 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondent.

A. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage (Empire) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a consumer lender on March 20, 2001, under license # 520-CL-18415 and continues to be licensed to date.

1.2 Examination. In April 2008, the Department conducted an on-site examination of Respondent Empire at its place of business at 4720 Piedmont Row Dr., Suite 200, Charlotte, North Carolina. The Department inspected loan documents covering the time period February 3, 2003, through April 30, 2008. There were 48 files reviewed by the Department for the purpose of the examination. As a result of the examination, the Department discovered violations of the Act as described below.

1 **1.3 Deceptive Practices.**

2 **A. Occupancy Fraud.** During the examination, the Department identified at least 2 cases of
3 borrower occupancy fraud involving 3 properties and 4 real estate mortgage loans.

4 The first case of occupancy fraud involved loans C06169420 and NC06169926 that were
5 simultaneously brokered by Respondent Empire for a single borrower. Both loan applications indicated the
6 loans were for owner-occupied primary residences. One of the applications was for the purchase of an owner-
7 occupied primary residence and the other was for the refinance of an owner-occupied primary residence. Both
8 properties were located in Olympia, Washington and both applications were taken on September 15, 2006, by
9 the same loan officer Bill McClure.

10 The second case of occupancy fraud involved loans NC06160567 and NC06160568 in which
11 Respondent Empire, through loan officer Marco Majors, submitted a loan application to lender Long Beach
12 Mortgage Co. as an owner-occupied primary residence. The Department discovered a memo in the loan file
13 dated April 13, 2006, signed by the borrower that indicated the loan was to purchase property so the borrower
14 could move into it. However, the Department also found in the file, a lease agreement signed April 14, 2006,
15 between the borrower and a tenant, which indicated the subject property was for investment.

16 **B. Back Dated Documents.** During the examination, the Department discovered 13 disclosure
17 documents, including Good Faith Estimates (GFEs) and Truth In Lending (TIL) statements, in 7 different loan
18 files that were signed and dated prior to the print date on the documents.

19 **1.4 Failure to Provide Borrowers with Disclosures of Fees, Costs, Annual Percentage Rate and**

20 **Prepayment Penalties.** The Department discovered 10 loan files in which Respondent Empire did not provide
21 borrowers, or provide documentation in the loan files, that the initial Good Faith Estimate (GFE), Annual
22 Percentage Rate (APR) and the existence of a prepayment penalty disclosures were provided within 3 days of
23 having enough information to make a credit decision pursuant to WAC 206-620-512. Respondent Empire
24 routinely pulled the credit report of borrowers and had enough information to make a credit decisions; however,
25 Respondent Empire did not provide the disclosures to borrowers until the loan application was taken, which was

1 beyond the 3 days required by the Act.

2 In addition to the 10 loans mentioned above, Respondent Empire did not provide complete or accurate
3 initial disclosure of APR and prepayment penalties on the Truth In Lending (TIL) statement within 3 days of the
4 borrowers' applications to 14 borrowers involving 25 different residential mortgage loans.

5 **1.5 Failure to Properly Disclose Yield Spread Premium (YSP).** The Department discovered 3 loans in
6 which Respondent Empire did not disclose a YSP that reflected a reasonable relationship to the charge a
7 borrower was likely to be required to pay at settlement. The borrowers were disclosed a range of 0-4% on the
8 GFE, which compromised the consumers' ability to shop for other loans.

9 **1.6 Failure to Timely Provide Loan Servicing Disclosures.** Respondent Empire did not provide
10 servicing disclosure statements to 6 different borrowers at the time they submitted an application or within 3
11 business days after submitting an application.

12 **1.7 Failure to Notify Department of Material Litigation in New Jersey.** On June 13, 2008, the Attorney
13 General of New Jersey, filed a civil complaint against Respondent Empire alleging, among other things,
14 racketeering, unconscionable commercial practices, false promises, misrepresentations, and knowing omissions
15 of fact. Respondent Empire was lawfully served with the civil complaint and did not notify the Department of
16 this material litigation.

17 **1.8 Ongoing Investigation.** The Department's investigation into the alleged violations of the Act by
18 Respondents continues to date.

19 II. GROUNDS FOR ENTRY OF ORDER

20 **2.1 Deceptive and Unfair Practices.** Based upon the Factual Allegations set forth in Section I above, the
21 Respondent is in apparent violation of RCW 31.04.027(1),(2), and (3) for directly or indirectly employing any
22 scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud
23 or mislead any person, for directly or indirectly engaging in any unfair or deceptive practice toward any person,
24 and for directly or indirectly obtaining property by fraud or misrepresentation.

25 **2.2 Disclosures.** Based on the Factual Allegations set forth in Section I above, Respondent is in apparent

1 violation of RCW 31.04.027(6), RCW 31.04.102(2) and (3), WAC 208-620-505, WAC 208-620-505 and 510,
2 Regulation X, 24 C.F.R. Sec. 3500.7(b), and (c), and 3500.21(b)(1), Regulation Z, 12 C.F.R. Sec. 226.19
3 (2005), and 226.17(c) for failing to timely disclose the Good Faith Estimate, Annual Percentage Rate and
4 prepayment penalty, and for failing to accurately disclose the Yield Spread Premium.

5 **2.3 Requirement to Report Material Litigation.** Based on the Factual Allegations set forth in Section I
6 above, Respondent is in apparent violation of WAC 208-620-490(3) for not notifying the Department in writing
7 within 20 days after the filing of material litigation against the Respondent.

8 III. AUTHORITY TO IMPOSE SANCTIONS

9 **3.1 Authority to Revoke or Suspend License:** Pursuant to RCW 31.04.093(3)(a) and (b) and WAC 208-
10 620-570, the Director may revoke or suspend a license if a licensee violates any provision of the Act or any rule
11 adopted under the Act.

12 **3.2 Authority to Prohibit from Industry:** Pursuant to RCW 31.04.093(6)(e), the Director may issue an
13 order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer,
14 principal, employee, or loan originator, or any person subject to the Act, for any violation of RCW 31.04.027.

15 **3.3 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
16 hundred dollars per day upon the licensee, its employee, or any other person subject to the Act for any violation
17 of the Act or failure to comply with any order under the Act.

18 **3.4 Authority to Order Restitution:** Pursuant to RCW 31.04.093(5)(c), the Director may issue orders
19 directing a licensee, its employee or loan originator, or other person subject to the Act to make restitution to a
20 borrower or other person who is damaged as a result of a violation of this chapter.

21 **3.5 Authority to Collect Examination and Investigation Fees:** Pursuant to RCW 31.04.145(3) and WAC
22 208-620-590, every licensee examined or investigated by the Director or the Director's designee shall pay for
23 the cost of the examination or investigation, calculated at the rate of \$69.01 per staff hour. Respondent Empire
24 was sent an invoice in the amount of \$15,322.50 on October 31, 2008, for the examination fees, with a due date
25 of November 30, 2008. Respondent Empire has not submitted payment on the invoice as of the date of this

1 Statement of Charges.

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

3 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
4 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions constitute a basis for
5 the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW 31.04.205. Therefore, it is the Director's
6 intention to ORDER that:

- 7 a. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage's license to conduct the
8 business of a Consumer Loan Company be revoked;
- 9 b. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage be prohibited from participation
10 in the conduct of the affairs of any licensed consumer loan company, in any manner, for a period of
11 five years;
- 12 c. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage pay a fine which as of the date
13 of these charges totals \$ 27,375;
- 14 d. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage pay restitution in an amount to
15 be determined at a future hearing;
- 16 e. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage pay an investigation fee which
17 as of the date of these charges totals \$1,725.25 calculated at \$69.01 per hour for 25 staff hours devoted
18 to the investigation;
- 19 f. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage pay an examination fee of
20 \$10,281 calculated at \$69 per hour for 149 staff hours devoted to the examination and \$4,841.50 for
21 travel expenses related to the examination for a total amount due of \$15,322.50;
- 22 g. Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage maintain records in compliance
23 with the Act and provide the Director with the location of the books, records, and other information
24 relating to Respondent Empire Equity Group Inc. d/b/a 1st Metropolitan Mortgage's consumer loan
25 company business, and the name, address, and telephone number of the individual responsible for
maintenance of such records in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

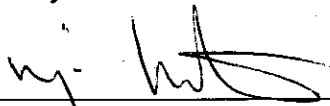
2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke or Suspend License,
3 Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation and Examination Fees
4 (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW
5 31.04.202 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative
6 Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF
7 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of
8 Charges.

9
10 Dated this 18th day of December, 2008.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

14 Presented by:



16 WILLIAM HALSTEAD
Financial Legal Examiner

17 Approved by:



20 JAMES R. BRUNELBACK
Enforcement Chief

