



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:

KILLION ENTERPRISES INC. d/b/a SPARTAN
MORTGAGE, and STEVEN M. KILLION, Owner,
President, and Designated Broker,

Respondents.

NO. C-09-013-10-FO01

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 December 4, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Prohibit from Industry, Impose Fine, Order Restitution, Collect Examination Fees, and Collect Investigation Fees (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 December 10, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion. The Department served the Statement of Charges, cover letter dated December 10, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Killion Enterprises Inc. d/b/a Spartan Mortgage

1 and Steven M. Killion on Respondents on December 10, 2009 by First-Class mail and Federal Express
2 overnight delivery.

3 On January 21, 2010, Respondents each filed an Application for Adjudicative Hearing. On
4 April 6, 2010, the Department made a request to the Office of Administrative Hearings (OAH) to
5 assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of
6 Charges. OAH assigned ALJ Janet L. Schneider (ALJ Schneider) to preside over prehearing and
7 hearing proceedings and issue an Initial Order. On April 19, 2010, ALJ Schneider issued a Notice of
8 Prehearing Conference, to all parties, scheduling a telephonic prehearing conference on June 9, 2010,
9 at 8:15 a.m.

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11 On June 9, 2010, Assistant Attorney General, Charles Clark, appearing on behalf of the
12 Department, attended the telephonic prehearing conference. Respondents did not appear at the June 9,
13 2010, telephonic prehearing conference.

14 On June 9, 2010, ALJ Schneider issued an Order of Default, finding the Respondents in default
15 and dismissing the proceedings. OAH mailed the Order of Default to all of the parties on June 9,
16 2010.

17 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty (20) days from the
18 date of service of the Order of Default to file a Petition for Review of the Order of Default.

19 Respondent 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 December 10, 2010, and Notice of
24 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 25 2. Applications for Adjudicative Hearing for Respondents;

3. Request to OAH for Assignment of Administrative Law Judge;
4. Notice of Prehearing Conference dated April 19, 2010, with documentation of service;
5. Order of Default dated June 9, 2010, with documentation of service.

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

II. FINAL ORDER

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

A. IT IS HEREBY ORDERED, That:

1. Respondent Killion Enterprises Inc. d/b/a Spartan Mortgage's license to conduct the business of a Mortgage Broker is revoked;
2. Respondent Killion Enterprises Inc. d/b/a Spartan Mortgage is prohibited 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 5 years;
3. Respondent Steven M. Killion's license to conduct the business of a loan originator is revoked;
4. Respondent Steven M. Killion is prohibited 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 5 years;
5. Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion jointly and severally pay a fine of \$73,000, plus accruing interest of 12% per annum;
6. Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion jointly and severally pay restitution to the borrowers outlined in Paragraphs 1.8, 1.9, 1.13, and 1.19, of the Statement of Charges in the amount of \$81,463.28;

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2 7. Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion
jointly and severally pay an investigation fee of \$2,160; and

3 8. Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion
4 jointly and severally pay an examination fee, plus accrued interest, of \$6,548.10.

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

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

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

7
8 DATED this 16th day of August, 2010.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

A handwritten signature in black ink, appearing to read "Scott Jarvis", is written over a horizontal line. The signature is stylized and cursive.

SCOTT JARVIS
DIRECTOR

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

4 IN THE MATTER OF DETERMINING
Whether there has been a violation of the
5 Mortgage Broker Practices Act of Washington by:
6 KILLION ENTERPRISES INC. d/b/a SPARTAN
MORTGAGE, and STEVEN M. KILLION,
Owner, President, and Designated Broker,

NO. C-09-013-09-SC01

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

7 Respondents.

8 INTRODUCTION

9 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial
10 Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the
11 Mortgage Broker Practices Act (Act). After having conducted an investigation pursuant to RCW 19.146.235, and
12 based upon the facts available as of the date of this document, the Director, through his designee, Division of
13 Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

14 I. FACTUAL ALLEGATIONS

15 1.1 Respondents.

16 A. Killion Enterprises Inc. d/b/a Spartan Mortgage (Respondent Killion) was licensed by the
17 Department of Financial Institutions of the State of Washington (Department) to conduct business as a
18 mortgage broker on June 21, 2001. Respondent Killion was licensed to conduct the business of a mortgage
19 broker at 12178 SW Garden Place, Building 3, Park 217, Tigard, Oregon 97223.

20 B. Steven M. Killion (Respondent Steven Killion) is the owner, President, and Designated Broker
21 of Respondent Killion.

22 1.2 Examination. On July 20, 2009, the Department conducted an examination of the records of
23 Respondent Killion. The Department's examination covered a time frame from February 1, 2007, through
24 March 31, 2009, and included the review of 33 loan files that were taken from a random sample of customer
25 files that were representative of Respondent Killion's portfolio. As a result of the examination, the Department
discovered violations of the Act as outlined below.

1 **1.3 Unlicensed Loan Originators.** Respondents originated the following 27 Washington loans through at
 2 least 8 loan originators¹ that were not properly licensed with the Department when the mortgage applications
 3 were accepted by Respondent Killion.

Originator	Licensed	Date License Expired	Loan Number	Loan Application Date	Settlement Date
Anderson, Matt	Never	NA	3015686706	01/09/08	03/26/08
Blanco, Jay	Never	NA	12979464	10/25/08	11/26/08
Llewellyn, Shannon	Never	NA	510746	10/13/07	01/24/08
Mac Lean, Lane	01/01/07	12/31/07	EW81131	01/10/08	03/18/08
Mac Lean, Lane	01/01/07	12/31/07	12792578	01/25/08	05/02/08
Mac Lean, Lane	01/01/07	12/31/07	12804951	04/08/08	05/28/09
Mac Lean, Lane	01/01/07	12/31/07	EW83287	02/08/08	04/10/08
Nix, Eric	Never	NA	12786067*	03/21/08	04/28/08
Nix, Eric	Never	NA	12117420	01/31/07	3/12/07
Nix, Eric	Never	NA	12327136	06/09/07	07/20/07
Nix, Eric	Never	NA	1096918870	05/12/07	12/07/07
Nix, Eric	Never	NA	12531794	10/19/07	12/06/07
Nix, Eric	Never	NA	12555207	11/02/07	12/26/07
Nix, Eric	Never	NA	12605200	10/31/07	01/23/08
Nix, Eric	Never	NA	12505780	10/05/07	10/31/07
Nix, Eric	Never	NA	168874976	04/05/07	06/06/07
Pfeifer, Nick	Never	NA	518994	05/09/08	06/27/08
Pfeifer, Nick	Never	NA	12899167	05/02/08	09/08/08
Pfeifer, Nick	Never	NA	13043583	11/19/08	01/27/09
Pfeifer, Nick	Never	NA	0000593110	08/12/08	10/30/08
Taylor, Deborah	Never	NA	12475695	08/13/07	10/31/07
Taylor, Deborah	Never	NA	10762	06/18/07	07/30/07
Taylor, Deborah	Never	NA	12397527	07/09/07	09/19/07
Weston, Rick	Never	NA	13017025	11/05/09	12/31/08
Weston, Rick	Never	NA	12722351	02/15/08	03/21/08
Weston, Rick	Never	NA	12982591	09/23/08	10/31/08
Weston, Rick	Never	NA	12704896	02/05/08	03/21/08

14 **1.4 Failure To Timely Deliver or Deliver Rate-Lock Disclosures.** Respondents did not deliver a rate-
 15 lock disclosure within 3-days of receiving a loan application from 13 borrowers. Twelve other borrowers were
 16 provided the rate-lock disclosures, but they were not delivered within 3 days of receiving the loan applications.
 17

18 **1.5 Failure to Deliver Complete Rate-Lock Agreements.** Respondents did not deliver or complete a
 19 rate-lock agreement after locking the rates of 30 borrowers.
 20
 21
 22

23 ¹ The Department has issued Statements of Charges against each of the unlicensed loan originators.

24 * This borrower file was not discovered during the examination, but rather during the Department's subsequent
 25 investigation.

1.6 Failure to Properly Display Loan Originator's License Number on Loan Applications.

Respondents did not include the loan originator license numbers on 6 residential mortgage loan applications.

1.7 Failure to Properly Identify Fees. Respondents did not specify in the Good Faith Estimate (GFE), on

33 loans, that they were the recipient of processing and administration fees.

1.8 Failure to Provide a Written Explanation for Increased Fees. Respondents did not provide

borrowers with a written explanation for fee increases. Three borrowers received initial GFEs from

Respondents outlining its fees. When the fees, in the form of administration and broker fees, increased, the

borrowers listed below were not provided subsequent GFEs and a written explanation for the increase in fees

(Borrower K.D. received a subsequent GFE, but no written explanation for the increase).

Borrower	Fees on Initial GFE	Fees on HUD-1	Refund Due
A.H.	Processing \$500 Broker Fee: \$2,860.00	Processing: \$825.00 Broker Fee: \$3,000.00	\$ 465.00
H.C.	Broker Fee: \$3,125.00 or 1.25%	Broker Fee: \$5,200.00 or 2%	\$ 1,950.00
N.W.	Admin Fee: \$0.00 Broker Fee: \$7,137.63	Admin Fee: \$532.50 Broker Fee: \$6,922.50	\$ 317.37
K.D.	Processing Fee: \$0.00 Admin Fee: 1000.00 Broker Fee: \$1,635.16	Fees on Final GFE and HUD-1 Processing Fee: \$195.00 Admin Fee: \$0.00 Broker Fee: \$3,656.25	\$ 1,216.09
Total Restitution Due Borrowers			\$3,948.46

1.9 Invalid Charging of Discount Points. Respondents charged the following 5 borrowers with loan discount fees on loans it brokered.

Borrower	Application Date	Settlement Date	Discount Fee Charged	Less Broker Adjustments	Refund
G.B.	01/10/08	03/18/08	\$ 2,598.40		\$ 2,598.40
M.D.	05/09/08	06/27/08	\$ 6,140.75	\$ 1,736.00	\$ 4,404.75
D.D.	09/23/08	10/31/08	\$ 1,573.66	\$ 75.00	\$ 1,498.66
O.L.	09/08/08	12/16/08	\$ 1,256.61	\$ 75.00	\$ 1,181.61
J.M.	11/23/08	12/23/08	\$ 1,668.70	\$ 75.00	\$ 1,593.70
Total Restitution Due Borrowers					\$ 11,277.12

1.10 Failure to Properly Disclose the Yield Spread Premium on the Good Faith Estimate. Respondents improperly disclosed the Yield Spread Premium (YSP) on GFEs provided to 8 borrowers by listing the YSP somewhere other than the 800 series of the GFE, or by not disclosing the YSP as dollar amount or dollar range.

1.11 Failure to Provide Accurate and Complete Truth-In-Lending Disclosures. Respondents did not provide accurate or complete Truth-In-Lending (TIL) disclosures to 13 borrowers when it either: a) failed to complete the bottom section of the TIL disclosure identifying the existence of a prepayment penalty, security interest, assumption of policy, and late fee, or b) failed to accurately disclose an accurate payment stream by failing to include the monthly mortgage insurance premium.

1.12 Failure to Timely Deliver Initial Disclosures. Respondents did not disclose the required GFE and TIL to 5 borrowers within 3-days of receiving a loan application.

1.13 Charging a Loan Origination Fee and a Broker Fee to the Same Borrower. Respondents charged the same borrower, on one loan, a mortgage broker fee and a loan origination fee.

Borrower	Application Date	Settlement Date	Loan Origination Fee	Mortgage Broker Fee	Refund
J.C.	02/01/09	04/08/09	\$3,154.00	\$4,801.97	\$3,154.00
Total Restitution Due Borrower					\$3,154.00

1.14 Failure to Disclose Changes to Terms and Conditions. Respondents did not deliver a subsequent disclosure to 4 borrowers identifying changes to the loan's terms and conditions.

Borrower	Application Date	Settlement Date	Undisclosed Changed Term
H.A.	06/09/07	07/20/07	Rate increased from 6.375% to 6.625%
C.H.	01/25/08	05/02/08	Rate increased from 6.75% to 7.00%
W.N.	02/15/08	03/21/08	Rate increased from 6.25% to 6.375%
A.P.	10/31/07	01/23/08	Rate increased from 7.375% to 7.5%

1.15 Failure to Provide Notice of Right to Obtain Third-Party Reports. Respondents were required to provide loan applicants with a notice that informs them if they are not approved for a loan, they may obtain copies of third-party reports (appraisal, title report, credit reports, etc.) within 5 days of making a written request to the mortgage broker. The broker must provide the third-party reports to the loan applicants within 5 days of receiving a written request. Respondents did not provide 32 loan applicants with this notice.

1 **1.16 Failure to Maintain Books and Records.** During the examination, the Respondents were not able to
 2 provide the Department with two loan files. As a result, the Department was not able to determine compliance
 3 with state and federal statutes and regulations.

4 **1.17 Failure to Deposit Third-Party Fees into a Trust Account.** Respondents did not establish and
 5 maintain a trust account for third-party service fees. Respondents received third-party fees from escrow,
 6 regarding 28 borrowers, which the Respondents deposited into their general account.

7 **1.18 Failure to Timely File Annual Reports.** Respondents did not file its 2007 and 2008 Annual Reports
 8 by March 31 of the following year. Respondents delivered its 2007 and 2008 Annual Reports to the
 9 Department on November 13, 2008, and April 29, 2009, respectively.

10 **1.19 Failure to Disclose the Yield Spread Premium on the Good Faith Estimate.** Respondents did not
 11 disclose the YSP on the GFE to the following 19 borrowers who were later charged a YSP in the amount of
 12 \$63,083.70.

Borrower	App. Date	Sett. Date	Broker Adjustments	Undisclosed YSP	Restitution Due
W.A.	01/31/07	3/12/07		\$ 270.00	\$ 270.00
H.A.	06/09/07	07/20/07		\$ 750.00	\$ 750.00
K.B.	08/13/07	10/31/07	\$ 75.00	\$ 4482.99	\$ 4,407.99
G.B.	01/10/08	03/18/08		\$ 1,299.20	\$ 1,299.20
K.D.	04/07/07	05/31/07		\$ 3,859.38	\$ 3,859.38
D.D.	10/19/07	12/06/07	\$ 75.00	\$ 4,123.44	\$ 4,048.44
M.D.	07/09/07	09/19/07		\$ 3,675.13	\$ 3,675.13
W.F.	05/02/08	09/08/08	\$ 75.00	\$ 3,073.54	\$ 2,998.54
C.H.	01/25/08	05/02/08		\$ 3,900.00	\$ 3,900.00
M.H.	07/02/07	09/26/07	\$ 75.00	\$ 3,502.77	\$ 3,427.77
D.J.	01/09/08	03/26/08	\$ 550.00	\$ 2,340.00	\$ 1,790.00
D.J.	04/08/08	05/28/09	\$ 75.00	\$ 6,392.98	\$ 6,317.98
S.K.	10/15/07	01/24/08		\$ 4,339.61	\$ 4,339.61
M.M.	10/05/07	10/31/07	\$ 75.00	\$ 4,090.46	\$ 4,015.46
W.N.	02/15/08	03/21/08		\$ 1,597.50	\$ 1,597.50
C.N.	11/06/07	12/26/07		\$ 4,859.82	\$ 4,859.82
A.P.	10/31/07	01/23/08	\$ 75.00	\$ 3,149.63	\$ 3,074.63
B.S.	02/08/08	04/10/08		\$ 3,591.51	\$ 3,591.51
K.S.	02/05/08	03/21/08	\$ 75.00	\$ 4,935.74	\$ 4,860.74
Total Restitution Due Borrowers					\$63,083.70

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1 **1.20 Failure to Provide the National Credit Score Disclosure.** Respondents did not provide 17 borrowers
2 with copies of the "Notice to the Home Loan Applicant" disclosure along with the name, address, and telephone
3 number of each consumer reporting agency providing the credit score that was used in connection with their
4 loan application.

5 **1.21 Failure to Maintain Surety Bond.** On August 24, 2009, the Department received notice from
6 Hartford Fire Insurance Company (Hartford) that Respondents' surety bond would be cancelled, effective
7 September 30, 2009. To date, Respondents have not provided the Department with the required surety bond.

8 **1.22 Examination Fees.** On August 19, 2009, the Department sent Respondents an invoice for the
9 examination and travel expenses incurred by the Department to conduct the July 20, 2009, examination (See
10 Paragraph 1.2). The amount due from Respondents totals \$6,548.10 which represents \$1,556.10 for travel
11 expenses and \$4,992 for examination time. The invoice was due by September 18, 2009. To date, Respondents
12 have not paid the Department \$6,548.10, for the cost of the examination, plus accrued interest.

13 **1.23 Failure to Notify the Department of Administrative Action.** Respondents did not notify the
14 Department, within 10 days, that the State of Oregon filed an administrative action against it for failing to file
15 an annual report.

16 **1.24 Felony Criminal Charge.** On February 17, 2009, Respondent Steven Killion was charged with
17 Assault in the Third Degree, a Class C Felony, in the Circuit Court of the State of Oregon for the County of
18 Clatsop, under Case No. 09-1052. Respondent Steven Killion was found guilty of an amended charge of
19 Assault in the Fourth Degree, a Class A Misdemeanor, on June 26, 2009.

20 **1.25 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
21 Respondents continues to date.

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

23 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29),
24 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
25 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential

1 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
2 person in obtaining or applying to obtain a residential mortgage loan.

3 **2.2 Definition of Borrower.** Pursuant to RCW 19.146.010(2), a "Borrower" is defined as any person who
4 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information
5 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself
6 or herself, regardless of whether the person actually obtains such a loan.

7 **2.3 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10), "Loan originator" means a natural
8 person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or negotiates
9 terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect
10 compensation or gain. "Loan originator" also includes a person who holds themselves out to the public as able
11 to perform any of these activities. "Loan originator" does not mean persons performing purely administrative or
12 clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks"
13 means the receipt, collection, and distribution of information common for the processing of a loan in the
14 mortgage industry and communication with a borrower to obtain information necessary for the processing of a
15 loan. A person who holds himself or herself out to the public as able to obtain a loan is not performing
16 administrative or clerical tasks.

17 **2.4 Requirement to Exercise Reasonable Care Over Loan Originators.** Based on the Factual
18 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200, WAC 208-
19 660-155(1), and WAC 208-660-155(9) for failing to exercise reasonable care by allowing loan originators to
20 commit violations of the Act.

21 **2.5 Requirement to Disclose Residential Mortgage Loan Fees and Terms.** Based on the Factual
22 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1), (2), (3),
23 (4), WAC 208-660-500(5), and Regulation Z, 12 CFR, Section 226.18 for failing to provide borrowers with full
24 written disclosures, containing an itemization and explanation of all fees and costs that the borrowers were
25 required to pay in connection with obtaining a residential mortgage loan, within three days following receipt of
a loan application or any moneys from the borrowers and for failing to provide written confirmation of the

1 terms of a lock-in agreement, for charging fees inuring to the benefit of a mortgage broker in excess of the fees
2 disclosed on the initial written disclosures where the fees were reasonably foreseeable by the mortgage broker
3 at the time the initial written disclosures were provided to borrowers, and/or where the mortgage broker failed
4 to provide the borrowers, no less than three business days prior to the signing of the loan closing documents, a
5 clear written explanation of the fees and the reason for charging fees exceeding those which were previously
6 disclosed, and for charging a loan discount fee when originating a loan but not making a loan.

7 **2.6 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
8 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (11), (13) and (15) for directly or indirectly
9 employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an
10 unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to
11 make disclosures to loan applicants and non-institutional investors as required by RCW 19.146.030 and any
12 other applicable state or federal law, making, in any manner, any false or deceptive statement or representation
13 with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or
14 engaging in bait and switch advertising, failing to comply with any requirement of the Truth In Lending Act, 15
15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, and the Real Estate Settlement Procedures Act, 12
16 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500, for collecting, charging, attempting to collect or
17 charge or using or proposing any agreement purporting to collect or charge any fee prohibited by RCW
18 19.146.030 or RCW 19.146.070, and failing to comply with any provision of RCW 146.030 through 19.146.080
19 or any rule adopted under those sections.

20 **2.7 Requirement to Disclose Yield Spread Premiums.** Based on the Factual Allegations set forth in
21 Section I above, Respondents are in apparent violation of Regulation X, 24 CFR Section 3500, Appendix B, for
22 failing to properly disclose Yield Spread Premiums charged to borrowers on the Good Faith Estimate.

23 **2.8 Requirement to Maintain Books and Records.** Based on the Factual Allegations set forth in Section
24 I above, Respondents are in apparent violation of WAC-660-450(1)(a) and (4)(a) for failing to maintain books
25 and records and for failing to make books and records readily available to the Department during normal
business hours.

1 **2.9 Requirement to Maintain Third-Party Fees in a Trust Account.** Based on the Factual Allegations
2 set forth in Section I above, Respondents are in apparent violation of RCW 19.146.050(1) and WAC 208-660-
3 410(3) for failing to maintain a trust account for borrower funds received for third-party provider services.

4 **2.10 Requirement to Display Loan Originator's Number.** Based on the Factual Allegations set forth in
5 Section I above, Respondents are in apparent violation of WAC 208-660-350 (26) for failing to disclose the
6 loan originator's license number when taking a residential mortgage loan application.

7 **2.11 Requirement to Timely File Annual Reports.** Based on the Factual Allegations set forth in Section I
8 above, Respondents are in apparent violation of WAC 208-660-400(2) for failing to timely file its annual
9 reports with the Department by March 31st of each year.

10 **2.12 Requirement to Provide National Credit and Notice to Home Loan Applicant Disclosures.** Based
11 on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of the Fair Credit
12 Reporting Act, 15 U.S.C. Sec. 1681g, Sec. 609(g)(1)(d) and Sec. 1681g(1)(D) for failing to provide borrowers
13 with a copy of the "Notice to the Home Loan Applicant," and the national credit score disclosure which
14 includes the name, address and telephone number of each consumer reporting agency providing the credit score
15 that was used to make or arrange a loan.

16 **2.13 Requirement to Notify Department of Significant Developments.** Based on the Factual Allegations
17 set forth in Section I above, Respondents are in apparent violation of WAC 208-660-400(25) and (26)(b) for
18 failing to notify the Department that a licensee was charged with any felony and for failing to notify the
19 Department of an administrative action in any jurisdiction.

20 **2.14 Requirement to Maintain Bond.** Based on the factual allegations set forth in Section I above,
21 Respondents are in apparent violation of RCW 18.146.205, and WAC 208-660-175 for failing to maintain the
22 required bond.

23 **2.15 Requirement to Properly Disclose the Fees on Good Faith Estimate.** Based on the Factual
24 Allegations set forth in Section I above, Respondents are in apparent violation of Regulation X, 24 CFR Section
25 3500, Appendix A, and WAC 208-660-430(4) for failing to properly disclose mortgage broker fees on lines
808-811 of the Good Faith Estimate.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke.** Pursuant to RCW 19.146.220(2)(b)(i), (ii), (iii) and (iv), and WAC 208-660-
3 160, the Director may revoke a license for any violation of RCW 19.146.050, RCW 19.146.060(3), RCW
4 19.146.0201(1) through (9) or (12), RCW 19.146.205(4), or RCW 19.146.265.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
6 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
7 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
8 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or (13),
9 RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265.

10 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the
11 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to
12 the Act for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW
13 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or failure to comply with a directive
14 or order of the Director.

15 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(e) and WAC 208-660-430(14), the
16 Director may issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to
17 pay restitution for any violation of the Act.

18 **3.5 Authority to Collect Examination and Investigation Fees.** Pursuant to RCW 19.146.228(2), WAC 208-
19 660-060(4) and WAC 208-660-061, upon completion of any examination or investigation of the books and records
20 of a licensee or other person subject to the Act, the Department will furnish to the licensee or other person subject to
21 the Act a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$48
22 per hour that each staff person devoted to the investigation.

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

24 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
25 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis

1 for the entry of an Order under, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the
2 Director's intention to ORDER that:

- 3 **4.1** Respondent Killion Enterprises Inc. d/b/a Spartan Mortgage's license to conduct the business of a
4 mortgage broker be revoked;
- 5 **4.2** Respondent Killion Enterprises Inc. d/b/a Spartan Mortgage be prohibited from participation in the conduct
6 of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of 5
7 years;
- 8 **4.3** Respondent Steven M. Killion's license to conduct the business of a loan originator be revoked;
- 9 **4.4** Respondent Steven M. Killion be prohibited from participation in the conduct of the affairs of any
10 mortgage broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 11 **4.5** Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion jointly and severally
12 pay a fine, which at the time of this document, totals \$73,000;
- 13 **4.6** Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion jointly and severally
14 pay restitution to borrowers, which at the time of this document totals, \$81,463.28;
- 15 **4.7** Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion jointly and severally
16 pay an investigation fee, which at the time of this document totals, \$2,160 calculated at \$48 for the 45 staff
17 hours devoted to the investigation;
- 18 **4.8** Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion jointly and severally
19 pay an examination fee, which at the time of this documents totals, \$6,548.10, plus accrued interest; and
- 20 **4.9** Respondents Killion Enterprises Inc. d/b/a Spartan Mortgage and Steven M. Killion maintain records in
21 compliance with the Act and provide the Department with the location of the books, records and other
22 information relating to Respondent Killion Enterprises Inc. d/b/a Spartan Mortgage's mortgage broker
23 business, and the name, address and telephone number of the individual responsible for maintenance of
24 such records in compliance with the Act.

25 **V. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Prohibit from
Industry, Impose Fine, Order Restitution, Collect Examination Fees, and Collect Investigation Fees (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).
Respondents 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.

1 Dated this 9th day of December, 2009.

Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions



5 Presented by:

William Halstead

7 WILLIAM HALSTEAD
8 Financial Legal Examiner

10 Approved by:

James R. Brusselback

12 JAMES R. BRUSSELBACK
13 Enforcement Chief

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