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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

CRAIG MITCHELL NOVIKS,
Respondent.

NO. C-09-161-10-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(2). On July 13, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application, 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 July 13, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing. The Department served the Statement of Charges, cover letter dated July 13, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on July 13, 2009, by First-Class mail and Federal Express overnight delivery.

Respondent filed an Application for Adjudicative Hearing. On October 2, 2009, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges.

1 On December 18, 2009, ALJ Anita T. Davidson (ALJ Davidson) issued a Notice of Telephone
2 Prehearing Conference scheduling a prehearing conference on Thursday, January 14, 2010, at 10:00
3 a.m. That Notice contained the following instructions to the parties: “**You must provide the Office of**
4 **Administrative Hearings with a telephone number** where you can be reached at that time” and
5 “Parties shall appear by calling locally (206) 389-3400 or long distance (800) 845-8830 ten minutes
6 before the time designated above... You will be asked for the telephone number you are calling from
7 so the Administrative Law Judge (ALJ) can call you back to begin the pre-hearing conference.” That
8 Notice also noted “**Default:** If you fail to appear or participate in the pre-hearing conference, hearing,
9 or any other scheduled stage of these proceedings, you may lose your right to a hearing as described in
10 RCW 34.05.440.”
11

12 On December 23, 2009, ALJ Davidson issued a Corrected Notice of Telephone Prehearing
13 Conference scheduling a prehearing conference on Tuesday, January 19, 2010, at 3:45 p.m. That
14 Notice contained the following instructions to the parties: “**You must provide the Office of**
15 **Administrative Hearings with a telephone number** where you can be reached at that time” and
16 “Parties shall appear by calling locally (206) 389-3400 or long distance (800) 845-8830 ten minutes
17 before the time designated above... You will be asked for the telephone number you are calling from
18 so the Administrative Law Judge (ALJ) can call you back to begin the pre-hearing conference.” That
19 Notice also noted “**Default:** If you fail to appear or participate in the pre-hearing conference, hearing,
20 or any other scheduled stage of these proceedings, you may lose your right to a hearing as described in
21 RCW 34.05.440.”
22

23 On January 19, 2010, the prehearing conference was convened by ALJ Davidson at 3:45 p.m.
24 Respondent failed to appear. The Department moved for an order of default based on Respondent’s
25 failure to appear. On March 2, 2010, ALJ Davidson issued an Initial/Proposed Order of Dismissal on

1 Failure to Appear (OAH Initial Order) dismissing Respondent's appeal of the Statement of Charges.

2 On March 26, 2010, ALJ Davidson mailed the OAH Initial Order to the address in Respondent's
3 Application for Adjudicative Hearing.

4 Pursuant to RCW 34.05.440(3), Respondent had seven (7) days from the date of service of the
5 OAH Initial Order to file a written motion with OAH requesting that the OAH Initial Order be vacated,
6 and stating the grounds relied upon. Respondent did not make a request to vacate during the statutory
7 period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the
8 date of service of the OAH Initial Order to file a Petition for Review of the OAH Initial Order with the
9 Director. Respondent did not file a Petition for Review during the statutory period.
10

11 B. Record Presented. The record presented to the Director's designee for her review and
12 for entry of a final decision included the following:

- 13 1. Statement of Charges, cover letter dated July 13, 2009, and Notice of Opportunity to
14 Defend and Opportunity for Hearing, with documentation of service;
- 15 2. Application for Adjudicative Hearing for Respondent;
- 16 3. Request to OAH for Assignment of Administrative Law Judge;
- 17 4. Notice of Telephone Prehearing Conference dated December 18, 2009, with
18 documentation of service;
- 19 5. Corrected Notice of Telephone Prehearing Conference dated December 23, 2009, with
20 documentation of service;
- 21 6. OAH Initial Order dated March 2, 2010, with documentation of service.

22 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the
23 Director's designee hereby adopts the Statement of Charges, which is attached hereto.
24
25

1 II. FINAL ORDER

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

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent Craig Mitchell Noviks' application for a loan originator license is denied.
6 2. Respondent Craig Mitchell Noviks pay a fine of \$9,100.
7 3. Respondent Craig Mitchell Noviks is banned from participation in the conduct of the
8 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
9 a period of seven (7) years.
10 4. Respondent Craig Mitchell Noviks pay an investigation fee of \$1,200.

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

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

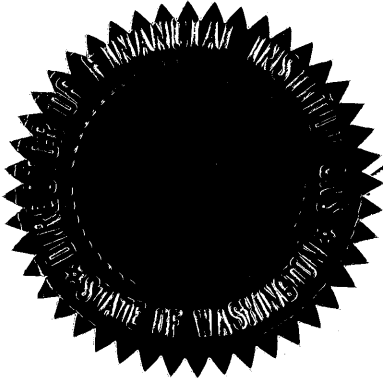
21 C. Stay of Order. The Director's designee has determined not to consider a Petition
22 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
23 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.
24

1 D. Judicial Review. Respondent has the right to petition the superior court for judicial
2 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
3 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

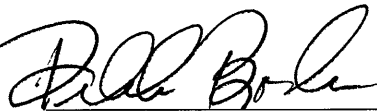
4 E. Non-compliance with Order. If Respondent does not comply with the terms of this order,
5 the Department may seek its enforcement by the Office of Attorney General to include the collection of
6 the fines and fees imposed herein.

7 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
8 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
9 attached hereto.
10

11 DATED this 26th day of April, 2010.



12 STATE OF WASHINGTON
13 DEPARTMENT OF FINANCIAL INSTITUTIONS

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15 DEBORAH BORTNER
16 DIRECTOR
17 DIVISION OF CONSUMER SERVICES

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

CRAIG MITCHELL NOVIKS,

Respondent.

NO. C-09-161-09-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION,
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). After having conducted an investigation pursuant to RCW 19.146.235 and RCW 19.146.310, 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:

I. FACTUAL ALLEGATIONS

1.1 Respondent Craig Mitchell Noviks (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a loan originator on October 22, 2007. Respondent's loan originator license was associated with Northwest Mortgage Advisors, Inc.¹ (NMA), a mortgage broker licensed by the Department, from at least October 22, 2007 through December 31, 2008. Respondent's loan originator license expired on December 31, 2008. On or about May 4, 2009, Respondent submitted a new application to the Department through the Nationwide Mortgage Licensing System and Registry (NMLSR) for a loan originator license to be associated with NMA².

¹ NMA was formerly known as First National Home Mortgage Corp.

² On or about May 18, 2009, NMA submitted a sponsorship request for Respondent through NMLSR. On or about June 4, 2009, NMA withdrew their sponsorship request for Respondent through NMLSR.

1 **1.2 Unlicensed Activity.** Between the expiration of Respondent's loan originator license on December 31,
2 2008 and Respondent's application for a loan originator license on or about May 4, 2009, Respondent
3 participated in the origination of at least five residential mortgage loans on property located in the State of
4 Washington.

5 A. In or around December 2008, Respondent began originating at least two residential mortgage
6 loans which had not closed as of December 31, 2008. In or around January 2009, Respondent continued to
7 participate in the origination of at least these two loans, and Respondent was compensated by NMA for
8 originating these two loans.

9 B. In or around April 2009, Respondent began originating at least three residential mortgage loans.
10 Respondent's participation in the origination of at least these three loans continued from at least on or about
11 April 2, 2009 through at least on or about May 19, 2009. As of the date of this Statement of Charges, NMA has
12 closed or is attempting to close these three loans and has notified the Department that, contrary to Respondent's
13 initial expectations, Respondent will not be compensated for originating these three loans.

14 **1.3 False Statements to the Department.** Respondent made at least two false statements to the
15 Department during the course of the Department's investigation of Respondent.

16 A. On or about May 15, 2009, the Department received a Declaration of Activity (Declaration)
17 from Respondent. This Declaration contained the following recitals:

- 18 • "I certify that since January 1, 2009, I have not performed any activity that would require
19 licensure under the Act."
- 20 • "I certify that since January 1, 2009, I have not received any compensation that would require
21 licensure under the Act."
- 22 • "I will refrain from conducting any activity that would require licensure under the Act, until the
23 Department issues me a valid Loan Originator license for 2009."

24 Respondent signed the Declaration under penalty of perjury and dated the Declaration May 14, 2009.
25

1 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(3), "Borrower" means any person who consults
2 with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on
3 obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or
4 herself, regardless of whether the person actually obtains such a loan.

5 **2.4 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is in
6 apparent violation of:

- 7 • RCW 19.146.0201(1) and WAC 208-660-500(a) for directly or indirectly employing a scheme, device
8 or artifice to defraud or mislead borrowers or lenders or any person;
- 9 • RCW 19.146.0201(2) and WAC 208-660-500(b) for engaging in an unfair or deceptive practice toward
10 any person; and
- 11 • RCW 19.146.0201(8) and WAC 208-660-500(3)(i) & (r) for negligently making any false statement or
12 knowingly and willfully making any omission of material fact in connection with any reports filed by a
13 mortgage broker or in connection with any investigation conducted by the department or in connection
14 with any application or any information filed by a licensee in connection with any application,
15 examination or investigation conducted by the department.

16 **2.5 Requirement to Obtain and Maintain Mortgage Broker or Loan Originator License.** Based on the
17 Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.200, WAC
18 208-660-155(1), and WAC 208-660-350(18), (20), & (21) for engaging in the business of a mortgage broker or
19 loan originator without first obtaining and maintaining a license under the Act.

20 **2.6 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
21 forth in Section I above, Respondent fails to meet the requirements of RCW 19.146.310(1)(g) and WAC 208-
22 660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence of the
23 community and to warrant a belief that the business will be operated honestly and fairly within the purposes of
24 the Act.

25

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
3 Director may deny licenses to loan originators. Pursuant to RCW 19.146.220(2)(e), the Director may deny
4 licenses for any violation of the Act. Pursuant to RCW 19.146.310(2), the Director shall not issue a loan
5 originator license if the conditions of RCW 19.146.310(1) have not been met by the applicant, and shall notify
6 the loan originator applicant and any mortgage brokers listed on the application of the denial.

7 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
8 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
9 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
10 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or RCW
11 19.146.200.

12 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a), the Director may impose fines on an
13 employee, loan originator, independent contractor, or agent of the licensee, or other person subject to the Act
14 for any violation of RCW 19.146.0201(1) through (9) or RCW 19.146.200.

15 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-550(4)(a),
16 the Department may charge forty-eight dollars (\$48) per hour for an examiner's time devoted to an investigation of
17 the books and records of a licensee or other person subject to the Act.

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

2 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
3 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
4 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, and RCW 19.146.310.

5 Therefore, it is the Director's intention to ORDER that:


- 6 **4.1** Respondent Craig Mitchell Noviks' application for a loan originator license be denied.
- 7 **4.2** Respondent Craig Mitchell Noviks be prohibited from participation in the conduct of the affairs of any
8 mortgage broker subject to licensure by the Director, in any manner, for a period of seven (7) years.
- 9 **4.3** Respondent Craig Mitchell Noviks pay a fine. As of the date of this Statement of Charges, the fine
10 totals \$9,100.
- 11 **4.4** Respondent Craig Mitchell Noviks pay an investigation fee. As of the date of this Statement of Charges,
12 the investigation fee totals \$1,200.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application,
3 Prohibit from Industry, Impose Fine, and Collect Investigation Fee is entered pursuant to the provisions of
4 RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions
5 of chapter 34.05 RCW (The Administrative Procedure Act).


6
7 Dated this 13th day of July, 2009.

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9 _____
10 DEBORAH BORTNER
11 Director
12 Division of Consumer Services
13 Department of Financial Institutions

14 Presented by: 

15 _____
16 MARK T. OLSON
17 Financial Examiner



18 Approved by:
19 
20 _____
21 JAMES R. BRUSSELBACK
22 Enforcement Chief