

1 B. Record Presented. The record presented to the Director's designee for her review and for entry of a
2 final decision included the Statement of Charges, cover letter dated January 20, 2010, Notice of Opportunity to
3 Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing, with documentation of
4 service.

5 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the Director's designee
6 hereby adopts the Statement of Charges, which is attached hereto.

7 II. FINAL ORDER

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

10 A. IT IS HEREBY ORDERED, That:

- 11 1. Respondent Joseph D. Fontenot is prohibited from participation in the conduct of the
12 affairs of any mortgage broker subject to licensure by the Director, in any manner, for
13 five years from the date of entry of this Final Order;
- 14 2. Respondent Joseph D. Fontenot shall pay restitution in the amount of \$23,638 to
15 borrower VR;
- 16 3. Respondent Joseph D. Fontenot shall pay a fine to the Department in the amount of
17 \$3,000.00; and
- 18 4. Respondent Joseph D. Fontenot shall pay an investigative fee to the Department in the
19 amount of \$576.00.

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

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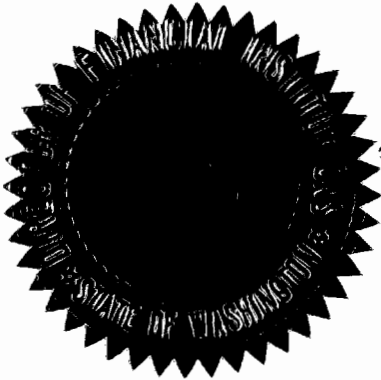
1 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the
2 petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice
3 specifying the date by which it will act on a petition.

4 C. Stay of Order. The Director's designee 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 Review
6 made under chapter 34.05 RCW and RCW 34.05.550.

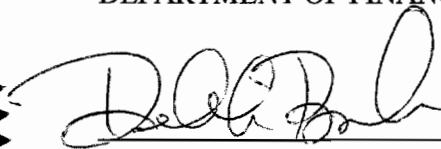
7 D. Judicial Review. Respondent has the right to petition the superior court for judicial review of this
8 agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial
9 Review, see RCW 34.05.510 and sections following.

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

12 DATED this 30th day of April, 2010.



13 STATE OF WASHINGTON
14 DEPARTMENT OF FINANCIAL INSTITUTIONS

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17 DEBORAH BORTNER
18 Director, Division of Consumer Services

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

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

LIBERTY ONE LENDING INCORPORATED,
MATTHEW D. GODDARD, President,
TERRANCE M. FLANAGAN, VP and COO,
TODD R. HUBBART, JOSEPH D. FONTENOT,
SUZANNE M. KRESS, and ROBERT J. LaPAGE,

Respondents.

NO. C-09-275-09-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENT TO ENTER AN ORDER TO PROHIBIT
FROM INDUSTRY, ORDER RESTITUTION,
IMPOSE FINES, AND COLLECT
INVESTIGATION FEES

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 (the 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 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. Liberty One Lending Incorporated (Liberty One) was an Arizona for-profit corporation organized on September 23, 2003, in Phoenix, Maricopa County, Arizona. Liberty One was licensed by the Department of Financial Institutions (Department) to conduct business as a mortgage broker on December 13, 2005, license 510-MB-29151. Liberty One was continuously licensed with the Department until December 31, 2008, when the license expired. Liberty One applied through the Nationwide Mortgage Licensing System (NMLS) to maintain its license in Washington in 2009, but never completed the transition. Liberty One was registered in Washington as a foreign corporation, and was registered with the Department of Revenue. The Arizona corporation was administratively dissolved on March 4, 2009.

¹ RCW 19.146 (Amended 2006; effective January 1, 2007)
STATEMENT OF CHARGES
No. C-09-275-09-SC01
Liberty One Lending Incorporated, *et al.*

1 **B. Matthew Dean “Matt” Goddard (Respondent Goddard)** was the President and sole owner of Liberty
2 One. Respondent Goddard has never been licensed by the Department; his NMLS license number is 11705.

3 **C. Terrance Michael “Terry” Flanagan (Respondent Flanagan)** assumed the duties of Secretary and
4 Chief Operating Officer in June 2007. Respondent Flanagan was licensed by the Department as the designated
5 broker for Liberty One effective January 9, 2008, and as a loan originator effective January 10, 2008, and was
6 continuously licensed with the Department until his license was cancelled on December 31, 2008. Respondent
7 Flanagan’s Washington loan originator number was 510-LO-46837; his NMLS license number is 11705.

8 **D. Todd Russell Hubbart (Respondent Hubbart)**, a resident of Arizona, was a licensed loan originator
9 for Liberty One from December 18, 2007, through December 31, 2007. Respondent Hubbart’s Washington loan
10 originator number was 510-LO-45527; his NMLS license number is 32096.

11 **E. Joseph Dale “Joey” Fontenot (Respondent Fontenot)**, a resident of Arizona and former loan
12 originator for Liberty One, has never been licensed with the Department, and is not licensed on NMLS.

13 **F. Suzanne Margaret Kress (Respondent Kress)**, a resident of Arizona and former loan originator for
14 Liberty One, has never been licensed with the Department, and is not licensed on NMLS.

15 **G. Robert Joseph LaPage (Respondent LaPage)**, a resident of Arizona and former loan originator for
16 Liberty One, has never been licensed with the Department, and is not licensed on NMLS.

17 **1.2 Unlicensed Activity.**

18 **A. Unlicensed Location.** Respondent Liberty One is known to have conducted the business of a mortgage
19 broker during 2007 from an inbound call and processing center located at 8027 North Black Canyon Highway,
20 Suite 404, in Phoenix, Arizona. The location had been licensed by the Arizona State Banking Department as a
21 branch office of Liberty One, but to date, the Department has not issued a license to any person to conduct the
22 business of a mortgage broker from that location. From May 9, 2007, through December 31, 2008, Respondent
23 Liberty One did not have the statutorily required surety bond to engage in the business of a mortgage broker
24 from that location.

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1 **B. Unlicensed Loan Originators - Identity Unknown.** Liberty One was a closely-held corporation, with
2 Respondent Goddard the sole owner. He and his father, Dean A. Goddard (Mr. Goddard), were the only officers
3 and directors of the corporation. Mr. Goddard was licensed with the Department as Liberty One's designated
4 broker, and was Liberty One's only loan originator licensed in Washington from December 13, 2005, until his
5 death on April 17, 2007.

6 From April 18, 2007, to December 18, 2007, when the Department licensed Respondent Hubbard as a loan
7 originator, Liberty One had no one licensed to originate residential mortgage loans in Washington. During that
8 period of time, Respondents Liberty One and Goddard used unlicensed loan originators to assist at least 42
9 borrowers obtain residential mortgage loans on property located in Washington, falsely stating on each loan
10 application that Mr. Goddard had originated the loan.

11 **C. Respondent Hubbard.** From September 25, 2007, through December 18, 2007, when he was licensed
12 by the Department as a loan originator, Respondent Hubbard, working from an unknown location in Arizona,
13 assisted at least four borrowers apply for and obtain residential mortgage loans on property located in Washington.

14 **D. Respondent Fontenot.** On or about May 9, 2007, Respondent Fontenot, working from the unlicensed
15 location discussed in paragraph 1.2 A, assisted at least one borrower apply for and obtain a residential mortgage
16 loan on property located in Washington, earning \$26,638 in fees for Liberty One.

17 **E. Respondent Kress.** On or about June 13, 2007, Respondent Kress, working from the unlicensed
18 location discussed in paragraph 1.2 A, assisted at least one borrower apply for and obtain a residential mortgage
19 loan on property located in Washington, earning \$9,810 in fees for Liberty One.

20 **F. Respondent LaPage.** On or about June 6, 2007, Respondent LaPage, working from an unknown
21 location in Arizona, held himself out as being able to assist borrowers obtain residential mortgage loans on
22 Washington property.

23 **1.3 Failure to Notify Department of Significant Developments.**

24 **A. Designated Broker.** Liberty One was required by the Act to have a designated broker responsible
25 for all activities of the mortgage broker. Within five business days of Mr. Goddard's death, Respondents

1 Liberty One and Goddard were required to notify the Department of the loss of Liberty One's designated
2 broker, and within 30 days were required to apply to the Department for approval for a new designated broker.
3 From April 24, 2007, to November 20, 2007, when Respondent Flanagan applied for licensure as the
4 designated broker for Liberty One, Respondents Liberty One and Goddard did not notify the Department.
5 From April 24, 2007, to January 9, 2008, when Respondent Flanagan's application to be Liberty One's
6 designated broker was effective, Respondents Liberty One and Goddard did not have a designated broker.

7 **B. Change in Location.** Liberty One was required by the Act to notify the Department within 30 days
8 of a change to their location. On or about September 17, 2008, Liberty One registered an address change on
9 NMLS. At the time, Liberty One was transitioning to NMLS, but the transition was never completed.
10 Respondents Liberty One and Goddard never notified the Department of the address change.

11 **C. Closure of Business.** Liberty One was required by the Act to notify the Department within 20 days
12 after they ceased doing business in Washington, and to file a Mortgage Broker Closure Form and Annual
13 Report with the Department. Liberty One apparently ceased doing business in Washington sometime during
14 2008. Respondents Liberty One and Goddard did not notify the Department they had ceased doing business in
15 Washington, and never filed the required Closure Form or Annual Report.

16 **1.4 False, Deceptive, and Misleading Advertising.** During 2007 and 2008, Respondents Liberty One and
17 Goddard distributed more than 15,000 direct mail solicitations in Washington advertising the opportunity to
18 refinance residential mortgage loans through Liberty One. The solicitations contained numerous violations of the
19 Act, plus violations of the Truth in Lending Act and the Federal Trade Commission Act. Common violations in
20 both the 2007 and 2008 solicitations included falsely suggesting that Liberty One was the recipients' existing
21 lender, and including information about the recipients' existing mortgage without disclosing the source of the
22 information.

23 **A. 2007 Low Rate/Payment Solicitations.** Respondents Liberty One and Goddard distributed three
24 similar solicitations in 2007. The solicitations advised recipients of an opportunity to refinance their existing
25 mortgage loans at very low interest rates. Recipients were further advised that they could consolidate second

1 mortgage debt into a single loan at a very low monthly payment. For example, a solicitation with a deadline of
2 May 14, 2007, disclosed an interest rate of 1%, but did not clearly and conspicuously disclose the annual
3 percentage rate. A solicitation with a deadline of July 9, 2007, calculated a new mortgage payment of \$530, but
4 did not disclose the terms of repayment or whether the payment included amounts for taxes or insurance. Another
5 solicitation, with a deadline of November 23, 2007, used the phrase “fixed payment,” but was offering an
6 adjustable rate mortgage with variable payments.

7 **B. 2008 Increasing Rate/Payment Solicitations.** During early 2008, Respondents Liberty One, Goddard,
8 and Flanagan distributed more than 5,000 solicitations in Washington warning recipients that “your payment is
9 about to increase and your interest rate may rise an additional 4 percent over the next six months.” Recipients were
10 further warned that if they did not take any action, “a payment increase will occur.” Recipients were advised to
11 call Liberty One “to stop the payment inflation that is currently taking place in your account.” One complainant
12 described the solicitation as false, in that the recipient had a fixed-rate mortgage that was not subject to any
13 payment or interest rate increases.

14 **1.5 Complaints.**

15 **A. Complaint 26053.** Early in 2007, Borrower VR received a direct mail solicitation from Liberty One
16 offering a cash-out refinance mortgage with a 1% interest rate, a \$734 monthly payment, and up to \$41,550 in
17 cash. At the time, Borrower VR was interested in mortgage refinancing. On May 7, 2007, Borrower VR applied
18 for a residential mortgage loan through Respondent Fontenot, an unlicensed loan originator working in Liberty
19 One’s inbound call and processing center. Borrower VR had other real estate under contract, and was expecting to
20 pay off any new mortgage during 2008. Accordingly, Borrower VR negotiated loan terms with Respondents
21 Liberty One and Fontenot that included a \$5,000 cap on loan origination fees, and excluded any prepayment
22 penalties. On or about July 18, 2007, the loan was closed.

23 On February 26, 2008, Borrower VR filed a complaint with the Department alleging that Respondents
24 Liberty One and Fontenot had misrepresented the terms of the loan. The Department, under the authority of RCW
25 19.146.235, conducted a limited scope investigation into the complaint, and determined that Respondents Liberty

1 One and Fontenot had not disclosed on the Good Faith Estimate (GFE) which fees inured to the benefit of Liberty
2 One. Based on that finding, the Department requested that the Liberty One refund \$23,638 to Borrower VR.
3 Respondents Liberty One, Goddard, and Flanagan did not respond to the Department's request.

4 Further review revealed that Borrower VR's loan application, dated May 9, 2007, had purportedly been
5 signed by Mr. Goddard on May 7, 2009. In addition, the Department found that the solicitation sent to Borrower
6 VR did not make numerous required disclosures, and that Respondents Liberty One and Fontenot had
7 misrepresented the terms of the loan by charging a \$9,828 loan origination fee and including a three-year
8 prepayment penalty.

9 **B. Complaint 24227.** Early in 2007, Borrowers R & T received a direct mail solicitation from Liberty One
10 offering to refinance their mortgage with a lower interest rate and monthly payments. At the time, Borrowers R &
11 T had a 6.75% interest rate and were making interest-only mortgage payments of \$1,500 a month. On June 13,
12 2007, seeking to lower their interest rate and monthly payment, Borrowers R & T applied for a residential
13 mortgage loan through Respondent Kress, an unlicensed loan originator working in Liberty One's inbound call and
14 processing center. On or about July 18, 2007, the loan was closed. Borrowers R & T received a 40-year Option
15 ARM that reduced their interest rate to 1.25% and monthly payment to \$744.22. However, in early September,
16 2007, Borrowers R & T received a notice from their new lender advising them that their interest rate was
17 increasing to almost 9%, and that their monthly mortgage payment was increasing to \$1,900.

18 On September 13, 2007, Borrowers R & T filed a complaint with the Department alleging that Respondents
19 Liberty One and Kress had misrepresented the terms of the loan. The Department conducted a limited scope
20 investigation into the complaint and determined that Respondents Liberty One and Kress had not disclosed on the
21 GFE which fees inured to the benefit of Liberty One. Based on that finding, the Department requested that Liberty
22 One refund \$9,905.79 to Borrowers R & T. Respondents Liberty One, Goddard, and Flanagan refused to make the
23 requested refund, and instead requested further review of the complaint.

24 Further review revealed that Borrowers R & T's loan application, dated June 13, 2007, had purportedly been
25 signed by Mr. Goddard on June 8, 2007. In addition, the Department found that the solicitation sent to Borrowers

1 R & T did not make numerous required disclosures, and that Respondents Liberty One and Kress had
2 misrepresented the terms of the loan by not disclosing the negative amortization feature of the loan.

3 **C. Complaint 22993.** On June 6, 2007, the Department received a tip from a competitor who alleged that
4 Liberty One was using unlicensed individuals to originate residential mortgage loans in Washington. The
5 competitor had received a direct mail solicitation from Liberty One, and had spoken with Respondent LaPage, an
6 unlicensed loan originator working from an unknown location in Arizona.

7 The Department conducted a limited scope investigation into the complaint. Liberty One, through
8 Respondent Goddard, responded to the complaint on October 22, 2007. Addressing the unlicensed conduct,
9 Respondent Goddard stated that neither the branch office where Respondent LaPage worked, nor Respondent
10 LaPage, had been licensed to conduct business in Washington.

11 **D. Complaints 26519 & 26601.** On April 10 and 18, 2008, the Department received competitor
12 complaints regarding a direct mail solicitation being used by Liberty One. The solicitation warned recipients
13 that if they did not contact Liberty One, their interest rates and monthly payment would increase. An employee of
14 a competitor, a federally chartered savings and loan institution, filed complaint 26519 with the Department. The
15 employee had personally received the solicitation, and found it false, threatening, and intimidating. The employee
16 alleged the solicitation was false because the employee had a fixed-rate mortgage not subject to any payment or
17 interest rate increases.

18 A mortgage broker competitor filed complaint 26601. The complaint was addressed to the Department's
19 Enforcement Unit, and consisted solely of the solicitation described in Paragraph 1.2 B.

20 **1.6 Deceptive, Inaccurate, and Missing Disclosures.**

21 As part of the Department's limited scope investigation into complaint 22993, the Department reviewed 50
22 Washington residential mortgage loans funded by Liberty One during 2007. The review revealed that
23 Respondents Liberty One and Goddard were making various deceptive or inaccurate disclosures.

24 **A. Loan Origination Fee.** Within three business days following receipt of a mortgage loan application,
25 mortgage brokers are required to provide applicants with a written disclosure itemizing all fees and costs that a

1 borrower must pay in connection with getting a loan. The disclosure must specify, on lines 808 through 811 of
2 the GFE, those fees which inure to the benefit of the broker. Respondents Liberty One and Goddard routinely
3 disclosed part of its fees on line 801 of the GFE, which is reserved for loan origination fees charged by the
4 lender. In 14 of 50 transactions reviewed, Respondents Liberty One and Goddard disclosed loan origination fees
5 on line 801, not accurately disclosing a total of \$42,965 in loan origination fees. Furthermore, Respondents
6 Liberty One and Goddard did not disclose that the loan origination fee inured to the benefit of Liberty One.

7 **B. HUD-1/1A Settlement Statements:** Either before or at closing, Liberty One's settlement agents
8 were required to provide borrowers with a written disclosure itemizing the final fees and costs the borrower
9 must pay in connection with getting a loan. Respondents Liberty One and Goddard were required to instruct
10 their settlement agents to disclose, on lines 808 through 811 of the HUD-1/1A Settlement Statement (HUD-1),
11 those fees which inured to the benefit of Liberty One. Respondents Liberty One and Goddard routinely
12 disclosed some of those fees on page three of the HUD-1. Only the subtotal of the disclosures from page three
13 were transferred to page two, where the 800-series of lines, including lines 808 through 811, appear. As a
14 result, a portion of the closing costs paid to Liberty Ones, including mortgage broker and processing fees, were
15 hidden from borrowers. In 22 transactions, Respondents Liberty One and Goddard did not accurately disclose
16 \$38,100 in closing costs, some portion of which inured to the benefit of Liberty One.

17 **C. Mortgage Broker Fees.** On the initial GFE provided to borrowers, Respondents Liberty One and
18 Goddard routinely disclosed that borrowers would be charged at least \$795 as a mortgage broker fee. In 26
19 transactions, Respondents Liberty One and Goddard did not accurately disclose \$29,038 in mortgage broker fees
20 inuring to the benefit of Liberty One.

21 **D. Processing Fees.** On the initial GFE provided to borrowers, Respondents Liberty One and Goddard
22 routinely disclosed that borrowers would be charged at least \$895 as a processing fee. In 19 transactions,
23 Respondents Liberty One and Goddard did not accurately disclose \$14,764 in processing fees inuring to the
24 benefit of Liberty One.

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1 **E. Yield Spread Premium.** On the initial GFE provided to borrowers, Respondents Liberty One and
2 Goddard routinely disclosed that Liberty One would be receiving Yield Spread Premium (YSP) from the lender.
3 The disclosure, "YSP 0-4%," did not clearly disclose the nature and purpose of the fee, and was not made in the
4 correct section of the GFE. In 14 transactions, Respondents Liberty One and Goddard did not accurately disclose
5 a total of \$62,354 in YSP collected by Liberty One.

6 **F. Forged Loan Applications.** From April 17, 2007, through December 18, 2007, Respondents Liberty
7 One and Goddard used unlicensed loan originators to assist at least 42 borrowers obtain residential mortgage
8 loans on property located in the Washington. On each of those loan applications, someone either signed Mr.
9 Goddard's name, signed for Mr. Goddard, or left the application unsigned, with Mr. Goddard's name typed in as
10 the loan originator. Respondents Liberty One and Goddard falsely stated on each loan application that Mr.
11 Goddard had originated the loan.

12 **G. Failure to Disclose Loan Originator License Number on Loan Applications.** In all 50
13 transactions reviewed, Respondents Liberty One and Goddard did not include the loan originator's license
14 number on the residential mortgage loan application as required by the Act.

15 **1.7 Failure to Respond to Directives**

16 **A. Complaint 22993.** On September 4, 2007, the Department served a directive on Liberty One by
17 First-Class mail directing production of the names and addresses of all loan originators working for Liberty
18 One, as well as the final HUD-1s for all Washington residential mortgage loans closed between January 1,
19 2007, and September 4, 2007. The response to the directive was due September 20, 2007. Respondents
20 Liberty One and Goddard did not comply with the directive.

21 On October 15, 2007, the Department served a subpoena on Liberty One by Federal Express directing
22 production of the requested documents by October 26, 2007. On October 22, 2007, Liberty One, through
23 Respondent Goddard, responded to the subpoena, but did not produce all of the HUD-1s, and on more than 20
24 loans did not produce the third page of the HUD-1s.

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1 On August 11, 2008, the Department sent another directive requesting copies of all Washington
2 residential mortgage loan applications taken by Liberty One between January 1, 2007, and August 11, 2008,
3 (19 months). On September 8, 2008, the Department received an incomplete response. Respondents Liberty
4 One and Goddard had sent loan applications only for January 1, 2007, through October 29, 2007, (9 months);
5 had not provided applications for at least five loans; and had not provided HUD-1s for at least 15 loans.

6 On December 4, 2008, the Department sent another directive to Liberty One requesting additional
7 documents and an explanation for what appeared to be forgeries of Mr. Goddard's signature on loan
8 applications. Respondents Liberty One, Goddard, and Flanagan never provided the requested additional
9 documents or written explanation.

10 **B. Complaint 24227.** On November 9, 2007, the Department served a directive on Liberty One by
11 First-Class mail directing production of the complete loan file at issue by November 26, 2007. Respondents
12 Liberty One and Goddard provided an incomplete copy of the loan file on December 11, 2007. On March 7,
13 2008, the Department served a subpoena on Liberty One by Federal Express directing production of the
14 complete loan file by March 18, 2008. Liberty One produced the loan file on March 18, 2008.

15 **C. Complaint 24383.** On November 13, 2007, the Department served a directive on Liberty One by
16 First-Class mail directing production of all advertising documents maintained by Liberty One in compliance
17 with WAC 208-660-450(1)(b) by November 28, 2007. In addition, the Department directed production of
18 additional advertising documents, including:

- 19 i. For any advertisement containing a triggering term under the Truth in Lending Act, copies of
20 all documents evidencing that the advertised terms were available at the time the advertisement
was in use and copies of all documents demonstrating how the disclosed APR was calculated.
- 21 ii. For every advertisement, the date or dates of publication, the media (print, radio, television,
direct mail, or other), and copies of billing information.
- 22 iii. For every advertisement, a written description of the advertisement, including the response rate
and number of mortgage transactions resulting from the advertisement.

23 Respondents Goddard, Flanagan, and Liberty One did not comply with the directive.

24 On December 10, 2007, the Department served a subpoena on Liberty One by Federal Express directing
25 production of the requested documents and written descriptions by December 21, 2007. Liberty One provided

1 an incomplete response to the subpoena on December 11, 2007, producing only two direct mail solicitations.
2 The Department requested full compliance, and on December 18, 2007, received the requested information.

3 **D. Complaint 26053.** On April 1, 2008, the Department served a directive on Liberty One by First-
4 Class mail directing production of the all disclosures required pursuant to RCW 19.146.030, RESPA, TILA,
5 and ECOA, including proof of delivery, by April 17, 2008. Respondents Liberty One, Goddard and Flanagan
6 provided an incomplete response on April 14, 2008, as they did not produce all the requested documents or
7 proof of delivery.

8 **E. Complaints 26519 & 26601.** On April 10 and 18, 2008, the Department received complaints
9 relating to a solicitation being used by Liberty One (the 2008 Solicitation described in paragraph 1.2 B). On
10 November 18, 2008, the Department served a directive on Liberty One by First-Class mail directing production
11 of all advertising documents maintained by Liberty One in compliance with WAC 208-660-450(1)(b), by
12 December 4, 2008. In addition, the Department directed the production of the additional advertising
13 documents identified in paragraph 1.8 C. Respondents Liberty One, Goddard, and Flanagan did not comply
14 with the directive.

15 On December 16, 2008, the Department served a subpoena on Liberty One by Federal Express directing
16 production of the requested documents and written descriptions by December 29, 2008. Respondents Liberty
17 One, Goddard, and Flanagan did not comply with the subpoena.

18 **1.8 On-Going Investigation**

19 The Department's investigation into the alleged violations of the Act by Respondents is continuing.

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

21 **2.1 Requirement to Obtain and Maintain Branch License.** Based on the Factual Allegations set forth in
22 Section I above, Respondents Liberty One and Goddard are in apparent violation of RCW 19.146.265 for
23 engaging in the business of a mortgage broker from a fixed physical location without first obtaining and
24 maintaining a branch license for that fixed physical location under the Act.

1 **2.2 Requirement to Obtain Loan Originator Licenses.** Based on the Factual Allegations set forth in
2 Section I above, Respondents Fontenot, Kress, Hubbart, and LaPage are in apparent violation of
3 RCW 19.146.200(1) for engaging in the business of a mortgage broker or loan originator without first
4 obtaining a license under the Act.

5 **2.3 Requirement to Obtain and Maintain Surety Bond.** Based on the Factual Allegations set forth in
6 Section I above, Respondents Liberty One and Goddard are in apparent violation of RCW 19.146.205(4)(a)
7 and WAC 208-660-175(1) by not obtaining and maintaining coverage under their surety bond for the
8 unlicensed branch.

9 **2.4 Requirement to Notify Department of Significant Developments.** Based on the Factual Allegations set
10 forth in Section I above, Respondents Liberty One and Goddard are in apparent violation of WAC 208-660-400(9)
11 for not notifying the Director five days after the loss of their designated broker; in apparent violation of WAC 208-
12 660-180(3) for not replacing their designated broker within thirty days; and in apparent violation of WAC 208-
13 660-400(5) for not notifying the Director in writing ten days prior to a change of Liberty One's principal place of
14 business.

15 **2.5 Requirement to File Annual Report.** Based on the Factual Allegations set forth in Section I above,
16 Respondents Liberty One, Goddard, and Flanagan are in apparent violation of RCW 19.146.290 and WAC 208-
17 660-400(1) and (2) for failing to timely file an annual report of mortgage broker activity.

18 **2.6 Requirement to Notify Department of Ceasing Doing Business in Washington.** Based on the Factual
19 Allegations set forth in Section 1 above, Respondents Liberty One, Goddard, and Flanagan are in apparent
20 violation of WAC 208-660-400(14) for failing to notify the Department that it ceased doing business in
21 Washington.

22 **2.7 Falsified Documents.** Based on the Factual Allegations set forth in Section I above, Respondents
23 Liberty One and Goddard are in apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or
24 indirectly employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person,
25 engaging in an unfair or deceptive practice toward any person, and obtaining property by fraud or

1 misrepresentation by falsifying loan application documents or putting off as true documents Respondents
2 Liberty One and Goddard knew to be falsified.

3 **2.8 False, Deceptive, and Misleading Advertising.** Based on the Factual Allegations set forth in Section I
4 above, Respondents Liberty One, Goddard, and Flanagan are in apparent violation of RCW 19.146.0201(2) for
5 engaging in unfair or deceptive practices toward any person including the use of false, deceptive, or misleading
6 advertising; in apparent violation of WAC 208-660-500(3)(f) for advertising a monthly payment that does not
7 disclose whether the payment includes amounts for taxes or insurance; in apparent violation of WAC 208-660-
8 430(22) for using information about a prospective client without disclosing the source of that information; and in
9 apparent violation of WAC 208-660-440(8) for using advertising that suggested Liberty One was the recipients'
10 existing lender.

11 **2.9 Requirement to Comply with the Truth in Lending Act.** Based on the Factual Allegations set forth in
12 Section I above, Respondents Liberty One and Goddard are in apparent violation of RCW 19.146.0201(11) for not
13 complying with the disclosure requirements of the Truth in Lending Act, 15 U.S.C. §1664(d) and Regulation Z, 12
14 C.F.R. §226.24(b) and (c), which requires clear and conspicuous disclosure of the APR; disclosure that the
15 advertised APR may increase after consummation; and disclosure of the terms of repayment when advertisements
16 containing triggering terms are used.

17 **2.10 Requirement to Disclose APR.** Based on the Factual Allegations set forth in Section I above, Respondents
18 Liberty One and Goddard are in apparent violation of RCW 19.146.0201(10) by advertising a rate of interest
19 without clearly and conspicuously disclosing the APR.

20 **2.11 Requirement to Comply with the Federal Trade Commission Act.** Based on the Factual Allegations set
21 forth in Section I above, Respondents Liberty One, Goddard, and Flanagan are in apparent violation of RCW
22 19.146.0201(11) by not complying with the Federal Trade Commission Act, 15 U.S.C. §§41-58, as amended, by
23 engaging in unfair or deceptive acts or practices.

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1 **2.12 Requirement to Accurately Disclose Loan Terms.** Based on the Factual Allegations set forth in Section I
2 above, Respondents Liberty One, Goddard, Fontenot, and Kress are in apparent violation of RCW 19.146.0201(7)
3 for making false or deceptive statements concerning the financing terms and conditions for residential mortgage
4 loans.

5 **2.13 Requirement to Disclose Residential Mortgage Loan Fees.** Based on the Factual Allegations set forth in
6 Section I above, Respondents Liberty One, Goddard, Fontenot, Kress, and Hubbard are in apparent violation of
7 RCW 19.146.0201(6) and (15) for not making disclosures to loan applicants as required by RCW 19.146.030,
8 including the initial disclosures required by RCW 19.146.030(1).

9 **2.14 Requirement to Comply with the Real Estate Settlement Procedures Act.** Based on the Factual
10 Allegations set forth in Section I above, Respondents Liberty One and Goddard are in apparent violation of
11 RCW 19.146.0201(11) by not complying with the Real Estate Settlement Procedures Act, 12 U.S.C. §2601 and
12 Regulation X, 24 C.F.R. §3500, which requires disclosure of the fees that inured to the benefit of Respondent
13 Liberty One on the GFE and HUD-1.

14 **2.15 Requirement to Respond to Directives.** Based upon the Factual Allegations set forth in Section I
15 above, Respondents Liberty One and Goddard are in apparent violation of RCW 19.146.235 for failing to
16 respond to directives issued by the Department.

17 **2.16 Requirement to Include Loan Originator License Number on Applications.** Based on the Factual
18 Allegations set forth in Section I above, Respondents Liberty One and Goddard are in apparent violation of
19 RCW 19.146.0201(2) for failing to ensure that loan originator's license numbers are included on loan
20 applications.

21 III. AUTHORITY TO IMPOSE SANCTIONS

22 **3.1 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may issue an order
23 prohibiting from participation in the affairs of a licensed mortgage broker any officer or principal of any licensed
24 mortgage broker for any violation of RCW 19.146.0201(1) through (9), RCW 19.146.030, or RCW 19.146.200.

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1 **3.2 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e), the Director may order restitution
2 against licensees or other persons subject to the Act for any violation of the Act.

3 **3.3 Authority to Impose Fines.** Pursuant to RCW 19.146.220(2)(e) and (3(a), the Director may impose fines
4 against licensees or other persons subject to the Act for any violation of the Act.

5 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and
6 WAC 208-660-550(5)(a), the Department is entitled to collect the costs of any investigation of alleged violations of
7 the Act. Costs will be calculated at the rate of \$48 per hour that each staff person devoted to the investigation.

8 **IV. NOTICE OF INTENT TO ENTER ORDER**

9 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in
10 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
11 for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the
12 Director's intent to ORDER that:

13 **4.1** Respondents Liberty One Lending Incorporated and Matthew Dean Goddard be prohibited from
14 participation in the conduct of the affairs of any Washington licensed mortgage broker, in any manner, for a
period of ten (10) years; and

15 **4.2** Respondent Terrance Michael Flanagan be prohibited from participation in the conduct of the affairs of any
16 Washington licensed mortgage broker, in any manner, for a period of five (5) years; and

17 **4.3** Respondents Joseph Dale Fontenot, Suzanne Margaret Kress, and Todd Russell Hubbart be prohibited from
18 participation in the conduct of the affairs of any Washington licensed mortgage broker, in any manner, for a
period of five (5) years; and

19 **4.4** Respondents Liberty One Lending Incorporated and Matthew Dean Goddard, jointly and severally, pay
20 \$187,221 in restitution to borrowers known to have received inaccurate disclosures during 2007. In
21 addition, Respondents Liberty One Lending Incorporated and Matthew Dean Goddard, jointly and severally,
identify and pay restitution to any other borrowers for disclosure violations during 2007, in an amount equal
to the inaccurately disclosed loan origination, mortgage broker, and processing fees, to be determined at
hearing; and

22 **4.5** Respondents Liberty One Lending Incorporated, Matthew Dean Goddard, and Joseph Dale Fontenot, jointly
23 and severally, pay restitution to Borrower VR in the amount of \$23,638; and

24 **4.6** Respondents Liberty One Lending Incorporated, Matthew Dean Goddard, and Suzanne Margaret Kress,
25 jointly and severally, pay restitution to Borrowers R & T in the amount of \$9,905.79; and

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- 1 4.7 Respondents Liberty One Lending Incorporated and Matthew Dean Goddard, jointly and severally, pay a
fine of \$350,000; and
- 2 4.8 Respondent Terrance Michael Flanagan pay a fine of \$35,000; and
- 3 4.9 Respondent Todd Russell Hubbart pay a fine of \$7,000; and
- 4 4.10 Respondent Joseph Dale Fontenot pay a fine of \$3,000; and
- 5 4.11 Respondent Suzanne Margaret Kress pay a fine of \$3,000; and
- 6 4.12 Respondent Robert Joseph LaPage pay a fine of \$2,000; and
- 7 4.13 Respondents Liberty One Lending Incorporated and Matthew Dean Goddard jointly and severally pay an
8 investigation fee in the amount of \$4,032 calculated at \$48 per hour for 84 staff hours devoted to that part of
the investigation; and
- 9 4.14 Respondent Terrance Michael Flanagan pay an investigation fee in the amount of \$864 calculated at \$48 per
10 hour for 18 staff hours devoted to that part of the investigation; and
- 11 4.15 Respondent Joseph Dale Fontenot pay an investigation fee in the amount of \$576 calculated at \$48 per hour
for 12 staff hours devoted to that part of the investigation; and
- 12 4.16 Respondent Suzanne Margaret Kress pay an investigation fee in the amount of \$768 calculated at \$48 per
13 hour for 16 staff hours devoted to that part of the investigation; and
- 14 4.17 Respondent Todd Russell Hubbart pay an investigation fee in the amount of \$192 calculated at \$48 per hour
for 4 staff hours devoted to that part of the investigation; and
- 15 4.18 Respondent Robert Joseph LaPage pay an investigation fee in the amount of \$192 calculated at \$48 per hour
16 for 4 staff hours devoted to that part of the investigation; and
- 17 4.19 Respondents Liberty One Lending Incorporated and Matthew Dean Goddard maintain records in
18 compliance with the Act and provide the Department with the location of the books, records and other
information relating to Liberty One's mortgage broker business, and the name, address and telephone
19 number of the individual responsible for maintenance of such records.

20 V. AUTHORITY AND PROCEDURE

21 This Statement of Charges and Notice of Intent to Enter an Order to Prohibit from Industry, Order
22 Restitution, Impose Fines, and Collect Investigation Fees (Statement of Charges) is entered pursuant to the
23 provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the
24 provisions of chapter 34.05 RCW (the Administrative Procedure Act). Respondents may make a written request
25

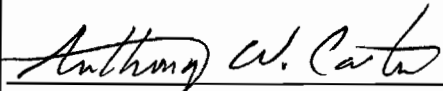
1 for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
2 HEARING accompanying this Statement of Charges.

3 Dated this 19th day of January, 2010.



4
5 DEBORAH BORTNER
6 Director, Division of Consumer Services
7 Department of Financial Institutions

8 Presented by:



9 ANTHONY W. CARTER
10 Enforcement Attorney



11 Approved by:


13 JAMES R. BRUSSELBACK
14 Enforcement Chief