

## ORDER SUMMARY CASE C-09-295

**Name(s):** Platinum Lending LTD

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**Order Number:** C-09-295-12-FO02

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**Effective Date:** August 22, 2012

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**License Number:** MB 20374 / NMLS 93187

**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  
If applicable, you must specifically note the ending dates of terms.

**License Effect:** n/a

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**Not Apply Until:** n/a

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**Not Eligible Until:** n/a

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**Prohibition/Ban Until:** n/a

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<b>Investigation Costs</b>	\$ 96	Due: Now	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
<b>Fine</b>	\$ 750	Due: Now	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
<b>Assessment(s) n/a</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution n/a</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment n/a</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

**Comments:**

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State of Washington

## DEPARTMENT OF FINANCIAL INSTITUTIONS

### BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING  
Whether there has been a violation of the  
Washington Mortgage Broker Practices Act (Ch.  
19.146 RCW) by:

PLATINUM LENDING LTD,

Respondent.

No. C-09-295-12-FO02

ORDER PARTIALLY GRANTING PETITION  
FOR RECONSIDERATION; AMENDED FINAL  
DECISION AND ORDER

THIS MATTER comes before Scott Jarvis, Director (“Director”) of the Department of Financial Institutions (“Department”), on Petition for Reconsideration of the Final Decision and Order (“Final Order”) in the above-referenced Brief Adjudicative Proceeding (“BAP”) for the Division of Consumer Services (“Division”), in relation to a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (“Statement of Charges”) under the Washington Mortgage Broker Practices Act, Chapter 19.146 RCW (“Act”), against PLATINUM LENDING LTD, Respondent (“Respondent”).

#### 1.0 DIRECTOR CONSIDERATIONS

- 1.1 Petitions for reconsideration are discretionary in nature.
- 1.2 The preponderance of the evidence, in the view of the Director, still confirms the findings of the Initial Decision & Order and the Final Order with respect to Respondents’ claim regarding attempted filing of the 2008 MBAR.
- 1.3 The Declaration of Mark Wilcox speaks for itself. Self-serving hearsay statements with regard to what Mr. Wilcox may have orally stated to Mr. Tanner Haynes, while arguably admissible as the statement of a party opponent (the Department), are not subject to cross-examination and are, therefore, inadmissible on petition for reconsideration (a non-evidentiary proceeding).

1.4 The Respondent has not been prejudiced by the timing of the entry of the Final Order.

1.5 The Respondent is, however, correct that there is a disparity between the Final Order's Finding of Fact 1.9 (which declares that \$1,000 is the appropriate amount of fine), while the actual Final Decision & Order sets the fine at \$1,500.

## 2.0 FINDINGS OF FACT

2.1 The considerations contained in Section 1.0 are hereby adopted as the Director's Findings of Fact.

2.2 The Director also reaffirms and incorporates Findings of Fact 1.1 through 1.8, inclusive, of the Final Order dated July 26, 2012.

2.3 The Division originally sought a fine in this matter of One Thousand Five Hundred Dollars (\$1,500.00). Finding of Fact 1.9 of the Final Order was a typographical error and was intended to make a finding that \$1,500 was the appropriate fine. However, upon further reflection, the Director is of the view that, while One Thousand Five Hundred Dollars (\$1,500.00) is a permissible fine for failure to timely submit the 2008 MBAR, the actual, appropriate amount of fine to be imposed in this matter should be Seven Hundred Fifty Dollars (\$750.00).

## 3.0 CONCLUSIONS OF LAW

3.1 The Director reaffirms and incorporates the original Conclusions of Law from the Final Order dated July 26, 2012.

4.0 FINAL DECISION & ORDER: Based upon the foregoing, the Director makes the following Final Decision and Order.

4.1 Respondent, PLATINUM LENDING LTD, shall pay a fine of Seven Hundred Fifty Dollars (\$750.00) to the Washington State Department of Financial Institutions for untimely filing of the 2008 Mortgage Broker Annual Report; and

4.2 Respondent, PLATINUM LENDING LTD, shall pay an investigative fee of Ninety-Six Dollars (\$96.00).

5.0 STAY OF ORDER. The Director has determined not to consider a Petition to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

- 6.0 JUDICIAL REVIEW. Respondents have the right to petition the superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. [For the information regarding the requirements for filing a Petition for Judicial Review, see the Notice to Parties following the Director's signature below.]
- 7.0 NON-COMPLIANCE WITH ORDER. If you do not comply with the terms of this order, the Department may seek its enforcement by the Office of Attorney General to include the collection of the fines, fees and restitution imposed herein.
- 8.0 SERVICE. For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service attached hereto.

Dated this \_\_\_\_ day of August, 2012, at Tumwater, Washington.

WASHINGTON STATE DEPARTMENT OF  
FINANCIAL INSTITUTIONS

By: /s/

SCOTT JARVIS, Director



State of Washington

## DEPARTMENT OF FINANCIAL INSTITUTIONS

### BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING  
Whether there has been a violation of the  
Washington Mortgage Broker Practices Act (Ch.  
19.146 RCW) by:

PLATINUM LENDING LTD,

Respondent.

No. C-09-295-12-FO1

FINAL DECISION AND ORDER

THIS MATTER comes before Scott Jarvis, Director (“Director”) of the Department of Financial Institutions (“Department”), on Petition for Review of the Initial Decision and Order (“Initial Order”) in the above-referenced Brief Adjudicative Proceeding (“BAP”) for the Division of Consumer Services (“Division”), in relation to a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (“Statement of Charges”) under the Washington Mortgage Broker Practices Act, Chapter 19.146 RCW (“Act”), against PLATINUM LENDING LTD, Respondent (“Respondent”).

#### 1.0 DIRECTOR CONSIDERATIONS

- 1.1 The Initial Order against the respondents was entered March 4, 2010. The submission of the Petition for Review (“Petition”) contesting the Initial Order was received March 15, 2010. The Petition was received within twenty (20) days of the entering of the Initial Order and is a timely submission.
- 1.2 The Director has broad authority to consider extenuating and excusable circumstances and to review individual violations of the Act. The Director has the authority to mitigate the fines imposed by the Initial Order to ensure fair and equitable administration of the Act.

- 1.3 Pursuant to RCW 19.146.290 and WAC 208-660-400, it is the responsibility of the mortgage broker to submit the Mortgage Broker Annual Report (MBAR) by the required deadline. It is not the Department's responsibility to remind mortgage brokers of the deadline or ensure mortgage brokers meet their obligations.
- 1.4 The Department's records show that Mr. Haynes' 2007 MBAR, due March 31, 2008, was not received until November 5, 2008. The Director notes that the Department issued two (2) Directives to Mr. Haynes before he submitted the 2007 MBAR. The Department issued a Resolution and Closure (R&C) related to Mr. Haynes' late filing on November 22, 2008. The November 22, 2008, R&C put Mr. Haynes on notice that future failure to timely file an MBAR may result in fines.
- 1.5 Filing late or failure to timely file for one (1) year alone will not compel the Department to bring action. Rather, the Department will only seek fines if the respondent has failed to timely submit an MBAR for two (2) consecutive years.
- 1.6 Department records show that Mr. Haynes' 2008 MBAR, due March 31, 2009, was not received by the deadline. Instead, Mr. Haynes argues that he attempted to submit his 2008 MBAR on or around March 13, 2009, but was unable because the Department's fax machine was malfunctioning. Mr. Haynes argues this constitutes an extenuating circumstance which should excuse his alleged wrongdoing. Mr. Haynes relies on a Declaration by Mark Wilcox, a Department Senior Secretary, which states that on and around September 10, 2009, the Department fax number in question was not properly working.
- 1.7 The Director is not persuaded by Mr. Haynes' above argument. The fact that the fax was malfunctioning in early September 2009, nearly six (6) months after the 2008 MBAR was due, proves nothing about the fax machine's functionality before March 31, 2009. Mr. Haynes' argument suggests that because the fax was broken in September 2009, it must have been malfunctioning in March 2009. The Director is not persuaded by this argument.
- 1.8 Moreover, Mr. Haynes presents no evidence that he attempted to submit his 2008 MBAR on or around March 13, 2009. To the contrary, Department records show

that the fax machine in question was properly functioning and receiving faxes on March 13, 2009, yet no faxes from Mr. Haynes were received. This is supported by the Declaration of Norma Smith dated March 2, 2010, and the supporting memorandum of Marisa Broggel, dated March 2, 2010. Both the declaration and memorandum attach exhibits showing the fax machine in question was working throughout March 2009 and received seven (7) faxes on March 13, 2009.

1.9 Based on the above considerations, the Director is of the view that One Thousand Dollars (\$1,000.00) is the appropriate fine for failure to timely submit the 2008 MBAR.

## 2.0 FINDINGS OF FACT

2.1 The considerations contained in Section 1.0 are hereby adopted as the Director's Findings of Fact.

2.2 The Director also reaffirms and incorporates the original Findings of Fact from the Initial Order dated March 4, 2010.

## 3.0 CONCLUSIONS OF LAW

3.1 The Director reaffirms and incorporates the original Conclusions of Law from the Initial Order dated March 4, 2010.

4.0 FINAL DECISION & ORDER: Based upon the foregoing, the Director makes the following Final Decision and Order.

4.1 Respondent, PLATINUM LENDING LTD, shall pay a fine of One Thousand Five Hundred Dollars (\$1,500.00) to the Washington State Department of Financial Institutions for untimely filing of the 2008 Mortgage Broker Annual Report; and

4.2 Respondent, PLATINUM LENDING LTD, shall pay an investigative fee of Ninety-Six Dollars (\$96.00).

5.0 RECONSIDERATION. Pursuant to RCW 34.05.470, Respondents have the right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of

service of the Final Order upon Respondents. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

- 6.0 STAY OF ORDER. The Director has determined not to consider a Petition to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.
- 7.0 JUDICIAL REVIEW. Respondents have the right to petition the superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. [For the information regarding the requirements for filing a Petition for Judicial Review, see the Notice to Parties following the Director's signature below.]
- 8.0 NON-COMPLIANCE WITH ORDER. If you do not comply with the terms of this order, the Department may seek its enforcement by the Office of Attorney General to include the collection of the fines, fees and restitution imposed herein.
- 9.0 SERVICE. For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service attached hereto.

Dated this 26<sup>th</sup> day of July, 2012, at Tumwater, Washington.

WASHINGTON STATE DEPARTMENT OF  
FINANCIAL INSTITUTIONS

By:

SCOTT JARVIS, Director



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

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

PLATINUM LENDING LTD,  
  
Respondent.

NO. C-09-295-09-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO IMPOSE FINE AND COLLECT  
INVESTIGATION FEE

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**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 based upon the facts available as the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

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**I. FACTUAL ALLEGATIONS**

14 **1.1 Respondent Platinum Lending LTD (Respondent)** was licensed by the Department of Financial  
15 Institutions of the State of Washington (Department) to conduct business as a mortgage broker at all times  
16 relevant to the conduct alleged.

17 **1.2 Failure to Timely File Mortgage Broker Annual Report.** By March 31, 2009, Respondent was  
18 required to file an annual report of mortgage broker activity to include the total number of closed loans  
19 originated and the total volume of closed loans originated. Respondent filed the 2008 mortgage broker annual  
20 report after April 30, 2009. Respondent also did not timely file the 2007 mortgage broker annual report.

21 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
22 Respondent continues to date.

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**II. GROUNDS FOR ENTRY OF ORDER**

**2.1 Requirement to Timely File Mortgage Broker Annual Report.** Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.290(1) and WAC 208-660-400(1), (2), (3), and (4) for failing to timely file the mortgage broker annual report.

**III. AUTHORITY TO IMPOSE SANCTIONS**

**3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a licensee or other person subject to the Act for any violations of the Act.

**3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person devoted to the investigation.

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

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

- 4.1** Respondent Platinum Lending LTD pay a fine of \$1,500; and
- 4.2** Respondent Platinum Lending LTD pay an investigation fee, which as of the date of these charges is \$96 calculated at \$48 per hour for two staff hours devoted to the investigation.

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**V. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (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). Respondent may make a written request for a Brief Adjudicative Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

Dated this 9<sup>th</sup> day of September, 2009.

\_\_\_\_\_  
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

\_\_\_\_\_  
FATIMA BATIE  
Financial Legal Examiner Supervisor

Approved by:

\_\_\_\_\_  
JAMES R. BRUSSELBACK  
Enforcement Chief

