

ORDER SUMMARY – Case Number: C-09-326

Name(s): KK Financial Group Inc

Order Number: C-09-326-10-FO01

Effective Date: May 2, 2010

License Number: DFI: 24340 [NMLS: 147618]

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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

Not Apply Until:

Not Eligible Until:

Prohibition/Ban Until:

Investigation Costs	\$96	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$3,000	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$3,666	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
No. of Victims:				

Comments:



State of Washington

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

BRIEF ADJUDICATIVE PROCEEDING

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

KK FINANCIAL GROUP, INC,

Respondent.

NO. C-09-326-10-FO01

FINAL DECISION AND 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 September 15, 2009, the Director, through Consumer Services Division Director, Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (Statement of Charges) against KK Financial Group, Inc., Respondent. 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 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for a Brief Adjudicative Proceeding for KK Financial Group, Inc. The Department served the Statement of Charges, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for a Brief Adjudicative Proceeding for KK Financial Group, Inc. on Respondent, on September 15, 2009, by First-Class mail and Federal Express overnight delivery.

On October 15, 2009 the Department received from Respondent a completed Application for Brief Adjudicative Proceeding. On October 15, 2009, the Division of Consumer Services made a request to the BAP Hearing Officer, Joseph M. Vincent, (BAP Hearing Officer Vincent) to schedule and conduct a hearing on the Statement of Charges. On October 19, 2009, BAP Hearing Officer Vincent issued a Notice of Assignment & Time to File Additional Materials giving Respondent until Friday, October 30, 2009, to provide additional materials.

On February 17, 2010, BAP Hearing Officer Vincent issued an Initial Decision and Order. This Initial Decision and Order includes the following Findings of Fact:

- Respondent was required to file a Mortgage Broker Annual Report (MBAR) on or before March 31, 2009.
- Respondent did not file the 2008 MBAR until October 14, 2009.
- The Department issued a Statement of Charges on September 15, 2009.

The Initial Decision and Order ordered Respondent to pay a fine of \$3,000 and to pay investigative costs of \$96. On February 17, 2010, the Initial Decision and Order was mailed to Respondent via First-Class mail.

Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the date of service of the Initial Decision and Order to file a Petition for Review of the Initial Decision and Order. Respondent did not file a Petition for Review during the statutory period.

B. Record Presented. The record presented to the Director for his review and for entry of a final decision included the following:

1. Statement of Charges, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;
2. Completed application for Brief Adjudicative Proceeding for KK Financial Group, Inc.;

3. Letter requesting the scheduling of a Brief Adjudicative Proceeding;
4. Notice of Assignment & Time To File Additional Materials dated October 19, 2009; and
5. Initial Decision and Order dated February 17, 2010, with documentation of service.

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the

Director hereby adopts the Initial Decision and Order, 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 KK Financial Group, Inc. pay a fine of \$3,000; and
2. Respondent KK Financial Group, Inc. pay an investigative fee of \$96.

B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has 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 Respondent. 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.

C. 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.

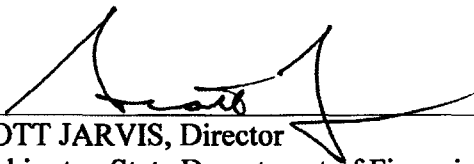
D. Judicial Review. Respondent has the right to petition the superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

E. Non-compliance with Order. If KK Financial Group, Inc. does 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 fine and fees imposed herein.

F. 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 22nd day of May, 2010, at Tumwater, Washington.




SCOTT JARVIS, Director
Washington State Department of Financial Institutions

NOTICE TO THE PARTIES

Judicial Review of this Final Decision and Order is available to a party according to the provisions set out in Part V of the Washington Administrative Procedure Act, RCW 34.05.510 through RCW 34.05.598, inclusive. Judicial Review may be made by filing a Petition for Judicial Review (RCW 34.05.570) within thirty (30) days of the date of the Final Decision and Order, as permitted under RCW 34.05.542(2). The contents of the Petition for Review shall be according to the requirements of RCW 34.05.546.

This is to certify that the above FINAL DECISION AND ORDER has been served upon the following parties on May 28, 2010, by depositing a copy of same in the United States mail, postage prepaid.



SUSAN PUTZIER

Mailed to the following:

ATTN: Kao Khamphilavong
Designated Broker
KK Financial Group, Inc.
3030 Sabo Lane
West Linn, Oregon 97132

ATTN: Vongkham Prachanty
Registered Agent
KK Financial Group, Inc.
13924 SE 274th Street
Kent, Washington 98042

James R. Brusselback
Enforcement Chief
Department of Financial Institutions
Division of Consumer Services
P.O. Box 41200
Olympia, Washington 98504-1200



State of Washington

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

BRIEF ADJUDICATIVE PROCEEDING

RECEIVED

FEB 17 2010

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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

KK FINANCIAL GROUP INC.,

Respondent.

DCS – BAP – C-09-326-09-IO

INITIAL DECISION AND ORDER

THIS MATTER having come before Joseph M. Vincent, General Counsel for the Department of Financial Institutions ("Department"), sitting in his capacity as Presiding Officer ("Presiding Officer") for Brief Adjudicative Proceedings ("BAP") for the Division of Consumer Services ("Division"), in relation to a State 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 KK FINANCIAL GROUP INC., the Respondent ("Respondent");

NOW THEREFORE, the Presiding Officer issues the following Findings of Fact, Conclusions of Law, and Initial Decision and Order:

1.0 RECORD

The Presiding Officer has considered the following material documents, which comprise the relevant record in this matter ("Record"):

- 1.1 Statement of Charges, dated September 15, 2009;
- 1.2 Request for Brief Adjudicative Proceeding, received by the Division on October 15, 2009, in which the designated broker of Respondent, Kao Khamphilavong ("Designated Broker") declined a qualified interpreter or to be represented by an attorney;

- 1.3 Letter from James Brusselback, Enforcement Chief of the Division, dated September 15, 2009;
- 1.4 Notice of Assignment and Time to File Additional Materials, from the Presiding Officer, dated October 19, 2009;
- 1.5 2008 Mortgage Broker Annual Report, signed and dated October 12, 2009, and received by the Division on October 14, 2009; and
- 1.6 Letter of explanation addressed to the Division dated October 26, 2009, and received October 29, 2009.

2.0 FINDINGS OF FACT

Based upon the Record, the following facts undisputed as between the Division and the Respondent:

- 2.1 Respondent is licensed as a mortgage broker with the Division.
- 2.2 Kao Khamphilavong is its Designated Broker.
- 2.3 Respondent was required to file a Mortgage Broker Annual Report ("MBAR") of mortgage activity with the Division on or before March 31st of every year following any year in which it held a mortgage broker license.
- 2.4 This change went into effect on January 1, 2007, so the first MBAR was due to the Division no later than March 31, 2008.
- 2.5 The 2008 MBAR was due to the Division by March 31, 2009, but the Division did not receive it.
- 2.6 Despite that, the Department did not issue its Statement of Charges until September 15, 2009, at a time when the Respondent had still not filed its 2008 MBAR.
- 2.7 James Brusselback, Enforcement Chief of the Division, assigned this matter to Joseph M. Vincent, the BAP Hearing Officer, by letter dated September 17, 2009.
- 2.8 By letter dated October 15, 2009, the BAP Hearing Officer issued to Respondent, care of Designate Broker, a Notice of Assignment and Time to File Additional Materials, from the Presiding Officer, giving Respondent until October 30, 2009, to file additional materials.
- 2.9 Respondent did not timely file the 2007 MBAR.
- 2.10 Respondent did not file the 2008 MBAR until October 14, 2009.

- 2.11 While sincere and heartfelt, Respondent's letter of explanation dated October 26, 2009, provides no legal basis for the Presiding Officer to making a finding other than what is requested in the Statement of Charges.
- 2.12 The record is sufficient to support the relief requested by the Division.
- 2.13 Two staff hours were devoted to this investigation.

3.0 CONCLUSIONS OF LAW

Based upon the Findings of Fact above, the Presiding Officer must conclude, as follows:

- 3.1 In its failure to file the 2008 MBAR, Respondent violated RCW 19.146.290(1) and WAC 208-660-400(1), (2), and (3).
- 3.2 Pursuant to RCW 19.146.220(2)(e), the Department may impose fines on a Mortgage Broker Licensee for any violation of the Act.
- 3.3 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, the Department will furnish to the licensee a billing to cover the cost of investigation.
- 3.4 The investigative charge will be calculated at the rate of \$48 per hour for each staff person of the Department devoted to the investigation.

4.0 INITIAL DECISION AND ORDER

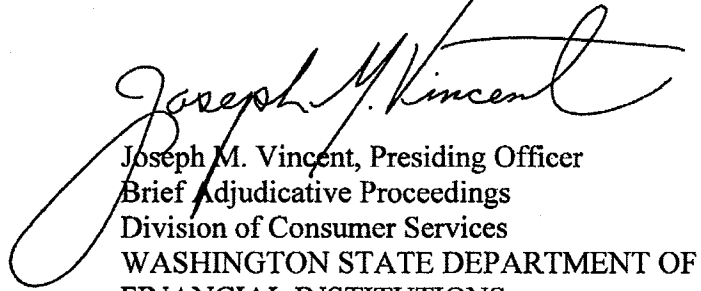
Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS HEREBY ORDERED THAT:

- 4.1 Respondent, KK FINANCIAL GROUP INC., pay a fine of Three Thousand Dollars (\$3,000.00); and
- 4.2 Respondent, KK FINANCIAL GROUP INC., pay an investigative fee of Ninety-Six Dollars (\$96.00).

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Dated and mailed on February 17, 2010, at Tumwater, Washington.

A handwritten signature in black ink, reading "Joseph M. Vincent". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail that extends to the right.

Joseph M. Vincent, Presiding Officer
Brief Adjudicative Proceedings
Division of Consumer Services
WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS
P.O. Box 41200
Olympia, Washington 98504-1200
Phone: (360) 902-0516
E-Fax: (360) 704-7036

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

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

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a
7 licensee or other person subject to the Act for any violations of the Act.

8 **3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC
9 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person subject
10 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
11 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person
12 devoted to the investigation.

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

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

18 **4.1** Respondent KK Financial Group Inc pay a fine of \$3,000; and

19 **4.2** Respondent KK Financial Group Inc pay an investigation fee, which as of the date of these charges
20 is \$96 calculated at \$48 per hour for two staff hours devoted to the investigation; and

21 **4.3** Respondent KK Financial Group Inc file the 2008 annual report of mortgage broker activity.

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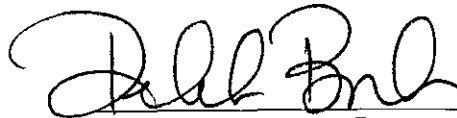
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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect
3 Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
5 RCW (The Administrative Procedure Act). Respondent may make a written request for a Brief Adjudicative
6 Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF
7 ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

8 Dated this 15th day of September, 2009.

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11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

16 

17 FATIMA BATIE
18 Financial Legal Examiner Supervisor

19 Approved by:

20 

21 JAMES R. BRUSSELBACK
22 Enforcement Chief

