

**TERMS COMPLETED**

**ORDER SUMMARY – Case Number: C-09-327**

**Name(s):** David P. Koss (d/b/a Pacific Northwest Mortgage)  
 \_\_\_\_\_  
 \_\_\_\_\_

**Order Number:** C-09-327-13-CO01  
 \_\_\_\_\_

**Effective Date:** 09/27/2013  
 \_\_\_\_\_

**License Number:** 510-MB-19790/NMLS (LO) #97695/NMLS (company) #64712  
**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  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:** It is agreed that Respondent shall not apply to the Department for any license under any name.  
 \_\_\_\_\_  
 \_\_\_\_\_

**Not Apply Until:** Permanent  
 \_\_\_\_\_

**Not Eligible Until:** Permanent  
 \_\_\_\_\_

**Prohibition/Ban Until:** Permanent  
 \_\_\_\_\_

<b>Investigation Costs</b>	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		N/A		
No. of Victims:		N/A		

Comments: The fine of \$300 and investigation fee of \$96 was withdrawn pursuant to the Consent Order. There was no ban or prohibition identified in the CO, only that Respondent shall not apply to the Department for any license under any name.

Also Noted: It was AGREED that the Findings of Fact and Conclusions of Law set forth in C-09-327-13-FO02 shall remain in full force and effect.

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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS**

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

DAVID P. KOSS,

Respondent.

No.: C-09-327-13-CO01

CONSENT ORDER AS TO FINANCIAL  
OBLIGATIONS ORDERED IN AMENDED  
FINAL DECISION AND ORDER  
C-09-327-13-FO02

COMES NOW the Director of the Department of Financial Institutions (“Director”) and  
Davis P. Koss (“Respondent”), and agree to the entry of this Consent Order as to Financial  
Obligations Ordered in Amended Final Decision and Order C-09-327-13-FO02. This Consent Order  
is entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW) and RCW  
34.05.060 of the Administrative Procedure Act based on the following:

**DIRECTOR’S CONSIDERATIONS**

On or about September 15, 2009, the Department of Financial Institutions, Division of  
Consumer Services (“Department”) commenced an administrative action under Case No. C-09-327-  
09-SC01 to address alleged violations of the Mortgage Brokers Practices Act (“Act”) by  
Respondent. Respondent made a timely request for a hearing, following which the Director entered  
Final Decision and Order C-09-327-12-FO01 finding that Respondent had violated the Act and  
imposing financial obligations totaling \$1,596. Thereafter, Respondent made a timely Petition for  
Reconsideration, following which the Director entered Order Partially Granting Petition for  
Reconsideration; Amended Final Decision and Order C-09-327-13-FO02 reducing the financial  
obligations to \$596. Respondent has now come before the Director requesting further  
reconsideration and citing financial hardship and other relevant circumstances, and the Director,  
having considered the record and the representations of Respondent, has determined that the interests  
of justice will be served by entry of this Consent Order.

1 **AGREEMENT AND ORDER**

2 The Department and Respondent have agreed upon a basis for resolution of the financial  
3 obligations ordered in Amended Final Decision and Order C-09-327-13-FO02. Pursuant to chapter  
4 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative  
5 Procedure Act, Respondent hereby agrees to the Department’s entry of this Consent Order and  
6 hereby waives his right to any and all administrative and judicial review of the issues raised in this  
7 matter, or of the resolution reached herein.

8 Based upon the foregoing:

9 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter  
10 of the activities discussed herein.

11 **B. Application for License.** It is AGREED that Respondent shall not apply to the  
12 Department for any license under any name.

13 **C. Withdrawal of Financial Obligations.** It is AGREED that the fine of \$300 and  
14 investigation fee of \$96 ordered under C-09-327-13-FO02 are withdrawn. It is further AGREED that  
15 the Findings of Fact and Conclusions of Law set forth in C-09-327-13-FO02 shall remain in full force  
16 and effect.

17 **D. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this  
18 Consent Order, which is effective when signed by the Director’s designee.

19 **E. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read  
20 this Consent Order in its entirety and fully understands and agrees to all of the same.

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**RESPONDENT:**

By:



David P. Koss  
Individually

DO NOT WRITE BELOW THIS LINE

Dated this 27<sup>th</sup> day of September, 2013, at Tumwater, Washington.



WASHINGTON STATE DEPARTMENT OF  
FINANCIAL INSTITUTIONS

By:

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:

DAVID P. KOSS,

Respondent.

No. C-09-327-13-FO2

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 DAVID P. KOSS, Respondent (“Respondent”).

#### 1.0 DIRECTOR CONSIDERATIONS

1.1 Discretion of Director. Petitions for reconsideration are discretionary in nature.

1.2 Evidence Sufficient. The preponderance of the evidence 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 Timing of Order Occasions No Harm. The Respondent has not been prejudiced by the timing of the entry of the Final Order.

1.4 Timeliness of Petition for Reconsideration. The Respondent’ Petition for Reconsideration is dated January 7, 2013, and was received by the Department on or about January 14, 2013. The Final Order was dated July 26, 2012, and service by mail was first

attempted on July 26, 2012. However, it appears that the Division had reason to believe that Respondent did not have sufficient notice of the Final Order. So the record shows that the Division on January 3, 2013, served the Final Order by U.S. Mail and Federal Express Overnight Delivery to Respondent's actual address of 801 King Street, Apt. 3102, Honolulu, HI 96813. It would appear that Respondent did finally receive the Final Order upon this service, because the Department received a Petition for Reconsideration on January 14, 2013. While this would appear to be eleven (11) days after the date of the Division's Declaration of Service (which is normally one day after the ten permissible days for filing a petition for reconsideration after service by mail of a Final Order), the Division has a policy of relying upon the date of receipt of a Final Order in connection with service by Federal Express Overnight Delivery. Accordingly, the Director is of the view that the filing of Petition for Reconsideration on January 14, 2013, was timely. Therefore, among other reasons, the Director has elected to consider the Petition for Reconsideration on the merits.

1.5 Respondents' Interpretation of Statutes and Rule Lacks Merit. Respondent has cited statutes and rules in effect as of January 2013, rather than as they existed in 2007, 2008, and 2009 when the conduct in question occurred. At the time of the conduct recited in the findings of fact contained in the Final Order, the statutes and rules of the Division were as represented in the Final Order. Therefore, there was more than sufficient evidence and legal authority for the Final Order based upon statutes and rules that were in effect at the time of Respondent's failure to file MBARs in two consecutive years. Moreover, the Director is not persuaded, *as a matter of law*, by any other arguments of the Respondent.

1.6 Respondent Entitled to Substantial Mitigation of Final Order. Notwithstanding the conclusions above, the Director is of the view that Respondent's arguments, while technically without merit, *ironically point to an argument that is of weight in the exercise of the Director's discretion*. Subsequent to this case and others which were brought for widespread, systematic failure of many licensees to file required MBARs, the Division eventually made a policy change in its reporting regime after the resolution of nearly all of these cases. This resulted in the present statute and rule which Respondent erroneously cites. While it would be legally correct for the Department to rely on its Final Order, it is precisely because the Department would be enforcing by its Final Order a policy which is no longer in effect that the Director, in his discretion, has elected to substantially mitigate the amount of the fine set forth in the original Final Order.

While the Director cannot simply ignore the conduct of Respondent during the time that former versions of the law and rule were in effect, the Director can, as matter of discretion, adjust the fine which ought to be imposed. Consequently, the Director has elected for this reason alone to lower the fine in this matter from \$1,500 to \$300.<sup>1</sup>

1.7 Minor Nature of Violation and Fine. As may be inferred from the Statement of Charges, the violation you committed was never a basis for revoking your license, although it would have been a ministerial *condition* of license renewal had you wished to continue to be licensed in Washington State.<sup>2</sup>

## 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 Findings of Fact of the Final Order, dated July 26, 2012, excluding Paragraph 1.13 of the Final Order.

2.3 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 Three Hundred Dollars (\$300.00).

## 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, DAVID P. KOSS, shall pay a fine of Three Hundred Dollars (\$300.00) to the WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS for untimely filing of the 2008 Mortgage Broker Annual Report; and

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<sup>1</sup> The Director notes that the Final Order already reduced the amount of the fine from the BAP Hearing Officer's Initial Decision and Order by 50%.

<sup>2</sup> While this Final Order may appear on the National Mortgage Licensing System (NMLS) Database, the Director hereby places all persons on notice that this administrative action, while seeking to enforce important and legitimate public policy in effect at the time, related simply to failure to file the required 2008 MBAR. Many other licensees have received Final Orders for exactly the same administrative violation and have paid or otherwise settled their fines with the Division with no adversary effect, *as a result of such violation*, on their ability to continue to do business in the mortgage brokerage or consumer mortgage lender industry.

4.2 Respondent, DAVID P. KOSS, shall pay to the WASHINGTON STATE DEPARTMENT OF FINANCIAL INSTITUTIONS 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 3<sup>rd</sup> day of April, 2013, at Tumwater, Washington.

WASHINGTON STATE DEPARTMENT OF  
FINANCIAL INSTITUTIONS

By:

  
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:

DAVID P. KOSS,

Respondent.

No. C-09-327-12-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 DAVID P. KOSS, Respondent (“Respondent”).

#### 1.0 DIRECTOR CONSIDERATIONS

- 1.1 The submission of the Petition for Review (“Petition”) contesting the Initial Decision and Order was received March 1, 2010. The Petition was received within twenty (20) days of service of the Initial Order entered February 18, 2010, and is a timely submission.
- 1.2 The Director has broad authority and discretion to consider extenuating or excusable circumstances and 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 designated deadline. It is not the responsibility of the Department to notify a mortgage broker that their MBAR has not been received. Rather, it is the mortgage broker's responsibility to ensure the Department received the MBAR.

- 1.4 The Director notes that the Department did not receive Mr. Koss's 2007 MBAR, due by March 31, 2008, until November 3, 2008. Following the receipt of the 2007 MBAR, the Department issued a Resolution and Closure (R&C) which put respondent on notice that failure to timely file in the future would result in fines and fees. The Director notes that the Department issued two (2) directives, dated August 20, 2008, and October 29, 2008, before Mr. Koss filed his 2007 MBAR.
- 1.5 One year of late filing will not compel the Department to bring action for failure to timely file the MBAR. Rather, it has been the policy of the Department to not seek fines for late filing or failing to file an MBAR unless a respondent has done so for two (2) consecutive years. The fine against Mr. Koss is **not** for late filing of the 2007 MBAR.
- 1.6 The Department did not receive Mr. Koss's 2008 MBAR, due March 31, 2009, until September 28, 2009. Pursuant to WAC 208-660-530(6), the Department has the authority to levy a \$100 fine for every day following the March 31<sup>st</sup> deadline that an MBAR is late.
- 1.7 The Director acknowledges that Mr. Koss did not renew his mortgage broker license for 2009 due to an unfavorable economic climate, inability to broker loans, and high licensing fees. The Director notes that on or about January 9, 2009, the Department contacted Mr. Koss about the need to file his surrender paperwork and 2008 MBAR.
- 1.8 Mr. Koss's Petition argues that he submitted his 2008 MBAR on or around January 4, 2009. However, nothing in the Department's records indicate that Mr. Koss submitted his 2008 MBAR on or around this date. To the contrary, Department records show that the 2008 MBAR was not received until September 28, 2009.
- 1.9 The weight of the evidence does not support Mr. Koss's contention that he submitted his 2008 MBAR on or around January 4, 2009. Mr. Koss did not

submit or attach any evidence to support this claim. Department records show that the 2008 MBAR was not received until September 28, 2009. The Director is of the view that Mr. Koss did not timely submit his 2008 MBAR and a fine is appropriate.

- 1.10 The Director acknowledges Mr. Koss's repeated arguments that he was not properly notified by the Department regarding his filing requirements and obligations. However, pursuant to WAC 208-660-400, it is the mortgage broker's responsibility, not that of the Department, to be aware of their requirements and meet timely deadlines. Thus, the Director is not persuaded that this is an extenuating circumstance which should eliminate Mr. Koss's fine.
- 1.11 The Director acknowledges Mr. Koss's claim that he did not timely receive the Department's September 2009 Statement of Charges because it was mailed to his old address, not his California address. However, pursuant to WAC 208-660-400(7)(b), the mortgage broker is required to update the Department about an address change. Moreover, Mr. Koss has had adequate time and has been afforded sufficient due process to assert his claims and provide supporting evidence. Thus, the Director is not persuaded that this is an extenuating circumstance which should eliminate Mr. Koss's fine.
- 1.12 Based on the above considerations, the Director is not persuaded that Mr. Koss's fine should be eliminated. Mr. Koss does not attach evidence to substantiate his claims or refute the Department's claims. Moreover, there appears to be no excusable neglect or other extenuating circumstances that justify Mr. Koss's untimely filing of the 2008 MBAR. However, the Director does take note that Mr. Koss has not been a licensed mortgage broker or originated mortgage loans in Washington State since 2008.
- 1.13 The Director is of the view that One Thousand Five Hundred Dollars (\$1,500.00) is the appropriate fine for untimely filing of the 2008 MBAR.

## 2.0 FINDINGS OF FACT

2.1 The considerations contained above in Section 1.0 (DIRECTOR CONSIDERATIONS) 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 entered February 18, 2010.

3.0 CONCLUSIONS OF LAW

3.1 The Director reaffirms and incorporates the original Conclusions of Law from the Initial Order entered February 18, 2010.

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

4.1 Respondent, DAVID P. KOSS, shall pay a fine of One Thousand Five Hundred Dollars (\$1,500.00) to the Washington State Department of Financial Institutions for untimely submission of the 2008 Mortgage Broker Annual Report

4.2 Respondent, DAVID P. KOSS, shall pay an investigative fee of Ninety-Six Dollars (\$96.00).

5.0 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 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. 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

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

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 Procedures Act, RCW 34.05.510 through RCW 34.05.598, inclusive. Judicial Review may be made by filing a Petition for Judicial Review (RCW 34.05.6570) 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 July 26, 2012, by depositing a copy of same in the United States mail, postage prepaid.

  
SUSAN PUTZIER

**Mailed to the following:**

DAVID P. KOSS  
5942 W. Country Ave.  
Visalia, CA 93277

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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:

DAVID P KOSS,

Respondent.

NO. C-09-327-09-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO 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 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:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent** David P Koss (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker at all times relevant to the conduct alleged.

**1.2 Failure to File Mortgage Broker Annual Report.** By March 31, 2009, Respondent was required to file an annual report of mortgage broker activity to include the total number of closed loans originated and the total volume of closed loans originated. As of the date of this Statement of Charges Respondent has not filed the 2008 mortgage broker annual report.

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

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STATEMENT OF CHARGES  
David P Koss  
C-09-327-09-SC01

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200  
(360) 902-8703

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**II. GROUNDS FOR ENTRY OF ORDER**

**2.1 Requirement to 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 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 David P Koss pay a fine of \$3,000; and
- 4.2** Respondent David P Koss 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; and
- 4.3** Respondent David P Koss file the 2008 annual report of mortgage broker activity.

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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 15<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

