



STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:  
  
RICK WESTON, Unlicensed Loan Originator,  
  
Respondent.

NO. C-09-412-10-FO01

FINAL ORDER FOR RICK WESTON

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 December 8, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Collect Investigation Fee, and Order Restitution (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated December 10, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Rick Weston. The Department of Financial Institutions (Department) served the Statement of Charges, cover letter dated December 10, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Rick Weston on Respondent, on December 10, 2009, by First-Class mail and Federal Express overnight delivery.

1 On December 31, 2009, Respondent filed an Application for Adjudicative Hearing. On  
2 February 23, 2010, the Department made a request to the Office of Administrative Hearings (OAH) to  
3 assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of  
4 Charges. OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ June K.  
5 Emmal (ALJ Emmal) to preside over prehearing and hearing proceedings and issue an Initial Decision.  
6 On March 3, 2010, the Attorney General of Washington, through Assistant Attorney General Charles  
7 E. Clark, filed a Notice of Appearance on behalf of the Department. On March 11, 2010, ALJ Emmal  
8 issued a Notice of Prehearing Conference scheduling a telephone prehearing conference on  
9 Wednesday, April 14, 2010 at 4:15 p.m.  
10

11 On April 14, 2010, Assistant Attorney General Charlie Clark, attorney for the Department,  
12 attended the prehearing conference. Respondent did not appear at the hearing. On May 5, 2010, ALJ  
13 Emmal issued a Corrected Order of Default<sup>1</sup>. OAH mailed the Corrected Order of Default to  
14 Respondent on May 5, 2010.

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

18 B. Record Presented. The record presented to the Director for his review and for entry of  
19 a final decision included the following:  
20

- 21 1. Statement of Charges, cover letter dated December 10, 2009, and Notice of  
Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 22 2. Completed Application for Adjudicative Hearing for Rick Weston;
- 23
- 24

25 <sup>1</sup> On April 15, 2010, ALJ Emmal issued an Order of Default, but there was no proof of service accompanying the Order.

- 1 3. Request to OAH for Assignment of Administrative Law Judge;
- 2 4. Notice of Prehearing Conference dated March 11, 2010, with documentation of
- 3 service;
- 4 5. Corrected Order of Default dated May 5, 2010, with documentation of service.

5 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director  
6 hereby adopts the Statement of Charges, which is attached hereto.

7  
8 **II. FINAL ORDER**

9 Based upon the foregoing, and the Director having considered the record and being  
10 otherwise fully advised, NOW, THEREFORE:

11 A. IT IS HEREBY ORDERED, That:

- 12 1. Respondent Rick Weston is prohibited from participation in the conduct of the affairs
- 13 of any mortgage broker subject to licensure by the Director, in any manner, for a
- 14 period of 5 years;
- 15 2. Respondent Rick Weston pay a fine of \$4,000;
- 16 3. Respondent Rick Weston pay an investigation fee of \$240;
- 17 4. Respondent Rick Weston pay restitution to borrowers in the amount received as
- 18 compensation for the loans originated while unlicensed.

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

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

4 C. Stay of Order. The Director 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  
6 Review 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  
8 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing  
9 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

10 E. Non-compliance with Order. If you do not comply with the terms of this order, the  
11 Department may seek its enforcement by the Office of Attorney General to include the collection of the  
12 fines, fees, and restitution imposed herein.

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

16  
17 DATED this 23<sup>rd</sup> day of June, 2010.



18  
19 STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

20  
21  
22 SCOTT JARVIS  
DIRECTOR

A handwritten signature in black ink, appearing to read 'Scott Jarvis', is written over a horizontal line. The signature is fluid and cursive.

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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:

RICK WESTON, Unlicensed Loan Originator,  
  
Respondent.

NO. C-09-412-09-SC01

STATEMENT OF CHARGES and NOTICE OF  
INTENTION TO ENTER AN ORDER TO  
PROHIBIT FROM INDUSTRY, IMPOSE FINE,  
COLLECT INVESTIGATION FEE, AND ORDER  
RESTITUTION

**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)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.235 and .310, and based upon the facts available as 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 Rick Weston (Respondent Weston)** worked for Killion Enterprises Inc. d/b/a Spartan Mortgage<sup>2</sup> as a loan originator at all times relevant to this Statement of Charges. Respondent Weston has never been licensed by the Department to conduct the business of a loan originator.

**1.2 Loan Originator License.** In order to conduct business as a loan originator in 2008, Respondent Weston was required to obtain and maintain a loan originator license before originating any residential mortgage loans. Respondent Weston did not obtain a loan originator license and as a result could not conduct the business of a loan originator.

**1.3 Unlicensed Loan Originator Activity.** Respondent Weston conducted the business of a loan originator from 12178 SW Garden Place, Building 3, Park 217, Tigard, Oregon 97223, between, on or about,

<sup>1</sup> RCW 19.146 (2006).

<sup>2</sup> The Department has issued a Statement of Charges (C-09-013-09-SC01) against Killion Enterprises Inc. d/b/a Spartan Mortgage that includes an allegation of allowing Respondent Weston to originate loans while not licensed.

1 February 5, 2008, and December 31, 2008. Respondent Weston originated at least 4 loans<sup>1</sup> for borrowers  
2 whose property was located in the state of Washington.

3 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
4 Respondent continues to date.

## 5 **II. GROUNDS FOR ENTRY OF ORDER**

6 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010 (12) and WAC 208-660-006,  
7 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or  
8 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential  
9 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a  
10 person in obtaining or applying to obtain a residential mortgage loan.

11 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010 (10), "Loan Originator" means a natural  
12 person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or negotiates  
13 terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect  
14 compensation or gain.

15 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010 (3) and WAC 208-660-006, a "Borrower" is  
16 defined as any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or  
17 seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or  
18 persons including himself or herself, regardless of whether the person actually obtains such a loan.

19 **2.4 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent Weston is  
20 in apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device  
21 or artifice to defraud or mislead borrowers or lenders or any person, for engaging in an unfair or deceptive  
22 practice toward any person, and for obtaining property by fraud or misrepresentation.

23 **2.5 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section  
24 I above, Respondent Weston is in apparent violation of RCW 19.146.200 for engaging in the business of a loan  
25 originator without first obtaining and maintaining a license under the Act.

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<sup>1</sup> Killion loan numbers 13017025, 12722351, 12982591, and 12704896.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue  
3 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed  
4 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker  
5 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) and  
6 RCW 19.146.200.

7 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), and (3)(a), the Director may impose  
8 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any  
9 violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW  
10 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or any violation of the Act.

11 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC  
12 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other person subject  
13 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of  
14 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person  
15 devoted to the investigation.

16 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e), the Director may issue orders  
17 directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to for any  
18 violation of the Act.

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

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

24 **4.1** Respondent Rick Weston be prohibited from participation in the conduct of the affairs of any mortgage  
25 broker subject to licensure by the Director, in any manner, for a period of 5 years;

**4.2** Respondent Rick Weston pay a fine of \$4,000;

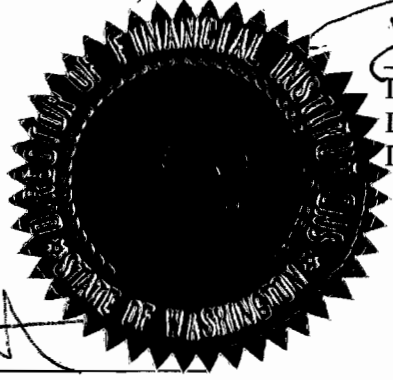
1 4.3 Respondent Rick Weston pay an investigation fee, which as of the date of these charges is \$240 calculated  
2 at \$48 per hour for 5 staff hours devoted to the investigation; and

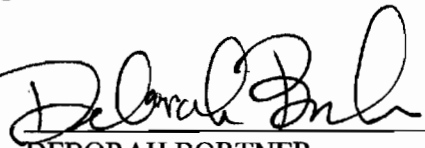
3 4.4 Respondent Rick Weston pay restitution in the amount received as compensation for the loans he  
4 originated while unlicensed.

5 **V. AUTHORITY AND PROCEDURE**

6 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose  
7 Fine, Collect Investigation Fee and Order Restitution (Statement of Charges) is entered pursuant to the  
8 provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to  
9 the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written  
10 request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY  
11 FOR HEARING accompanying this Statement of Charges.

12 Dated this 8<sup>th</sup> day of December, 2009.



13 

14 DEBORAH BORTNER  
15 Director Division of Consumer Services  
16 Department of Financial Institutions

17 Presented by:

18   
19 WILLIAM HALSTEAD  
20 Financial Legal Examiner

21 Approved by:

22   
23 JAMES R. BRUSSELBACK  
24 Enforcement Chief