



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:

NO. C-09-499-10-FO01

DAVID PEARLMAN, Unlicensed Loan Originator,  
Respondent.

FINAL 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 January 28, 2010, 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, Order Restitution, and Collect Investigation Fee (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 January 28, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for David Pearlman. The Department served the Statement of Charges, cover letter dated January 28, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for David Pearlman on Respondent on January 28, 2010, by First-Class mail and Federal Express overnight delivery.

1 On February 22, 2010, Respondent filed an Application for Adjudicative Hearing. On May 5,  
2 2010, the Department made a request to the Office of Administrative Hearings (OAH) to assign an  
3 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges.  
4 OAH assigned ALJ Craig Davenport (ALJ Davenport) to preside over prehearing and hearing  
5 proceedings and issue an Initial Decision. On May 25, 2010, ALJ Davenport issued a Notice of  
6 Prehearing Telephone Conference scheduling a prehearing conference on Thursday, June 10, 2010 at  
7 4:00 p.m.

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9 On June 10, 2010, Assistant Attorney General (AAG) Charlie Clark, attorney for the  
10 Department, attended the telephonic prehearing conference. Respondent did not appear at the hearing.  
11 On July 1, 2010, ALJ Davenport issued a Corrected Initial Order of Default<sup>1</sup>. OAH mailed the  
12 Corrected Initial Order of Default to Respondent on July 1, 2010.

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

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

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- 19 1. Statement of Charges, cover letter dated January 28, 2010, and Notice of Opportunity  
20 to Defend and Opportunity for Hearing, with documentation of service;
- 21 2. Completed Application for Adjudicative Hearing for David Pearlman;
- 22 3. Request to OAH for Assignment of Administrative Law Judge;
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25 <sup>1</sup> On June 17, 2010, ALJ Davenport issued an Order of Default, but the Corrected Initial Order of Default was issued after AAG Charlie Clark filed a motion requesting an Initial Order be issued in accordance with RCW 34.05, the Administrative Procedure Act.

1 4. Notice of Prehearing Telephone Conference dated May 25, 2010, with documentation  
2 of service;

3 5. Corrected Initial Order of Default dated June, 2010, with documentation of service;

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

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

10 A. IT IS HEREBY ORDERED, That:

- 11 1. Respondent David Pearlman 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 a period of 5 years;
- 14 2. Respondent David Pearlman pay a fine of \$1,000;
- 15 3. Respondent David Pearlman pay restitution to the borrowers outlined in paragraph 1.3  
16 of the Statement of Charges in the amount of \$3,850.89;
- 17 4. Respondent David Pearlman pay an investigation fee of \$240.

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

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17 DATED this 16<sup>th</sup> day of August, 2010.



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19 STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

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SCOTT JARVIS  
DIRECTOR

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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:

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DAVID PEARLMAN, Unlicensed Loan Originator,  
  
Respondent.

NO. C-09-499-09-SC01

STATEMENT OF CHARGES and NOTICE OF  
INTENTION TO ENTER AN ORDER TO  
PROHIBIT FROM INDUSTRY, IMPOSE FINE,  
ORDER RESTITUTION, 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)<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 David Pearlman (Respondent)** worked for First Financial & Real Estate Services Inc. d/b/a [www.gofirstfinancial.com](http://www.gofirstfinancial.com)<sup>2</sup> as a loan originator at all times relevant to this Statement of Charges.

Respondent has never applied for a loan originator license with the Department.

**1.2 Loan Originator License.** In order to conduct business as a loan originator in 2008, Respondent was required to obtain and maintain a loan originator license before January 1, 2008. Respondent 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 conducted the business of a loan originator when he originated at least 2 residential mortgage loans between January 1, 2008, and June 11, 2008, for borrowers

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

<sup>2</sup> The Department has issued a Statement of Charges (C-09-388-09-SC01) against First Financial & Real Estate Services Inc. d/b/a [www.gofirstfinancial.com](http://www.gofirstfinancial.com) that includes an allegation that Respondent originated at least 2 loans while not licensed.

1 with property located in the state of Washington. The Respondent was paid a commission for the loans in the  
2 amount of \$3,850.89.

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 is in  
20 apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or  
21 artifice to defraud or mislead borrowers or lenders or any person, for engaging in an unfair or deceptive practice  
22 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 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.

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

14 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228 (2), WAC 208-660-520, and  
15 WAC 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other person  
16 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover  
17 the cost of the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff  
18 person devoted to the investigation.

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 David Pearlman be prohibited from participation in the conduct of the affairs of any  
mortgage broker subject to licensure by the Director, in any manner, for a period of five years;

25 **4.2** Respondent David Pearlman pay a fine which, as of the date of these charges, totals \$1,000;

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- 4.3 Respondent David Pearlman pay restitution to the borrowers outlined in paragraph 1.3, which at the time of this document totals, \$3,850.89; and
- 4.4 Respondent David Pearlman pay an investigation fee, which as of the date of these charges is \$240 calculated at \$48 per hour for 5 staff hours devoted to the investigation.

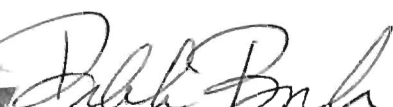
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**V. AUTHORITY AND PROCEDURE**


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

13 Dated this 28th day of January, 2010.



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

18 Presented by:

19   
20 WILLIAM HALSTEAD  
21 Financial Legal Examiner

22 Approved by:

23   
24 JAMES R. BRUSSELBACK  
25 Enforcement Chief