

Terms Completed

ORDER SUMMARY – Case Number: C-10-049

Name(s): Safeguard Mortgage LLC

Order Number: C-10-049-11-CO01

Effective Date: November 7, 2011

License Number: N/A
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: None

Not Apply Until: N/A

Not Eligible Until: _____

Prohibition/Ban Until: N/A

Investigation Costs	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$	Due	Paid <input type="checkbox"/> Y <input 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	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Safeguard Mortgage LLC agreed to comply with Laws of 2011, Chapter 191, effective July 22, 2011, amending RCW 31.04.025(2)(e) with respect to loans made primarily for business, commercial, or agricultural purposes if the loan is secured by a lien on the borrower's primary residence.

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

3 IN THE MATTER OF DETERMINING:
4 Whether there has been a violation of the
5 Consumer Loan Act and Mortgage Broker
6 Practices Act of Washington by:

6 SAFEGUARD MORTGAGE, LLC,
7 JAY SIMPSON, and MIKE REED,

7 Respondents.

NO. C-10-049-11-CO01

CONSENT ORDER AS TO RESPONDENT
SAFEGUARD MORTGAGE, LLC

8 COMES NOW the Director of the Department of Financial Institutions (Director), through
9 his designee Deborah Bortner, Division Director, Division of Consumer Services, and Safeguard
10 Mortgage, LLC (Safeguard Mortgage), by and through its attorney, David C. Kelly, and finding that
11 the issues raised in the above-captioned matter as they relate to Safeguard Mortgage may be
12 economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is
13 entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), RCW 19.146, and
14 RCW 34.05.060 of the Administrative Procedure Act, based on the following:

15 **AGREEMENT AND ORDER**

16 The Department of Financial Institutions, Division of Consumer Services (Department) and
17 Safeguard Mortgage have agreed upon a basis for resolution of the matters as related to Safeguard
18 Mortgage alleged in Statement of Charges No. C-10-049-10-SC01 (Statement of Charges), entered
19 September 16, 2010. Safeguard Mortgage hereby agrees to the Department's entry of this Consent
20 Order as related to Safeguard Mortgage.

21 Based upon the foregoing:

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

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1 **B. Waiver of Hearing.** It is AGREED that Safeguard Mortgage has been informed of the
2 right to a hearing before an administrative law judge, and hereby waives the right to a hearing and
3 any and all administrative and judicial review of the issues raised in this matter, or of the resolution
4 reached herein. Accordingly, Safeguard Mortgage, by the signatures of their representatives below,
5 withdraws their appeal to the Office of Administrative Hearings.

6 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
7 Statement of Charges as it relates to Safeguard Mortgage and agree that Safeguard Mortgage does
8 not admit to any wrongdoing by its entry. The parties hereto acknowledge that Safeguard
9 specifically denies the Statement of Charges as it relates to Safeguard, and specifically denies many
10 of the factual allegations recited in the Statement of Charges.

11 **D. Injunction.** Without in any way admitting that it has previously failed to comply with
12 any applicable law, Safeguard Mortgage states that it is aware of the Laws of 2011, Chapter 191,
13 effective July 22, 2011, amending RCW 31.04.025(2)(e) of the Consumer Loan Act (the Act) by
14 broadening application of the Act to include any person making a loan primarily for business,
15 commercial, or agricultural purposes if the loan is secured by a lien on the borrower's primary
16 residence, and Safeguard Mortgage agrees it shall comply with such law in the event it hereafter
17 makes a loan secured by a lien on the borrower's primary residence.

18 **E. Authority to Execute Order.** It is AGREED that the undersigned have represented and
19 warranted that they have the full power and right to execute this Consent Order on behalf of the
20 party represented.

21 **F. Non-Compliance with Order.** It is AGREED that Safeguard Mortgage understands that
22 failure to abide by the terms and conditions of this Consent Order may result in further legal action
23 by the Director. In the event of such legal action, Safeguard Mortgage may be responsible for costs
24 and fees as provided by statute.

1 **G. Voluntarily Entered.** It is AGREED that Safeguard Mortgage has voluntarily entered
2 into this Consent Order, which is effective when signed by the Director's designee.

3 **H. Completely Read, Understood, and Agreed.** It is AGREED that Safeguard Mortgage
4 has read this Consent Order in its entirety and fully understands and agrees to all of the same.


5 **RESPONDENT:**

6 **Safeguard Mortgage, LLC**

7 By: 
8 Ed Altman
9 Managing Member

10-27-2011
Date

10 APPROVED AS TO FORM
11 Peterson Russell Kelly PLLC

12 
13 David C. Kelly, WSBA No. 13534
14 Attorneys for Respondents

10/27/2011
Date

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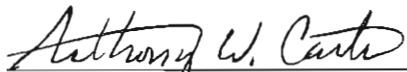
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THIS ORDER ENTERED THIS 7th DAY OF November, 2011



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



ANTHONY W. CARTER
Senior Enforcement Attorney



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

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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
Consumer Loan Act and Mortgage Broker
Practices Act of Washington by:

SAFEGUARD MORTGAGE, LLC, JAY
SIMPSON, and MIKE REED,

Respondents.

NO. C-10-049-10-SC01

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

INTRODUCTION

Pursuant to RCW 19.146.220, RCW 19.146.223, RCW 31.04.093, and RCW 31.04.165, 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 Act¹ (MBPA) and chapter 31.04, the Consumer Loan Act (CLA). After having conducted an investigation pursuant to RCW 19.146.235 and RCW 31.04.145, and based upon the facts available as of 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 Respondents.

A. Safeguard Mortgage, LLC (Respondent Safeguard) is in the business of providing loans for commercial and residential purposes. Respondent Safeguard is a registered corporation in the state of Washington. Respondent Safeguard has never applied for a license with the Department and never been licensed by the Department.

B. Christopher Jay Simpson (Respondent Simpson) at all times relevant to this Statement of Charges was an independent contractor working for Respondent Safeguard in the capacity of a loan originator. Respondent Simpson has never applied for a license with the Department and never been licensed by the Department.

¹ RCW 19.146 (1994) or (2006) or both

1 **C. Mike Reed (Respondent Reed)** is employed by Charter Funding as a loan originator.

2 Respondent Reed has never been licensed by the Department.

3 **1.2 Background.** On or about November 30, 2001, Carolyn Hanson (Hanson) obtained a residential
4 mortgage loan from Centex Home Equity Company, LLC, (Centex) for her second home located on Southeast
5 View Park Road in Port Orchard, Washington (Port Orchard property). In 2006, Hanson decided to refinance
6 the Port Orchard property and get cash-out for the purpose of paying personal debts. Hanson never intended to
7 sell or commercially develop the Port Orchard property¹.

8 Hanson was referred to Respondent Reed for the purpose of obtaining a cash-out refinance of her Port
9 Orchard property. After unsuccessfully attempting to refinance Hanson's mortgage through two different
10 lenders, Respondent Reed contacted Respondents Simpson and Safeguard. Respondent Reed provided
11 Respondents Simpson and Safeguard with information that assisted them in making a decision as to whether
12 they would refinance the Hanson mortgage.

13 After applying for the refinance, Hanson was never provided with the required disclosures² from
14 Respondents Reed, Simpson, or Safeguard. On May 31, 2007, Hanson signed a promissory note in the amount
15 of \$385,000 to Respondent Safeguard. The note was secured by a Deed of Trust on the Port Orchard property
16 and included the following terms:

17 Interest Rate:	14.25%
18 Interest Reserve (prepaid interest from the loan):	\$27,431.25
19 Loan Fee:	\$23,100.00

20 Respondent Reed received \$7,700 paid directly from the loan proceeds for referring or originating the
21 loan. Respondent Simpson received compensation, amount unknown, from Safeguard for originating the loan.

22 Upon receiving the loan from Respondent Safeguard, Hanson paid off the mortgage with Centex
23 totaling \$210,464.20. The remaining \$174,535.80 was used to pay loan fees, interest reserve, and other
24 personal debts of Hanson. After all of the obligations and debts were satisfied, Hanson received a check for

25 ¹ Adjacent to her second home, Hanson had other real property she intended to commercially develop.

² Per RCW 19.146 (MBPA) and RCW 31.04 (CLA), Real Estate Settlement Procedures Act and Truth In Lending Act.

1 approximately \$4,394. The purpose of the loan was for personal use. Respondents Reed, Simpson, and
2 Safeguard participated in the escrow instructions that directed where the loan funds were to be distributed. All
3 of the debts paid with the loan proceeds were paid directly from escrow.

4 The Respondents employed a scheme, which included efforts to characterize the residential personal
5 loan provided Hanson as a "commercial loan," so they could charge excessive fees and interest that would not
6 be available if it were treated as a residential loan. In addition, making the loan appear to be a commercial loan
7 would alleviate the disclosure requirements that are mandatory with a residential loan.

8 **1.3 Unlicensed Activity – Respondent Safeguard.** Respondent Safeguard conducted the business of a
9 consumer loan company or mortgage broker, between at least January 1, 2007, through the date of these
10 charges, when it provided Hanson a residential mortgage loan.

11 **1.4 Unlicensed Activity – Respondent Reed.** Respondent Reed, without being licensed by the
12 Department, assisted Hanson in applying to obtain a residential mortgage loan on property located in the State
13 of Washington.

14 **1.5 Unlicensed Activity – Respondent Simpson.** Respondent Simpson, without being licensed by the
15 Department, assisted Hanson in obtaining a residential mortgage loan on property located in the State of
16 Washington.

17 **1.6 Failure to Make Required Disclosures.** Respondents did not make the required disclosures to
18 Hanson, including but not limited to a Good Faith Estimate and a Truth In Lending Statement, within 3 days
19 after she applied for a residential mortgage loan.

20 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
21 Respondents continues to date.

22 II. GROUNDS FOR ENTRY OF ORDER

23 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29),
24 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
25 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential

1 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
2 person in obtaining or applying to obtain a residential mortgage loan.

3 **2.2 Definition of Borrower.** Pursuant to RCW 19.146.010(2), a "Borrower" is defined as any person who
4 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information
5 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself
6 or herself, regardless of whether the person actually obtains such a loan. Pursuant to RCW 31.04.015(9) a
7 "Borrower" is defined as any person who consults with or retains a licensee or person subject to this chapter in
8 an effort to obtain or seek information about a loan, regardless of whether that person actually obtains such a
9 loan.

10 **2.3 Definition of a Loan Originator.** Pursuant to RCW 19.146.010, a "Loan Originator" is defined as a
11 natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
12 compensation or gain (i) takes a residential mortgage loan application for a mortgage broker, or (ii) offers or
13 negotiates terms of a mortgage loan. "Loan originator" also includes a person who holds themselves out to the
14 public as able to perform any of these activities.

15 **2.4 Prohibited Acts Pursuant to MBPA.** Based on the Factual Allegations set forth in Section I above,
16 Respondents are in apparent violation of RCW 19.146.0201(1), (2), (3), (6), and (12) for directly or indirectly
17 employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an
18 unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to
19 make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any
20 other applicable state or federal law, collecting, charging, attempting to collect or charge or using or proposing
21 any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or RCW 19.146.070.

22 **2.5 Prohibited Acts Pursuant to the CLA.** Based on the Factual Allegations set forth in Section I above,
23 Respondents are in apparent violation of RCW 31.04.027(1), (2), (3), and (6) for directly or indirectly
24 employing any scheme, device or artifice to defraud or mislead any borrower, to defraud or mislead any lender,
25 or to defraud or mislead any person, for directly or indirectly engaging in any unfair or deceptive practice

1 toward any person, for directly or indirectly obtaining property by fraud or misrepresentation, for failing to
2 disclose to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law.

3 **2.6 Requirement to Disclose Residential Mortgage Loan Fees Pursuant to MBPA.** Based on the
4 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.030 for
5 failing to provide a borrower with full written disclosures, containing an itemization and explanation of all fees
6 and costs that the borrowers were required to pay in connection with obtaining a residential mortgage loan,
7 within three days following receipt of a loan application or any moneys from the borrowers.

8 **2.7 Requirement to Disclose Residential Mortgage Loan Fees Pursuant to CLA.** Based on the Factual
9 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.102(2) and (3) for
10 failing to provide a borrower, within three business days following the receipt of a loan application a written
11 disclosure containing an itemized estimation and explanation of all fees and costs that the borrower is required
12 to pay in connection with obtaining a loan and an estimate of the annual percentage rate on the loan and a
13 disclosure of whether or not the loan contains a prepayment penalty.

14 **2.8 Requirement to Maintain Accurate and Current Books and Records.** Based on the Factual
15 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060, WAC 208-
16 660-140, and RCW 31.04.155 for failing to make accurate and current books and records readily available to
17 the Department until at least twenty-five months have elapsed following the effective period to which the books
18 and records relate.

19 **2.9 Requirement to Obtain and Maintain A Mortgage Broker or Consumer Loan License.** Based on
20 the Factual Allegations set forth in Section I above, Respondent Safeguard is in apparent violation of RCW
21 19.146.200 and RCW 31.04.045 for engaging in the business of a mortgage broker and consumer loan company
22 without first obtaining and maintaining a license under the respective Act.

23 **2.10 Requirement to Obtain and Maintain a Loan Originator License.** Based on the Factual Allegations
24 set forth in Section I above, Respondents Reed and Simpson are in apparent violation of RCW 19.146.200 for
25 engaging in the business of a loan originator without first obtaining and maintaining a license under the Act.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist Pursuant to MBPA.** Pursuant to RCW 19.146.220,
3 the Director may issue orders directing a licensee, its employee or loan originator, or other person subject to the Act
4 to cease and desist from conducting business in a manner that is injurious to the public or violates any provision of
5 the Act.

6 **3.2 Authority to Prohibit from the Industry Pursuant to MBPA.** Pursuant to RCW 19.146.220, the
7 Director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of
8 a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
9 mortgage broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1)
10 through (9) or (12), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or
11 RCW 19.146.265, false statements or omission of material information on the application that, if known, would
12 have allowed the Director to deny the application for the original license, conviction of a gross misdemeanor
13 involving dishonesty or financial misconduct or a felony after obtaining a license, or failure to comply with a
14 directive or order of the Director.

15 **3.3 Authority to Impose Fine Pursuant to MBPA.** Pursuant to RCW 19.146.220, the Director may impose
16 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any
17 violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW 19.146.080, RCW
18 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or failure to comply with a directive or order of the
19 Director.

20 **3.4 Authority to Order Restitution Pursuant to MBPA.** Pursuant to RCW 19.146.220, the Director may
21 issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution
22 to an injured borrower.

23 **3.5 Authority to Collect Investigation Fee Pursuant to MBPA.** Pursuant to RCW 19.146.228, upon
24 completion of any investigation of the books and records of a licensee or other person subject to the Act, the
25 Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the

1 investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person devoted
2 to the investigation.

3 **3.6 Authority to Issue an Order to Cease and Desist Pursuant to the CLA.** Pursuant to RCW
4 31.04.093(5)(a), the Director may issue orders directing a licensee, its employee or loan originator, or other person
5 subject to the Act to cease and desist from conducting business in a manner that is injurious to the public or violates
6 any provision of the Act.

7 **3.7 Authority to Prohibit from the Industry Pursuant to the CLA.** Pursuant to RCW 31.04.093(6)(d)
8 and (e), the Director may issue an order removing from office or prohibiting from participation in the affairs of
9 any licensee, or both, any officer, principal, employee, or loan originator, or any person subject to the Act, for
10 failure to comply with any order or subpoena issued under the Act, or for a violation of RCW 31.04.027.

11 **3.8 Authority to Impose Fine Pursuant to the CLA.** Pursuant to RCW 31.04.093(4), the Director may
12 impose fines of up to one hundred dollars per day upon the licensee, its employees or loan originator, or other
13 person subject to the Act, for any violation of the Act or failure to comply with any order or subpoena issued by
14 the Director under the Act.

15 **3.9 Authority to Order Restitution Pursuant to CLA.** Pursuant to RCW 31.04.093(5)(c), the Director may
16 issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution
17 to a borrower or other person who is damaged as a result of a violation of the Act.

18 **3.10 Authority to Collect Investigation Fees Pursuant to the CLA.** Pursuant to RCW 31.04.145(3) and
19 WAC 208-620-590, every licensee investigated by the Department shall pay for the cost of the examination or
20 investigation, calculated at the rate of \$69.01 per staff hour.

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

2 Respondents' violations of the provisions of chapters 19.146 RCW, and 31.04 RCW, chapter 208-660
3 WAC, and chapter 208-620 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and
4 Authority to Impose Sanctions, constitute a basis for the entry of an Order under, RCW 19.146.220, RCW
5 19.146.221, RCW 19.146.223, RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the
6 Director's intention to ORDER that:

- 7 **4.1** Respondent Safeguard Mortgage LLC cease and desist conducting the business of a mortgage broker or
8 consumer loan company;
- 9 **4.2** Respondents Safeguard Mortgage LLC, Jay Simpson, and Mike Reed cease and desist conducting the
10 business of a mortgage broker or loan originator;
- 11 **4.3** Respondent Safeguard Mortgage LLC be prohibited from participation in the conduct of the affairs of any
12 mortgage broker or consumer loan company subject to licensure by the Director, in any manner, for a
13 period of 5 years;
- 14 **4.4** Respondents Jay Simpson and Mike Reed be prohibited from participation in the conduct of the affairs of
15 any mortgage broker or loan originator subject to licensure by the Director, in any manner, for a period of 5
16 years;
- 17 **4.5** Respondent Safeguard Mortgage LLC pay a fine, which as of the date of these charges totals \$25,000;
- 18 **4.6** Respondent Jay Simpson pay a fine, which as of the date of these charges totals \$5,000;
- 19 **4.7** Respondent Mike Reed pay a fine, which as of the date of these charges totals \$5,000;
- 20 **4.8** Respondent Safeguard Mortgage pay restitution to Carolyn Hanson in an amount, which as of the date of
21 these charges, totals \$50,531.25;
- 22 **4.9** Respondent Mike Reed pay restitution to Carolyn Hanson in an amount, which as of the date of these
23 charges, totals \$7,700;
- 24 **4.10** Respondents Safeguard Mortgage LLC, Jay Simpson and Mike Reed jointly and severally pay an
25 investigation fee, which as of the date of these charges, totals \$6,000 calculated at \$48 per hour for the 120
staff hours; and
- 4.11** Respondents maintain records in compliance with the Acts and provide the Department with the location of
the books, records and other information relating to Respondent Safeguard Mortgage, LLC's business, and
the name, address and telephone number of the individual responsible for maintenance of such records in
compliance with the Acts.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Prohibit from
3 Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) is entered
4 pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, RCW 19.146.230, RCW
5 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205 and is subject to the provisions of chapter
6 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set
7 forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this Statement of Charges.

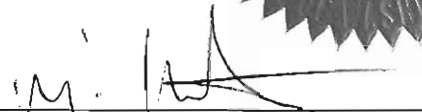
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10 Dated this 16th day of September, 2010.



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

17 Presented by:

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19 _____
20 WILLIAM HALSTEAD
21 Financial Legal Examiner

22 Approved by:

23 
24 _____
25 JAMES R. BRUSSELBACK
Enforcement Chief