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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:

INTEREST RATE MEDIATORS, INC., and
MORRIS SHEMTOUB, President,

Respondents.

No.: C-10-059-11-FO01

FINAL ORDER

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I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On July 12, 2011, the Director, through the Director's designee, issued 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) against Interest Rate Mediators, Inc. and Morris Shemtoub (Respondents). 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 July 13, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents (collectively, accompanying documents).

On July 13, 2011, the Department served Respondents with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery. On July 14, 2011, the documents sent via Federal Express overnight delivery were delivered to Respondent Interest Rate Mediators, Inc. On July 15, 2011, the documents sent via Federal Express overnight delivery were delivered to Respondent Morris Shemtoub. On July 20, 2011, the documents sent via

1 Federal Express overnight delivery to Respondent Morris Shemtoub were subsequently returned.
2 The documents sent via First-Class mail were not returned to the Department by the United States
3 Postal Service.

4 On July 13, 2011, the Department served the Statement of Charges and accompanying
5 documents on Respondent Interest Rate Mediators, Inc.'s Registered Agent by sending a package
6 containing the documents to his place of business via First-Class mail and Federal Express overnight
7 delivery. On July 14, 2011, the documents set via Federal Express overnight delivery were delivered.
8 The documents sent via First-Class mail were not returned to the Department by the United States
9 Post Office.

10 Respondents did not request an adjudicative hearing within twenty calendar days after the
11 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
12 in WAC 208-08-050(2).

13 B. Record Presented. The record presented to the Director's designee for her review and
14 for entry of a final decision included the following: Statement of Charges, cover letter dated July 13,
15 2011, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
16 Adjudicative Hearing for Respondents, with documentation for service.

17 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
18 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

19 II. FINAL ORDER

20 Based upon the foregoing, and the Director's designee having considered the record and being
21 otherwise fully advised, NOW, THEREFORE:

22 A. IT IS HEREBY ORDERED, That:

- 1 1. Respondent Interest Rate Mediators, Inc. is prohibited from participation in the
2 conduct of the affairs of any mortgage broker subject to licensure by the Director,
in any manner, for a period of five years.
- 3 2. Respondent Morris Shemtoub is prohibited from participation in the conduct of the
4 affairs of any mortgage broker subject to licensure by the Director, in any manner,
for a period of five years.
- 5 3. Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and
6 severally pay a fine of \$5,250.
- 7 4. Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and
8 severally pay \$3,495 in restitution to the borrower identified in Paragraph 1.2 of
9 the Statement of Charges.
- 10 5. Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and
severally pay an investigation fee of \$408.

11 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
12 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
13 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
14 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
15 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
16 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.

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

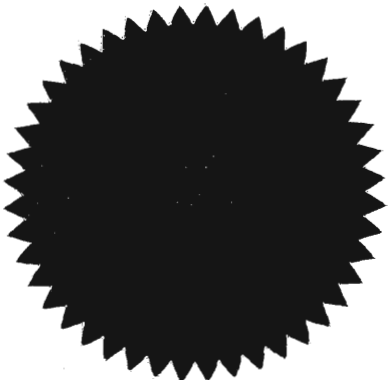
20 C. Stay of Order. The Director's designee has determined not to consider a Petition to
21 Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
22 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

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


4 E. Non-compliance with Order. If you do not comply with the terms of this order, the
5 Department may seek its enforcement by the Office of the Attorney General to include the collection
6 of the fines, fees, and restitution imposed herein. The Department also may assign the amounts owed
7 to a collection agency for collection.

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

11 DATED this 6th day of September, 2011



13 STATE OF WASHINGTON
14 DEPARTMENT OF FINANCIAL INSTITUTIONS

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16 DEBORAH BORTNER
17 Director
18 Division of Consumer Services

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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:

INTEREST RATE MEDIATORS, INC., and
MORRIS SHEMTOUB, President,

Respondents.

No. C-10-059-11-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO PROHIBIT FROM INDUSTRY,
IMPOSE FINE, ORDER RESTITUTION,
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)¹. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of 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. **Interest Rate Mediators, Inc. (Interest Rate Mediators)** was a California corporation located at 15928 Ventura Blvd. Suite 229, Encino, California, 91436. Respondent Interest Rate Mediators has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions (Department).

B. **Morris Shemtoub (Shemtoub)** was President of Interest Rate Mediators. Respondent Shemtoub has never been licensed by the Department in any capacity.

¹ RCW 19.146 (2008)
STATEMENT OF CHARGES
C-10-059-11-SC01
Interest Rate Mediators, Inc. and Morris Shemtoub

1 **1.2 Unlicensed Activity.** Between at least June 17, 2009, and October 12, 2009, Respondent
2 Interest Rate Mediators assisted at least one borrower, J.G., in applying to obtain a loan modification
3 on property located in the State of Washington from the unlicensed location referenced in paragraph
4 1.1. Respondent Interest Rate Mediators collected a fee of at least \$3,495 for its services.
5 Respondent Interest Rate Mediators did not provide the promised services to that borrower.

6 **1.3 Failure to Respond to Directives.** On or about October 30, 2009, the Department sent a
7 Directive and Requirement for Production of Records and Explanation to Respondent Interest Rate
8 Mediators by First-Class mail. This Directive was not returned as undeliverable by the United States
9 Postal Service. Respondent Interest Rate Mediators did not respond to this directive. On or about
10 January 19, 2010, the Department issued a Subpoena to Respondent Interest Rate Mediators by First-
11 Class mail. This subpoena was not returned as undeliverable by the United States Postal Service.
12 Respondent Interest Rate Mediators did not respond to the Subpoena. To date, Respondent Interest
13 Rate Mediators has not responded to the Directive or Subpoena.

14 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
15 Act by Respondents continues to date.

16 II. GROUNDS FOR ENTRY OF ORDER

17 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010,
18 "Mortgage Broker" means any person who for compensation or gain, or in the expectation of
19 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
20 loan or (b) holds himself or herself out as being able to assist a person in obtaining or applying to
21 obtain a residential mortgage loan.

22 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10), "Loan Originator" means
23 a natural person who (a) takes a residential mortgage loan application for a mortgage broker, or (b)

1 offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in the
2 expectation of direct or indirect compensation or gain. "Loan originator" also includes a person who
3 holds themselves out to the public as able to perform any of these activities. "Loan originator" does
4 not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the
5 purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and
6 distribution of information common for the processing of a loan in the mortgage industry and
7 communication with a borrower to obtain information necessary for the processing of a loan. A
8 person who holds himself or herself out to the public as able to obtain a loan is not performing
9 administrative or clerical tasks.

10 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(3), a "Borrower" is defined as any
11 person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek
12 advice or information on obtaining or applying to obtain a residential mortgage loan for himself,
13 herself, or persons including himself or herself, regardless of whether the person actually obtains
14 such a loan.

15 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on Factual
16 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200
17 for engaging in the business of a mortgage broker or loan originator without first obtaining and
18 maintaining a license under the Act.

19 **2.5 Requirement to Comply with Investigation Authority.** Based on Factual Allegations set
20 forth in Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to
21 comply with the Department's investigation authority.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

7 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2) and WAC 208-660-530, the
8 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person
9 subject to the Act for any violations of RCW 19.146.200 or failure to comply with a directive or
10 order of the Director.

11 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may issue
12 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay
13 restitution.

14 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-
15 660-550(4) and WAC 208-660-520(9), the Department will charge forty-eight dollars per hour that
16 each staff person devoted to the investigation.

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

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

1 4.1 Respondent Interest Rate Mediators, Inc. be prohibited from participation in the conduct of
2 the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of
3 five years.

4 4.2 Respondent Morris Shemtoub be prohibited from participation in the conduct of the affairs of
5 any mortgage broker subject to licensure by the Director, in any manner, for a period of five years.

6 4.3 Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and severally pay a
7 fine. As of the date of this Statement of Charges, the fine totals \$5,250.

8 4.4 Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and severally pay
9 restitution totaling \$3,495 to the borrower identified in paragraph 1.2 of this Statement of Charges.

10 4.5 Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and severally pay
11 restitution in an amount to be shown at hearing to any similarly situated borrowers.

12 4.6 Respondents Interest Rate Mediators, Inc. and Morris Shemtoub jointly and severally pay an
13 investigation fee. As of the date of this Statement of Charges, the investigation fee totals \$408.

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1 **V. AUTHORITY AND PROCEDURE**

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

9
10 Dated this 12th day of July, 2011



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

16 Presented by:

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18 ROBERT E. JONES
19 Financial Legal Examiner

20 Approved by:

21

22 JAMES R. BRUSSELBACK
23 Enforcement Chief