

Terms Completed

ORDER SUMMARY – Case Number: C-10-110

Name(s): West Coast Funding Inc
Henry S. Chu

Order Number: C-10-110-12-FO01

Effective Date: 7/30/12

License Number: DFI: 21787 (NMLS: 133293) -Chu
DFI: 20807 (NMLS: 126304) –West Coast

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: _____

Not Eligible Until: _____

Prohibition/Ban Until: _____

Investigation Costs	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$1,500	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 7/30/12
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: _____



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:

WEST COAST FUNDING INC.; HENRY CHU,
Designated Broker,

Respondents.

No. C-10-110-12-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 WEST COAST FUNDING, and HENRY CHU, Respondents (“Respondents”).

1.0 DIRECTOR CONSIDERATIONS

- 1.1 The Initial Order was dated December 29, 2010. The submission of the Petition for Review (“Petition”) contesting the Initial Order was received January 7, 2011. The Petition was received within twenty (20) days of service of the Initial Decision and is a timely submission.
- 1.2 The Director has the broad authority and discretion to review a timely Petition and consider the individual and extenuating circumstances surrounding 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 required filing deadline. However, it has been the policy of the Department to not seek fines for late filings or failure to file an MBAR unless a respondent has done so for two (2) consecutive years. Filing late or failing to file for one (1) year alone will not compel the Department to bring action.
- 1.4 Pursuant to the individual mortgage brokers' responsibilities, failure to timely file due to an "honest mistake" in which the respondent "forgot about" the filing date is unacceptable. Therefore, the Director is not persuaded by Mr. Chu's call for leniency for forgetting to file the 2009 MBAR in a timely manner.
- 1.5 The Director acknowledges that Mr. Chu did not take commission on the loans he originated. Similarly, the Director acknowledges Mr. Chu's claim that he has spent One Hundred Thousand Dollars (\$100,000.00) to keep his business afloat.
- 1.6 However, the Director also notes that for the 2009 year, West Coast Funding Inc. maintained loan volume in the amount of \$38,647,090.00. Additionally, Department records show Mr. Chu is still licensed as a mortgage broker and West Coast Funding Inc. is still in operation as of July 2012. The Respondents have clearly remained open and in operation between the Initial Order and Final Order. The Director notes that the Respondents, unlike numerous other mortgage brokers, have not been forced to end their mortgage broker business because of harsh economic and market conditions.
- 1.7 The Director acknowledges the receipt of a check from West Coast Funding Inc for the Forty-Eight dollars (\$48.00) investigative fee.
- 1.8 Based on the preceding considerations, the Director is of the view that One Thousand Five Hundred dollars (\$1,500.00) is the appropriate and equitable fine for untimely filing of the 2009 MBAR.

2.0 FINDINGS OF FACT

- 2.1 The matters contained in Section 1.0 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 dated December 29, 2010.

3.0 CONCLUSIONS OF LAW

3.1 The Director reaffirms and incorporates the original Conclusions of Law from the Initial Order dated December 29, 2010.

4.0 FINAL DECISION & ORDER

Based upon the foregoing, the Director makes the following Final Decision and Order.

4.1 Respondents, WEST COAST FUNDING INC., and HENRY CHU, shall pay, joint and severally, a fine of One Thousand Five Hundred Dollars (\$1,500.00) to the Department for untimely filing of 2009 Mortgage Broker Annual Report.

5.0 RECONSIDERATION.

Pursuant to RCW 34.05.470, Respondents have 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. 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.]

- 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 30th day of July, 2012, at Tumwater, Washington.

WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS

By:



SCOTT JARVIS, Director

State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING
Whether has been a violation of the Washington
Mortgage Broker Practices Act (Ch. 19.146 RCW)
by:

WEST COAST FUNDING INC.; HENRY CHU,
DESIGNATED BROKER,

Respondents.

DCS - BAP - C-10-110-10-10

INITIAL DECISION AND ORDER

THIS MATTER having come before Joseph M. Vincent, General Counsel for the Department of Financial Institutions ("Department"), sitting in his capacity as Presiding Officer ("Presiding Officer") for Brief Adjudicative Proceedings ("BAP") for the Division of Consumer Services ("Division"), in relation to a State 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 West Coast Funding, Inc. and the Designated Broker, Henry Chu, the Respondents ("Respondents");

NOW THEREFORE, the Presiding Officer issues the following Findings of Fact, Conclusions of Law, and Initial Decision and Order:

1.0 RECORD

The Presiding Officer has considered the following material documents, which comprise the relevant record in this matter ("Record"):

- 1.1 Statement of Charges, dated April 22, 2010;
- 1.2 Request for Brief Adjudicative Proceeding ("BAP"), received by the Division on April 23, 2010;
- 1.3 Letter from James Brusselback, Enforcement Chief of the Division, dated April 27, 2010, acknowledging Request for Brief Adjudicative Proceeding, and directing assignment to BAP Hearing Officer;

- 1.4 Notice of Assignment and Time to File Additional Materials, from the BAP Hearing Officer, dated April 30, 2010;
- 1.5 2009 Mortgage Broker Annual Report dated April 23, 2010;
- 1.6 Department's Resolution and Closure of Complaint dated September 9, 2009, evidencing prior failure to file or untimely filing of 2008 Mortgage Broker Annual Report;
- 1.7 Additional materials (if any) of record that Respondents filed (or may have filed) in response to Notice of Assignment and Time to File Additional Materials; and
- 1.8 Memorandum from the Division dated June 7, 2010, in response to Notice of Assignment and Time to File Additional Materials, or other request of the Presiding Officer.

2.0 FINDINGS OF FACT

Based upon the Record, the following facts are undisputed as between the Division and the Respondents:

- 2.1 Respondents was required to file a Mortgage Broker Annual Report ("MBAR") of mortgage activity with the Division on or before March 31st of every year following any year in which it held a mortgage broker license.
- 2.2 The 2009 MBAR was due to the Division by March 31, 2010, but the Division did not receive it timely. The 2009 MBAR was not received until April 23, 2010.
- 2.3 The Department did not issue its Statement of Charges until April 22, 2010.
- 2.4 Respondents were on notice of the importance and legal requirement of timely filing of an MBAR on or before March 31st of each year for as long as Respondents remain a licensee and designated broker, respectively.
- 2.5 The MBAR is a tool for measuring the activity of Mortgage Broker Licensees so that the Division may allocate its scarce resources in determining such matters as which Mortgage Broker Licensees ought to be examined. It is not an "annual report" in the manner, for example, of renewing one's corporation license with the Secretary of State. Because of the MBAR's purpose, it is essential that it be filed – and filed timely. Every licensee is on notice of this distinction by statute and by rule.

- 2.6 The record indicates that this is the second consecutive year in which Respondents failed to timely file an MBAR.
- 2.7 Based upon the untimely filed 2009 MBAR, the Respondents generated loan volume in Washington State in calendar 2009 in the amount of \$38,647,090.
- 2.8 The Presiding Officer finds that under the circumstances, a fine of \$2,200 is reasonable and appropriate in relation to the nature of the violation by Respondents, taking into consideration the amount of loan volume of the Respondents in Washington State for the calendar year 2009 (assuming the accuracy of the 2009 MBAR).
- 2.9 One staff hour was devoted to this investigation.

3.0 CONCLUSIONS OF LAW

Based upon the Findings of Fact above, the Presiding Officer must conclude, as follows:

- 3.1 In its failure to timely file the 2008 MBAR, Respondents violated RCW 19.146.290(1) and WAC 208-660-400(1), (2), (3) and (4).
- 3.2 Pursuant to RCW 19.146.220(2)(e), the Department may impose fines on a Mortgage Broker Licensee for any violation of the Act.
- 3.3 A fine of \$2,200 is permitted under the Act.
- 3.4 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, the Department will furnish to the licensee a billing to cover the cost of investigation.
- 3.5 The investigative charge will be calculated at the rate of \$48 per hour for each staff person of the Department devoted to the investigation.

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4.0 INITIAL DECISION AND ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS HEREBY ORDERED THAT:

- 4.1 Respondents, West Coast Funding, Inc. and Henry Chu, pay a fine of \$2,200 as and for untimely filing of the 2009 MBAR; and
- 4.2 Respondents, West Coast Funding, Inc. and Henry Chu, pay in addition an investigative fee of \$48.00.

Dated and mailed on December 29, 2010, at Tumwater, Washington.



Joseph M. Vincent, Presiding Officer
Brief Adjudicative Proceedings
Division of Consumer Services
WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS
P.O. Box 41200
Olympia, Washington 98504-1200
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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:

WEST COAST FUNDING INC;
HENRY CHU, DESIGNATED BROKER,

Respondents.

NO. C-10-110-10-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 Respondents. West Coast Funding Inc and Henry Chu, Designated Broker (Respondents) were 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. At all times relevant to the Statement of Charges, Henry Chu was the Designated Broker for the company

1.2 Failure to File Mortgage Broker Annual Report. By March 31, 2010, Respondents were 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 Respondents have not filed the 2009 mortgage broker annual report.

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

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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, Respondents are in apparent violation of RCW 19.146.290(1), WAC 208-660-250(7) 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

Respondents' 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** Respondents West Coast Funding Inc and Henry Chu jointly and severally pay a fine of \$100 per day for every day starting April 1, 2010, until the 2009 Mortgage Broker Annual Report is filed; and
- 4.2** Respondents West Coast Funding Inc and Henry Chu jointly and severally pay an investigation fee, which as of the date of these charges is \$48 calculated at \$48 per hour for one staff hour devoted to the investigation; and
- 4.3** Respondents West Coast Funding Inc and Henry Chu file the 2009 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). Respondents 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 22nd day of April, 2010.



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