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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:

FLEET HOME MORTGAGE and
MICHAEL BURNS, Designated Broker,

Respondents.

NO. C-10-151-10-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, pursuant to RCW 34.05.440(1). On May 3, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine 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 May 3, 2010, a Notice of Opportunity to Defend and Request for a Brief Adjudicative Hearing. The Department served the Statement of Charges, cover letter, Notice of Opportunity to Defend and Request for Brief Adjudicative Hearing for Respondents on May 3, 2010, by United States Postal Service First-Class mail (First-Class mail) and Federal Express overnight delivery. On May 12, 2010, the documents sent via Federal Express overnight delivery were returned to the Department as undeliverable. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service.

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

4 B. Record Presented. The record presented to the Director's designee for her review and
5 for entry of a final decision included the following: Statement of Charges, cover letter, Notice of
6 Opportunity to Defend and Request for a Brief Adjudicative Hearing for Respondents, with
7 documentation of service;

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

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11 II. FINAL ORDER

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

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondents Fleet Home Mortgage and Michael Burns jointly and severally pay a fine
16 of \$10,500; and
- 17 2. Respondents Fleet Home Mortgage and Michael Burns jointly and severally pay an
18 investigation fee of \$192; and
- 19 3. Respondents Fleet Home Mortgage and Michael Burns file the 2009 Mortgage Broker
Annual Report.

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

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

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

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

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

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

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20 DATED this 9th day of July, 2010.

21 STATE OF WASHINGTON
22 DEPARTMENT OF FINANCIAL INSTITUTIONS

23 
24 DEBORAH BORTNER
25 DIRECTOR
DIVISION OF CONSUMER SERVICES

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

FLEET HOME MORTGAGE;
MICHAEL BURNS, DESIGNATED BROKER,

Respondents.

NO. C-10-151-10-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. Fleet Home Mortgage was 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, Michael Burns 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 Failure to File Mortgage Broker Closure Form. Respondents are required to file a completed closure form and submit a surrender request through the NMLSR. As of the date of this Statement of Charges, Respondents have not filed a completed closure form or submitted a surrender request through the NMLSR.

1 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
2 Respondents continues to date.

3 **II. GROUNDS FOR ENTRY OF ORDER**

4 **2.1 Requirement to File Mortgage Broker Annual Report.** Based on the Factual Allegations set forth in
5 Section I above, Respondents are in apparent violation of RCW 19.146.290(1), WAC 208-660-250(7) and
6 WAC 208-660-400(1), (2), (3), and (4) for failing to file the mortgage broker annual report.

7 **2.2 Requirement to File Mortgage Broker Closure Form.** Based on the Factual Allegations set forth in
8 Section I above, Respondents are in apparent violation of WAC 208-660-163(18) for failing to submit a
9 surrender request through the NMLSR or failing to submit a completed departmental closure form.

10 **III. AUTHORITY TO IMPOSE SANCTIONS**

11 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a
12 licensee or other person subject to the Act for any violations of the Act.

13 **3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC
14 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person subject
15 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
16 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person
17 devoted to the investigation.

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

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

23 **4.1** Respondents Fleet Home Mortgage and Michael Burns jointly and severally pay a fine of \$100 per
24 day beginning April 1, 2010, until the date the 2009 Mortgage Broker Annual Report is filed; and

25 **4.2** Respondents Fleet Home Mortgage and Michael Burns 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

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- 4.3 Respondents Fleet Home Mortgage and Michael Burns file the 2009 annual report of mortgage broker activity.
- 4.4 Respondents Fleet Home Mortgage and Michael Burns submit a surrender request through NMLSR and submit a completed departmental closure form.
- 4.5 Respondents Fleet Home Mortgage and Michael Burns maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondent Fleet Home Mortgage's mortgage broker business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

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 3rd day of May, 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

