

ORDER SUMMARY – Case Number: C-11-0811-12-FO01

Name(s): Byung Hyun Ye

Order Number: C-11-0811-12-FO01

Effective Date: May 15, 2012

License Number: DFI: #69354, NMLS: #284404

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$0	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:	0			

Comments: License application denial with no ban and no other sanctions



State of Washington

**DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING the
Mortgage Loan Originator License Application
under the Washington Consumer Loan Act
(Ch. 31.04 RCW) by:

BYUNG HYUN YE,

Respondent.

No. C-11-0811-12-FO01

DCS – BAP – 2012-001 JMV

FINAL DECISION AND ORDER

THIS MATTER having come before Scott Jarvis, Director (“Director”) for the Department of Financial Institutions (“Department”), in relation to review of the Initial Decision and Order, which denied a Loan Originator License under the Washington Consumer Loan Act, Chapter 31.04 RCW (“Act”), upon application by BYUNG HYUN YE, the Respondent (“Respondent”);

NOW THEREFORE, the Director issues the following Final Decision and Order:

1.0 CONSIDERATION

1.1 The Director has reviewed the record on review, including the Initial Decision and Order under the Brief Adjudicative Proceeding, which was issued on April 18, 2012.

1.2 Respondent did not submit a Petition for Review of the Initial Decision and Order.

1.3 More than twenty (20) days has expired since issuance of an Initial Decision and Order. It appears from the Certificate of Service that Respondent was duly served as of April 18, 2012.

1.4 The Presiding Officer agrees with and concurs in the Findings of Fact and Conclusions of Law made in the Initial Decision and Order in the Brief Adjudicative Proceeding below. All of these Findings of Fact and Conclusions of Law are hereby adopted as if fully set forth herein.

2.0 FINAL DECISION AND ORDER

For all of the reasons set forth above, IT IS HEREBY ORDERED THAT:

The application of Respondent BYUNG HYUN YE for a loan originator license with the Washington State Department of Financial Institutions is denied.

Dated and mailed on May 15, 2012, at Tumwater, Washington.

Scott Jarvis, Director
WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS

FURTHER APPEAL RIGHTS

Address for filing the Petition for Review:

Scott Jarvis, Director
Washington State Department of Financial Institutions
P.O. Box 41200
Olympia, Washington 98504-1200

In accordance with RCW 34.05.470 and WAC 10-08-215, any *Petition for Reconsideration* of such *Final Decision and Order* must be filed with the Director within ten (10) days of the service of the *Final Decision and Order*. **NOTE: *Petitions for Reconsideration* do not stay the effectiveness of the *Final Decision and Order*.**

Judicial Review of this *Final Decision and Order* is available to a party according to the provisions set out in the Washington Administrative Procedures Act, at RCW 34.05.570.



State of Washington

**DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING the
Mortgage Loan Originator License Application
under the Consumer Loan Act of Washington
(Ch. 31.04 RCW) by:

BYUNG HYUN YE,

Respondent.

No. C-11-0811-12-IO

DCS – BAP – 2012 – 001 JMV

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 review of the denial of a Mortgage Loan Originator License under the Consumer Loan Act of Washington, Chapter 31.04 RCW (“Act”), upon application by BYUNG HYUN YE, the Respondent (“Respondent”);

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

1.0 FINDINGS OF FACT

The following facts are undisputed as between the Division and the Respondent:

- 1.1 Respondent made an online application to the Division for a Loan Originator License (“License”) under the Act on or about July 25, 2011.
- 1.2 Respondent pleaded guilty on September 25, 1992, in the Superior Court of the State of California, County of Orange, to the crime of Burglary in the 1st Degree with intent to commit larceny, a felony violation of California Penal Code §459, and was convicted of this crime on or about the same date.

1.3 On February 10, 2012, the Division issued against Respondent a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application (“Statement of Charges”) and also issued to Respondent a Notice of Opportunity to Defend and Opportunity for Brief Adjudicative Proceeding (“BAP Notice”).

1.4 On February 15, 2012, the Statement of Charges and BAP Notice were served upon Respondent and upon the Designated Broker.

1.5 On or about February 29, 2012, the Division received from Respondent a Request for Brief Adjudicative Proceeding (“BAP Request”).

1.6 In the BAP Request, Respondent indicated: “I WILL be represented by an attorney,” which he stated was subject to future determination by him. To date, no attorney or other legal representative has appeared on behalf of Respondent.

1.7 In the BAP Request, Respondent indicated: “I DO NOT request a qualified INTERPRETER”

1.8 In the BAP Request, Respondent did initial the box indicating that Respondent “may provide additional documents for the BAP presiding officer.”

1.9 On March 9, 2012, the Presiding Officer issued an initial scheduling letter to Respondent (“Scheduling Letter”), which granted Respondent until March 23, 2012, to submit to the Presiding Officer additional materials on his behalf.

1.10 To date, the Presiding Officer and the Department have received no additional materials from Respondent.

2.0 CONCLUSIONS OF LAW

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

2.1 The Act, at RCW 31.04.247, sets forth the requirements for issuance or denial of a mortgage broker or loan originator license as mandated by the Washington State Legislature. In pertinent part, subsection (1) of RCW 31.04.247 declares that –

“ . . . [t]he director shall issue and deliver a mortgage loan originator license if, after investigation, the director makes at a minimum the following findings:

. . . .

(d) *The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court* (i) during the seven-year period preceding the date of the application for licensing and registration; or (ii) *at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;”*

[Emphasis added.]

2.2 The Division’s rulemaking with respect to the Act reflects this mandate of the Washington State Legislature, declaring at WAC 208-620-710(4), as follows:

(4) In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?

....

(c) **Criminal history.** You are not eligible for a loan originator license if you have been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

[Original emphasis.]

2.3 RCW 31.04.247(1) and WAC 208-620-710(4) are clear. The Division has no discretion in this matter where, as here, the intent of the Legislature is so clear. Respondent was convicted in the past of a felony involving personal dishonesty. The number of years which has transpired since that conviction is irrelevant. Any factors, such as the social rehabilitation of Respondent, are irrelevant. The mortgage loan originator license under the Act is a conditional privilege. The Legislature has declared that any felony involving personal dishonesty, which was the case with Respondent’s conviction, permanently disqualifies Respondent and all other persons similarly situated from a mortgage loan originator license in Washington State. The Division, therefore, has no discretion but to deny Respondent’s application for a mortgage loan originator license. The Presiding Officer has no discretion in this matter either and, after thorough review of the relevant facts and law, is obliged to reach the same conclusion as the Division.

2.4 This matter, as set forth in the Statement of Charges, is properly at issue before the Presiding Officer and ripe for consideration and entry of an Initial Decision and Order.

2.5 There is no triable issue of material fact as between the Division and Respondent, and an Initial Decision and Order may be entered as a matter of law.

3.0 INITIAL DECISION AND ORDER

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

The application of Respondent BYUNG HYUN YE for a mortgage loan originator license with the Division of Consumer Services of the Washington State Department of Financial Institutions is denied.

Dated and mailed on April 18, 2012, at Tumwater, Washington/

Joseph M. Vincent, Presiding Officer
Brief Adjudicative Proceedings
Division of Consumer Services
WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS

FURTHER APPEAL RIGHTS

Under the Washington Administrative Procedures Act, Chapter 34.05 RCW, and WAC 10-08-211, any party to an adjudicative proceeding may file a *Petition for Review* of this Initial Decision and Order. Any *Petition for Review* shall be filed with the Director of the Department of Financial Institutions within twenty (20) days of service of the Initial Decision and Order. **The deadline to file a Petition for Review is May 8, 2012.**

Address for filing the Petition for Review:

Scott Jarvis, Director
Washington State Department of Financial Institutions
P.O. Box 41200
Olympia, Washington 98504-1200

A copy of any such *Petition for Review* must also be served upon the Division of Consumer Services, Washington State Department of Financial Institutions, P.O. Box 41200, Olympia, Washington 98504-1200, at the time the *Petition for Review* is filed with the Director.

A *Petition for Review* shall specify the portions of the *Initial Decision and Order* to which exception is taken and shall refer to the evidence of record which is relied upon to support the *Petition for Review*. Any party may file a reply to a *Petition for Review*. Replies must be filed with the Director within ten (10) days of the date of the service of the *Petition for Review*, and copies of the reply must be served upon all other parties or their representatives at the time the reply is filed with the Director.

At the time for filing a *Petition for Review* has elapsed, the Director of the Washington State Department of Financial Institutions will issue a *Final Decision and Order* in this matter. In accordance with RCW 34.05.470 and WAC 10-08-215, any *Petition for Reconsideration* of such *Final Decision and Order* must be filed with the Director within ten (10) days of the service of the *Final Decision and Order*. **NOTE: *Petitions for Reconsideration* do not stay the effectiveness of the *Final Decision and Order*.**

Judicial Review of the *Final Decision and Order* is available to a party according to the provisions set out in the Washington Administrative Procedures Act, at RCW 34.05.570.

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF INVESTIGATING the
Loan Originator License Application under the
Consumer Loan Act of Washington of:

BYUNG HYUN YE ,
Respondent.

No.: C-11-0811-12-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO DENY LICENSE
APPLICATION

INTRODUCTION

Pursuant to 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 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.247, 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 Byung Hyun Ye (Respondent) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a mortgage loan originator license under CashCall, Inc., a consumer loan company licensed under the Act. The license application was received by the Department, through the Nationwide Mortgage Licensing System and Registry, on or about July 25, 2011.

1.2 Prior Criminal Conviction. On or about September 25, 1992, in the Superior Court of California, County of Orange, Respondent pleaded guilty to, and was convicted of, a violation of Cal. Penal Code § 459, Burglary in the 1st Degree with the intent to commit larceny, a felony.

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

2 **2.1 Requirement of No Prior Criminal Convictions.** Based on the Factual Allegations set forth
3 in Section I above, Respondent fails to meet the requirements of RCW 31.04.247(1)(d)(ii) and WAC
4 208-620-710(4)(c)(ii) by having been convicted of, or having pled guilty or nolo contendere to, a
5 felony in a domestic, foreign, or military court: (i) during the seven-year period preceding the date of
6 the application for licensing and registration; or (ii) at any time preceding the date of application, if
7 the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

8 **III. AUTHORITY TO IMPOSE SANCTIONS**

9 **3.1 Authority to Deny Application for Mortgage Loan Originator License.** Pursuant to RCW
10 31.04.093(2), the Director may deny applications for licenses. Pursuant to RCW 31.04.247(2), the
11 Director shall not issue a mortgage loan originator license if the director finds the conditions of RCW
12 31.04.247 have not been met.

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

14 **4.1** Respondent’s violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
15 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
16 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, RCW
17 31.04.205, and RCW 31.04.247. Therefore, it is the Director’s intention to ORDER that:

18 Respondent Byung Hyun Ye’s application for a mortgage loan originator license be denied.

19 **V. AUTHORITY AND PROCEDURE**

20 This Statement of Charges and Notice of Intention to Enter an Order to Deny License
21 Application (Statement of Charges) is issued pursuant to the provisions of RCW 31.04.093, RCW
22 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05
23 RCW, the Administrative Procedure Act. Respondent may make a written request for a Brief

1 Adjudicative Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
2 OPPORTUNITY FOR BRIEF ADJUDICATIVE PROCEEDING accompanying this Statement of
3 Charges.

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5 Dated this 10th day of February, 2012



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7
8 DEBORAH BORTNER
9 Director
10 Division of Consumer Services
11 Department of Financial Institutions

12 Presented by:

13 KENNETH J. SUGIMOTO
14 Financial Legal Examiner

15 Approved by:

16 FATIMA BATIE
17 Financial Legal Examiner Supervisor

18 Approved by:

19 JAMES R. BRUSSELBACK
20 Enforcement Chief