

TERMS COMPLETE

CONSENT ORDER SUMMARY – Case Number C-15-1734

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|-------------------------|----------------------|
| Respondent Name: | Joseph Alexander Lee |
| NMLS Number: | 328357 |
| Order Number: | C-15-1734-16-CO01 |
| Effective Date: | June 22, 2016 |
| License Effect: | |

| | |
|-------------------------------|---------------|
| Not Apply Until: | June 23, 2021 |
| Not Eligible Until: | N/A |
| Prohibition/Ban Until: | N/A |

| | | | | |
|----------------------------|-------|------|---|-------|
| Investigation Costs | \$500 | Due: | Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N | Date: |
| Fine | \$500 | Due: | Paid <input checked="" 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 |

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| Comments: |
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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 of Washington by:

No: C-15-1734-16-CO01

CONSENT ORDER

JOSEPH ALEXANDER LEE, NMLS No. 328357,
Respondent.

COME NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, and Joseph Alexander Lee (Respondent Joseph Lee), by and through his attorney, J. Steven Lovejoy, and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent Joseph Lee have agreed upon a basis for resolution of the matters alleged in the attached Statement of Charges No. C-15-1734-16-SC01 (Statement of Charges), entered February 25, 2016. Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent Joseph Lee hereby agrees to the Department's entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

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

B. Waiver of Hearing. It is AGREED that Respondent Joseph Lee has been informed of the right to a hearing before an administrative law judge, and hereby waives his right to a hearing and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, by his

1 signature below, and by the signature of his authorized representative below, Respondent Joseph Lee
2 withdraws his appeal to the Office of Administrative Hearings.

3 **C. No Admission or Denial of Violations.** It is AGREED that Respondent Joseph Lee neither admits
4 nor denies the Factual Allegations in the Statement of Charges. It is further AGREED that Respondent Joseph
5 Lee will not take any action or make or permit to be made any public statement creating the impression that
6 this Consent Order is without factual basis, and that nothing in this paragraph affects Respondent Joseph
7 Lee's right to take legal or factual positions in defense of litigation.

8 **D. Application for License.** It is AGREED that, for a period of five years from the date of entry of
9 this Consent Order, Respondent Joseph Lee shall not apply to the Department for a mortgage loan originator
10 license under any name. It is further AGREED that should Respondent Joseph Lee apply to the Department
11 for a mortgage loan originator license under any name at any time later than five years from the date of entry
12 of this Consent Order, Respondent Joseph Lee shall be required to meet all application requirements then in
13 effect.

14 **E. Fine.** It is AGREED that Respondent Joseph Lee shall pay a fine to the Department in the amount
15 of \$500.00 upon entry of this Consent Order.

16 **F. Investigation Fee.** It is AGREED that Respondent Joseph Lee shall pay to the Department an
17 investigation fee of \$500 upon entry of this Consent Order. The Fine and Investigation Fee shall be paid
18 together in one \$1,000 cashier's check made payable to the "Washington State Treasurer."

19 **G. Non-Compliance with Order.** It is AGREED that Respondent Joseph Lee understands that
20 failure to abide by the terms and conditions of this Consent Order may result in further legal action by the
21 Director. In the event of such legal action, Respondent Joseph Lee may be responsible to reimburse the
22 Director for the cost incurred in pursuing such action, including attorney fees.

23 **H. Voluntarily Entered.** It is AGREED that Respondent Joseph Lee has voluntarily entered into this
24 Consent Order, which is effective when signed by the Director's designee.

1 **I. Completely Read, Understood, and Agreed.** It is AGREED that Respondent Joseph Lee has
2 read this Consent Order in its entirety and fully understands and agrees to all of the same.

3
4 **BY RESPONDENT:**

5
6 /s/
7 Joseph Alexander Lee, NMLS No. 328357

6/20/16
Date

8 **Approved for Entry:**

9
10 /s/ J.
11 Steven Lovejoy, Esq.
12 Shumaker & Williams, P.C.
Attorneys for Respondent Joseph Lee

6/20/16
Date

13 DO NOT WRITE BELOW THIS LINE

14
15 THIS ORDER ENTERED THIS 22nd DAY OF JUNE, 2016.

16
17 /s/
18 CHARLES E. CLARK
19 Director, Division of Consumer Services
20 Department of Financial Institutions

21
22 Presented by:

Approved by:

23
24 /s/
ANTHONY W. CARTER
Senior Financial Legal Examiner

/s/
STEVEN C. SHERMAN
Chief of Enforcement

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

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

7 **JOSEPH ALEXANDER LEE, NMLS No. 328357,**
8
9 Respondent.

No. C-15-1734-16-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO PROHIBIT FROM INDUSTRY,
COLLECT INVESTIGATION FEES, and
RECOVER COSTS and EXPENSES

7 **INTRODUCTION**

8 Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial
9 Institutions of the State of Washington (Director) is responsible for the administration of chapter
10 31.04 RCW, the Consumer Loan Act (Act). Having conducted an investigation pursuant to the Act, and
11 based upon the facts available as of the date of this Statement of Charges, the Director, through his
12 designee, Division of Consumer Services Director Charles E. Clark, institutes this proceeding and finds
13 as follows:

14 **I. FACTUAL ALLEGATIONS**

15 **1.1 Respondent Joseph Alexander Lee** (Respondent) was licensed by the Washington State
16 Department of Financial Institutions (Department) to conduct business as a mortgage loan originator
17 (MLO) on March 12, 2014. After he failed to renew his MLO license, Respondent's MLO licensing
18 status was changed to Terminated – Expired effective January 1, 2014. Respondent is not currently
19 licensed as a MLO with the Department.

20 **1.2 Employment with New Day Financial, LLC.** Respondent began working as a loan processor for
21 New Day Financial, LLC (New Day) in 2004. He was first licensed as a MLO for New Day in 2011 in
22 Florida, and was renewed there for 2012. The next year, on January 1, 2013, Respondent's Florida
23 MLO license was terminated for failing to renew. Respondent has only been licensed as a MLO in
24 Florida and Washington.

1 **1.3 Multi-State Investigation:** On April 13, 2015, the Department entered into a Settlement
2 Agreement and Consent Order (Settlement Agreement) with New Day in resolution of an investigation
3 into allegations that New Day had allowed employees to cheat on state and federal continuing education
4 (CE) requirements established by the National Mortgage Licensing System (NMLS). The Settlement
5 Agreement recites that in violation of state and federal law, New Day's owners, managers, and
6 employees had engaged employees working for New Day's Compliance Department to sit through CE
7 courses and take the associated tests for MLOs. In settlement of the matter, New Day agreed to pay
8 more than five million dollars in civil penalties, reform its business practices with respect to CE
9 compliance, and terminate certain key personnel.

10 **1.4 Maryland Investigation:** During July 2014, examiners with the Maryland State Department of
11 Labor, Licensing, and Regulations reviewed New Day's internal investigation into the CE cheating
12 allegations. The examiners identified an employee who had been paid by MLOs for taking their CE
13 courses and tests. The Maryland examiners reported that in order for the employee to complete the CE
14 requirements for a MLO, the MLO would need to provide his or her CE logon identification, password,
15 and answers to personal security questions. On June 28, 2012, Respondent provided that exact
16 information to the employee identified as having been paid to complete the CE requirements for MLOs.

17 **1.5** On September 26, 2014, a Maryland examiner received an email from the attorney who conducted
18 New Day's internal investigation into the CE cheating. The email identified Respondent as having been
19 involved in the illegal CE conduct. Respondent had been terminated by New Day three days earlier, on
20 September 23, 2014.

21 **1.6 Washington Investigation.** On July 16, 2015, the Department requested that New Day identify
22 whether Respondent had been terminated due to his knowledge of, or participation in, the conduct at
23 issue in the Settlement Agreement. In response, on September 18, 2015, New Day provided the
24 Department with information indicating that Respondent had been terminated.

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

2 **2.1 Definition of Mortgage Loan Originator.** Pursuant to RCW 31.45.015(17)(a) and
3 WAC 208-620-010, "Mortgage Loan Originator" means in part an individual who for compensation or
4 gain (i) takes a residential mortgage loan application, or (ii) offers or negotiates terms of a residential
5 mortgage loan.

6 **2.2 Continuing Education Requirements.** Pursuant to RCW 31.45.267, a licensed MLO must
7 annually complete a minimum of eight hours of continuing education approved by NMLS.

8 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is in
9 apparent violation of RCW 31.04.027(1), for directly or indirectly employing any scheme, device, or
10 artifice to defraud or mislead any person; (2), for directly or indirectly engaging in any unfair or
11 deceptive practice toward any person; and (13), for violating any applicable state or federal law relating
12 to the activities governed by the Act.

13 **III. AUTHORITY TO IMPOSE SANCTIONS**

14 **3.1 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6), the Director may issue an
15 order prohibiting from participation in the affairs of any licensee any person subject to the Act for any
16 violation of RCW 31.04.027.

17 **3.2 Authority to Collect Investigation Fees.** Pursuant to RCW 31.04.145(3), every licensee
18 investigated by the Director or the Director's designee must pay to the Director the cost of the
19 investigation as determined by rule. Pursuant to WAC 208-620-590, the investigation fee is calculated
20 at the rate of \$69.01 per staff hour devoted to the investigation.

21 **3.3 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director may
22 recover the state's costs and expenses for prosecuting violations of the Act, including for staff time
23 spent preparing for and attending administrative hearings, and reasonable attorneys' fees.

24 //

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

2 Respondent’s violations of the Act as set forth in the above Factual Allegations, Grounds for
3 Entry of Order, and Authority to Impose Sanctions, constitute a basis for the entry of an Order under the
4 Act. Therefore, it is the Director’s intent to ORDER that:

- 5 **4.1** Respondent Joseph Alexander Lee be prohibited from participating in the affairs
6 of any licensee, or any person subject to the Act, for a period of ten (10) years;
- 7 **4.2** Respondent Joseph Alexander Lee pay the Department the investigation fees
8 incurred in investigating this matter, which as of the date of this Statement of
9 Charges totals \$175.53; and
- 4.3** Respondent Joseph Alexander Lee pay the Department's costs and expenses for
10 prosecuting this matter in an amount to be determined at hearing.

11 **V. AUTHORITY AND PROCEDURE**

12 This Statement of Charges and Notice of Intent to Enter an Order to Prohibit from Industry,
13 Collect Investigative Fees, and Recover Costs and Expenses (Statement of Charges) is entered pursuant
14 to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is
15 subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may
16 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
17 AND FOR ADJUDICATIVE HEARING accompanying this Statement of Charges.

18 Dated this 25th day February, 2016.

19 _____ /s/
20 CHARLES E. CLARK
21 Director, Division of Consumer Services
22 Department of Financial Institutions

23 Presented by:

Approved by:

24 _____ /s/
ANTHONY W. CARTER
Senior Financial Legal Examiner

_____ /s/
DEBORAH P. TAEILLIOUS
Financial Legal Examiner Supervisor