

TERMS COMPLETED

ORDER SUMMARY – Case Number: C-16-1851

Name: Bradley Michael Toft

Order Number: No. C-16-1851-16-CO01

Effective Date: 11/17/2016

License/NMLS Number: NMLS #114974

License Effect: NA-Completed.

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$2,156.00	Due: 01/15/2017	Paid: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 01/13/2017
Fine	\$2,500.00	Due: 01/15/2017	Paid: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 01/13/2017
Assessment(s):	\$NA	Due: NA	Paid: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: NA
Restitution:	\$NA	Due: NA	Paid: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: NA
Judgment:	\$NA	Due: NA	Paid: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: NA
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N			

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-16-1851-16-CO01

CONSENT ORDER

BRADLEY MICHAEL TOFT,
NMLS NO. 114974,

Respondent.

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COMES NOW the Acting Director of the Department of Financial Institutions (Director), through her designee Charles E. Clark, Division Director, Division of Consumer Services, and Bradley Michael Toft (Respondent), 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 RCW 31.04, the Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

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AGREEMENT AND ORDER

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The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-16-1851-16-SC01 (Statement of Charges), entered 11-16-2016, (copy attached hereto).

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Respondent hereby agrees to the Department's entry of this Consent Order and further agrees to not contest the Statement of Charges in consideration of the terms of this Consent Order.

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Based upon the foregoing:

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

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B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing before an administrative law judge, and hereby waives his right to a hearing and any

1 and all administrative and judicial review of the issues raised in this matter, or of the resolution
2 reached herein.

3 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve
4 the Statement of Charges and agree that Respondent does not admit to any wrongdoing by its
5 entry. The Department acknowledges that Respondent asserts he did not complete the
6 Employment Verification document referenced in the Statement of Charges. Further, the
7 Department acknowledges that Respondent asserts he answered the Department's subpoena to the
8 best of his recollection.

9 **D. Agreement to Cease and Desist.** It is AGREED that Respondent shall Cease and
10 Desist from violations of RCW 31.04.027(2) and RCW 31.04.027(8).

11 **E. License Suspension and Stay.** It is AGREED that Respondent's mortgage loan
12 originator license be suspended for a period of four years. The four year suspension period shall
13 commence on December 01, 2016. It is further AGREED that the suspension period shall be
14 stayed for four years commencing December 01, 2016. It is further AGREED that if the
15 Department does not seek to lift the stay and impose the suspension within the four year period,
16 said suspension will be deemed withdrawn without further action being required by either party.
17 The remainder of the suspension period shall be deemed waived if not entered on or before 5:00
18 P.M. PST on December 01, 2020.

19 **F. Lifting of Stay and Imposing Suspension.** It is AGREED that:

- 20 1. If the Department determines that Respondent has not complied with the
21 terms of this Consent Order to a degree sufficient to warrant imposition of a
22 suspension, and the Department accordingly seeks to lift the stay and impose
the suspension set forth in section E above, the Department will first notify
Respondent in writing of its determination.
- 23 2. The Department's notification will include:
 - 24 a) A description of the alleged noncompliance;

- 1 b) A statement that because of the noncompliance, the Department
2 seeks to lift the stay and impose the suspension;
- 3 c) The opportunity for Respondent to contest the Department's
4 determination of noncompliance in an administrative hearing before
5 an Administrative Law Judge (ALJ) of the Office of Administrative
6 Hearings (OAH); and
- 7 d) A copy of this Consent Order. The notification and hearing process
8 provided in this Consent Order applies only to this Consent Order. It
9 is solely provided in the event Respondent chooses to contest the
10 Department's determination of noncompliance.
- 11 3. Respondent will be afforded ten (10) business days from the date of receipt
12 of the Department's notification to submit a written request to the
13 Department for an administrative hearing to be held before an ALJ from the
14 OAH.
- 15 4. Respondent, in addition to its request for hearing, may provide a written
16 response to include any information pertaining to the alleged
17 noncompliance.
- 18 5. The administrative hearing shall be expedited and follow the timing and
19 processes described in this Consent Order.
- 20 6. If requested, the hearing will be held within fifteen (15) business days (or as
21 soon as the schedule of the ALJ permits) from the due date for Respondent's
22 request for hearing or from the date of receipt of Respondent's timely
23 request for hearing, whichever is sooner. The parties will accommodate the
24 prompt scheduling of the hearing.
7. The scope and issues of the hearing are limited solely to whether or not
 Respondent is in violation of the terms of this Consent Order to a degree
 sufficient to warrant imposition of a suspension.
8. At the conclusion of the hearing, the ALJ will issue an initial decision.
 Either party may file a Petition for Review with the Director of the
 Department.
9. If Respondent does not request the hearing within the stated time, the
 Department will impose suspension and pursue whatever action it deems
 necessary to enforce the suspension.

23 **G. Fine.** It is AGREED that Respondent shall pay a fine to the Department in the amount
24 of \$5,000.00. It is further AGREED that \$2,500.00 of the fine shall be stayed for four years
commencing December 01, 2016. It is further AGREED that if the Department does not seek to

1 lift the stay and impose the stayed fine amount of \$2,500.00 within the four year period, said fine
2 will be deemed withdrawn without further action being required by either party. The remainder of
3 the fine shall be deemed waived if not entered on or before 5:00 P.M. PST on December 01, 2020.
4 It is further AGREED that the process to lift the stayed fine amount shall be dictated by Section F,
5 titled **Lifting of Stay and Imposing Suspension**, above.

6 **H. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
7 investigation fee of \$2,156.00. The Fine and Investigation Fee shall be paid together in one
8 \$4,656.00 cashier's check made payable to the "Washington State Treasurer." Respondent's
9 payment shall be delivered to the Department on or before January 15, 2017.

10 **I. Change of Address.** It is AGREED that for the duration of the period this Consent
11 Order is in effect, unless otherwise agreed to in writing by the Department, Respondent shall
12 provide the Department with a mailing address and telephone number at which Respondent can be
13 contacted and Respondent shall notify the Department in writing of any changes to his mailing
14 address or telephone number within 15 days of any such change.

15 **J. Non-Compliance with Order.** It is AGREED that Respondent understands that failure
16 to abide by the terms and conditions of this Consent Order may result in further legal action by the
17 Director. In the event of such legal action, Respondent may be responsible to reimburse the
18 Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

19 **K. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this
20 Consent Order, which is effective when signed by the Director's designee.

21 **L. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read
22 this Consent Order in its entirety and fully understands and agrees to all of the same.

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1 **RESPONDENT:**

Bradley Michael Toft, NMLS No. 114974

2 By:

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4 /s/
Bradley Michael Toft

11-16-16
Date

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7 /s/
Laura Marquez-Garret, WSBA No. 41010
Lane Powell PC
8 Attorney for Respondent

11/16/16
Date

9 **DO NOT WRITE BELOW THIS LINE**

10 THIS ORDER ENTERED THIS 17th DAY OF November, 20176.

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12 /s/
13 CHARLES E. CLARK
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

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19 /s/
IGOR VOLOSHIN
Financial Legal Examiner

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21 Approved by:

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23 /s/
STEVEN C. SHERMAN
Enforcement Chief

1 sent Respondent an email requesting a clarification relating to information contained in the
2 Employment Verification form. In January 2016, Respondent sent a response email to E.A.
3 acknowledging the information contained in the Employment Verification and reiterating the
4 misstatements contained therein.

5 **1.3 Misstatement to the Department.** In May 2016, the Department issued a subpoena to
6 Respondent. In May 2016, Respondent submitted a response to the Department that contained
7 material misstatements.

8 **1.4 On-going Investigation.** The Department’s investigation into the alleged violations of the
9 Act by Respondent continues to date.

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

11 **2.1 Submission of Fraudulent Documents.** Based on the Factual Allegations set forth in
12 Section I above, Respondent is in apparent violation of RCW 31.04.027(2) for engaging in an
13 unfair or deceptive act or practice toward any person.

14 **2.2 False Statements and Omissions of Material Facts.** Based on the Factual Allegations set
15 forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(8) for negligently
16 making any false statements or knowingly and willfully making any statements that omitted
17 material facts in connection with any investigation conducted by the Department.

18 **III. AUTHORITY TO IMPOSE SANCTIONS**

19 **3.1 Authority to Revoke or Suspend License.** Pursuant to RCW 31.04.093(3)(a) and (b), the
20 Director may revoke a license for violating any provision of the Act or the rules adopted
21 thereunder.

22 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), in relevant
23 part, “the director may issue an order . . . prohibiting from participation in the affairs of any
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1 licensee . . . any officer, principal, employee or mortgage loan originator, or any person subject to
2 this chapter for . . . [a] violation of RCW 31.04.027”

3 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4) and WAC 208-620-610(2), the
4 Director may impose fines of up to one hundred dollars per day, per violation, upon the licensee,
5 its employee or loan originator, or any other person subject to the Act for any violation of the Act.

6 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-
7 620-610(7), the Director may collect an investigative fee. The Department will charge the licensee
8 \$69.01 per hour.

9 **3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
10 may recover the state’s costs and expenses for prosecuting violations of the Act.

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

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

- 16 **4.1** Respondent Bradley Michael Toft’s license to conduct business as a mortgage loan
17 originator be suspended for a period of four years.
- 18 **4.2** Respondent Bradley Michael Toft be prohibited from participation in the conduct of
19 the affairs of any consumer loan company subject to licensure by the Director, in
20 any manner.
- 21 **4.3** Respondent Bradley Michael Toft pay a fine. As of the date of this Statement of
22 Charges, the fine totals \$7,500.00.
- 23 **4.4** Respondent Bradley Michael Toft pay an investigation fee. As of the date of this
24 Statement of Charges, the investigation fee totals \$2,156.00.
- 4.5** Respondent Bradley Michael Toft pay the Department’s costs and expenses for
prosecuting violations of the Act in an amount to be determined at hearing or by
declaration with supporting documentation in event of default by Respondent.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Enter an Order to Revoke or Suspend
3 License, Prohibit From the Industry, Impose Fine, Collect Investigation Fee, and Recover Costs
4 and Expenses (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093,
5 RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of
6 RCW 34.05, the Administrative Procedure Act. Respondent may make a written request for a
7 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY
8 FOR HEARING accompanying this Statement of Charges.

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10 Dated this 16th day of November, 2017.

11 /s/ _____
12 CHARLES E. CLARK
13 Director
14 Division of Consumer Services
15 Department of Financial Institutions

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17 Presented by:

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19 /s/ _____
20 IGOR VOLOSHIN
21 Financial Legal Examiner

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23 Approved by:

24 /s/ _____
STEVEN C. SHERMAN
Enforcement Chief