

# Terms Completed

## ORDER SUMMARY – Case Number: C-18-2383

<b>Name:</b>	Anthony Vincent Muchow
<b>Order Number:</b>	C-18-2383-21-CO01
<b>Effective Date:</b>	10/27/2021
<b>NMLS Number:</b>	216068
<b>License Effect:</b>	None

<b>Investigation Costs:</b>	<b>\$ 500.00</b>	<b>Due:</b> 10/19/21	<b>Paid:</b> <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	<b>Date:</b> 10/19/21
<b>Fine</b>	<b>\$ 1,000.00</b>	<b>Due:</b> 10/19/21	<b>Paid:</b> <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	<b>Date:</b> 10/19/21

Comments: Respondent Muchow had no part in the creation, design, or distribution of the 2021 direct mail solicitation that was the subject of the Statement of Charges in this case. The case was resolved based on Respondent Muchow's admitted failure to timely comply with a Directive the Department served on him relating to the direct mail solicitation. Once he retained counsel, Respondent Muchow answered the Directive and fully cooperated with the Department's investigation. In the Consent Order Respondent Muchow has agreed to continue to cooperate in the Department's investigation of his former employer.

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

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

No. C-18-2383-21-CO01

CONSENT ORDER

5 ANTHONY VINCENT MUCHOW,  
Mortgage Loan Originator, NMLS No. 216068,

6 Respondent.

7  
8 COMES NOW the Director of the Department of Financial Institutions (Director), through his designee  
9 Lucinda Fazio, Director of the Division of Consumer Services, and Anthony Vincent Muchow (Respondent  
10 Muchow), by and through his attorney, Eric D. Lansverk, and finding that the issues raised in the this matter may  
11 be economically and efficiently settled, agree to the entry of this Consent Order (Order). The Department enters  
12 this Order pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the  
13 Administrative Procedure Act (APA), based upon the following:

14 **AGREEMENT AND ORDER**

15 The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent  
16 Muchow have agreed upon a basis for resolution of the matters alleged in the attached Statement of Charges,  
17 Department No. C-18-2383-21-SC01 (Charges), entered 15 July 2021. Pursuant to RCW 31.04, the Consumer  
18 Loan Act (Act), and RCW 34.05.060 of the APA, Respondent Muchow hereby agrees to the Department's entry  
19 of this Order, which the parties intend to fully resolve the Charges.

20 **Based upon the foregoing:**

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

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

26 Accordingly, Respondent Muchow withdraws his appeal to the Office of Administrative Hearings.

1           **C. Representations and Admissions.** It is AGREED that with the exceptions of the representations and  
2 admission below, Respondent Muchow neither admits nor denies the allegations contained in the Charges.

- 3           1. The Department licensed Respondent Muchow as a mortgage loan originator on or about June  
4           21, 2013, and he remains licensed to date.
- 5           2. On or about May 23, 2018, American Financial Network, Inc. (AFN), a Department-licensed  
6           consumer loan company, sponsored Respondent Muchow as a Branch Manager for AFN's  
7           Irving, Texas, branch. The branch has two locations, both situated in Irving.
- 8           3. While employed as a branch manager, AFN would occasionally distribute direct mail  
9           solicitations or other marketing to potential customers.
- 10          4. During 2021, AFN distributed direct mail solicitations to consumers in Washington that  
11          referenced Respondent Muchow making the offer from his branch in Irving, Texas.
- 12          5. To Respondent Muchow's knowledge and belief, during 2021, all direct mail solicitations  
13          and other marketing was created and mailed by AFN using third party marketing and other  
14          vendors approval and authorized by AFN.
- 15          6. AFN never provided Respondent Muchow with copies of the 2021 direct mail solicitations to  
16          review or edit prior to distribution in Washington.
- 17          7. To Respondent Muchow's knowledge and belief, the 2021 direct mail solicitations  
18          distributed in Washington were created by AFN's marketing vendors, reviewed by the AFN  
19          legal and marketing teams, and approved for distribution by AFN's CCO.
- 20          8. Respondent Muchow had no part in the creation, design, or distribution of the 2021 direct  
21          mail solicitations distributed in Washington.
- 22          9. On or about April 20, 2021, the Department served a "Directive to Provide Documents and  
23          Explanations" on Respondent Muchow at his AFN Branch in Irving, Texas. Respondent  
24          Muchow did not become aware of the Directive until the deadline to respond has passed.  
25          Respondent Muchow admits he did not timely respond to the Directive.
- 26          10. The Department sought Respondent Muchow's full cooperation in the continuing  
            investigation of AFN. Respondent Muchow, after to responding to the Directive, has agreed  
            to cooperate in the Department's investigation of AFN.

18           **D. Complete Cooperation with the Department.** It is AGREED and ORDERED that:

- 19           1. **Statements.** Upon written request by the Department, Respondent Muchow shall provide  
20           the Department with truthful and complete statements relating to this matter and the  
21           Department's continuing investigation of AFN. At the Department's discretion, these may  
22           take the form of written statements or sworn affidavits, declarations, or testimony.
- 23           2. **Documents.** Upon written request by the Department, Respondent Muchow shall provide  
24           the Department with any and all documents, writings, or materials in his possession,  
25           custody, or control that he is authorized to possess, obtain, or distribute relating to this  
26           matter and the Department's continuing investigation of AFN.
3. **Testimony.** Upon written request by the Department, Respondent Muchow shall testify  
            fully, truthfully, and completely at any and all proceedings related to this matter and the  
            Department's continuing investigation of AFN.

A failure to cooperate fully, truthfully, and completely with this provision is a breach of this Order.



1 THIS ORDER ENTERED THIS 27th DAY OF October, 2021.

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/s/  
Lucinda Fazio, Director  
Division of Consumer Services  
Department of Financial  
Institutions

Presented by:

Approved by:

\_\_\_\_\_  
/s/  
ANTHONY W. CARTER Senior  
Financial Legal Examiner

\_\_\_\_\_  
/s/  
BARBARA J. PENTTILA  
Financial Legal Examiner  
Supervisor

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  
6 Consumer Loan Act of Washington by:

7 ANTHONY VINCENT MUCHOW, Mortgage  
8 Loan Originator, NMLS No. 216068,  
9 Respondent.

No. C-18-2383-21-SC01

STATEMENT OF CHARGES and NOTICE OF INTENT TO  
ENTER AN ORDER TO REVOKE LICENSE, PROHIBIT  
FROM INDUSTRY, IMPOSE FINE, COLLECT  
INVESTIGATION FEE, and RECOVER COSTS AND  
EXPENSES OF PROSECUTION

10 INTRODUCTION

11 Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Washington State Department of  
12 Financial Institutions (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan  
13 Act (Act). Having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of  
14 the date of this Statement of Charges (Charges), the Director, through his designee, Division of Consumer Services  
15 Director Lucinda Fazio, institutes this proceeding and finds as follows:

16 I. FACTUAL ALLEGATIONS

17 **1.1 Respondent Anthony Vincent Muchow (Respondent Muchow).** The Department licensed Respondent  
18 Muchow as a mortgage loan originator (MLO) on or about June 21, 2013. Respondent Muchow has timely  
19 renewed his MLO license with the Department, and remains licensed to date as a MLO. American Financial  
20 Network, Inc. (AFN) sponsored Respondent Muchow as a Branch Manager of AFN's Irving, Texas, branch,  
21 NMLS No. 1736575, on or about May 23, 2018.

22 **1.2 False, Deceptive, and Misleading Advertising.**

23 **A. Complaint No. 050896.** On or about July 31, 2019, the Department received an anonymous complaint  
24 regarding a direct mail solicitation distributed in Washington by Respondent Muchow. The complaint  
25 included a direct mail solicitation captioned **Immediate Call Requested**. The solicitation was for a "pre-  
26 approved firm offer of credit" for a new cash out refinance mortgage loan, based in part on information  
received from a credit bureau on June 21, 2019. The solicitation guaranteed the recipient a 29-year loan at a  
fixed interest rate of 3.500% (4.377% APR) through Aug. 18, 2019. A property analysis listed the recipient's  
estimated property value, current mortgage loan balance, and the specific amount of cash available based on  
85% loan to value. Opposite the table was a bright red, all-capitals warning that the solicitation was a **TIME-  
SENSITIVE NOTICE**. The front side of the solicitation requested that the recipient call immediately to  
discuss options, and advised that if the recipient's new mortgage loan closed in August, 2019, the first  
payment might not be due until October, 2019.

1 The reverse side of the solicitation included the finance terms of the offer, a disclosure that the offer was  
2 limited to single-family residences, and that other refinance terms may be offered to provide lower  
3 payments but higher interest rates. Further disclosures noted that the solicitation was not an offer for the  
4 extension of credit, and that the content of the “advertisement is for informational purposes only.”

5 **B. Complaint No. 053701.** On or about April 12, 2021, Respondent Muchow distributed another direct mail  
6 solicitation in Washington that was the subject of a complaint. The solicitation’s envelope, which did not  
7 contain the sender’s name or address, was captioned **IMPORTANT NOTICE**, and included a prohibited  
8 citation to the U.S. code as follows:

9 **CONFIDENTIAL DOCUMENT FOR ADDRESSEE ONLY.** Five  
10 years imprisonment or \$2,000 fine or both for any person tampering with or  
11 obstructing the delivery of this document. US CODE TITLE 18, SEC 1702

12 Dated with a processing date of March 31, 2021, the envelope asserted that the solicitation was:

13 **RE:** Information Regarding FHA MIP Termination  
14 and/or Reduction Pursuant to Section 203(C)(2)(B) Of  
15 the National Housing Act (“NHA”) or via utilization of  
16 Federal Housing Financing Agency (“FHFA”) Funding

17 The solicitation began as follows:

18 **NOTICE:** **NOTICE OF FHA MIP ELIMINATION**  
19 **DATE:** **3/31/2021**  
20 **ACTION REQUIRED:** **It is important you call 1-866-363-3155 regarding important new**  
21 **information about your FHA Mortgage Insurance Premium (MIP).**

22 After a brief explanation and table showing how the recipient might be able to save almost \$300 a month  
23 by refinancing their existing FHA loan, and thereby eliminating their Mortgage Insurance Premium (MIP),  
24 Respondent Muchow continued with bold, underlined, exhortations:

25 **It is important you call toll free 1-866-364-3155 within 5 days of receiving this notice** to learn more  
26 about eliminating your FHA MIP premium with a new loan through AFN, NMLS #216068.

The solicitation next proposed the recipient could receive additional cash by refinancing:

You have been pre-approved for this program. You could also receive cashout (sic)  
to pay off **\$40,000** in debt or receive a **\$40,000** total cash disbursement. **Even more**  
**money could be available.**

The solicitation concluded with a disclosure, in smaller font, that the offer was being made from the Irving,  
Texas, branch of AFN, “who is not acting on behalf of or at the direction of your current lender, or of the  
federal government, and this offer is not being made by an agency of the government.”

In an even smaller font, Respondent Muchow disclosed that “Modification or removal of MIP is not  
automatic and would require a new mortgage through AFN.”

On or about April 20, 2021, the Department served Respondent Muchow with a Directive to Provide  
Documents and Explanations. The Directive, which included a copy of the solicitation, sought  
explanations and documents relating to the solicitation. Though the response was due no later than May 7,  
2021, the Department never received a response from Respondent Muchow.

1 **1.3 Response from AFN.** On or about June 10, 2021, after repeated unsuccessful attempts to obtain a response  
2 to the Directive from Respondent Muchow, the Department left a phone message for Respondent Muchow  
3 regarding his failure to respond. Shortly thereafter, counsel for his sponsor, AFN, contacted the Department and  
4 advised they had just received a copy of the Directive. The Department agreed to a new June 25, 2021 deadline  
5 for AFN to respond to the Directive. Later that day, Respondent Muchow finally contacted the Department, which  
6 advised him that AFN would be responding to the Directive.

7 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
8 Respondent continues to date.

## 9 II. GROUNDS FOR ENTRY OF ORDER

10 **2.1 Unfair or Deceptive Practices.** Based on the Factual Allegations set forth in Section I above, Respondent is  
11 in apparent violation of RCW 31.04.027(1)(b) for directly or indirectly engaging in any unfair or deceptive practice  
12 toward any person, including by creating a false sense of urgency, and violating

- 13 A. WAC 208-620-550(5), by engaging in unfair or deceptive advertising practices, including advertising  
14 that offends public policy, or causes substantial injury to competition in the marketplace;
- 15 B. WAC 208-620-630(1), by advertising with envelopes or stationery, or using images in an electronic  
16 format, that are designed to resemble a government mailing or other method of communication that  
17 suggest an affiliation that does not exist. Examples include warnings or notices citing government codes  
18 or form numbers not required by the U.S. Postmaster to be shown on the communication, and the use  
19 of the term "official business," or similar language implying official or government business, without  
20 also including the name of the sender;
- 21 C. WAC 208-620-630(7), by advertising information about a borrower's current loan that was not obtained  
22 from a solicitation, application, or loan, and failing to provide the name of the source of that  
23 information; and
- 24 D. WAC 208-620-640, by failing to must comply with applicable advertising requirements under the  
25 federal statutes and regulations including, but not limited to, the FTC Act and the MAP Rule.

26 **2.2 False or Deceptive Statements or Representations.** Based on the Factual Allegations set forth in Section I  
above, Respondent is in apparent violation of RCW 31.04.027(1)(g) for making, in any manner, any false or  
deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a  
residential mortgage loan, including that "Modification or removal of MIP is not automatic and would require a  
new mortgage through AFN."



1 **2.3 Violation of Federal Advertising Laws and Regulations.** Based on the Factual Allegations set forth in  
2 Section I above, Respondent is in apparent violation of RCW 31.04.027(1)(m) for violating any applicable federal  
3 law relating to the activities governed by the Act, including advertising rules and regulations in the FTC Act, 15  
4 U.S.C Section 45(a)(1), which prohibits unfair or deceptive acts in or affecting commerce, and the MAP Rule,  
5 Regulation N, 12 C.F.R Part 1014.3(q), which prohibits material misrepresentations in commercial communications  
6 regarding any term of any mortgage credit product, including but not limited to misrepresentations about the  
7 consumer's ability or likelihood to obtain a refinancing or modification of any mortgage credit product or term,  
8 including but not limited to misrepresentations concerning whether the consumer has been preapproved or  
9 guaranteed for any such refinancing or modification.

10 **2.4 False, Misleading, or Deceptive Advertisements.** Based on the Factual Allegations set forth in Section I  
11 above, Respondent is in apparent violation of RCW 31.04.135 for advertising or permitting to be advertised, in any  
12 manner whatsoever, any statement or representation with regard to rates, terms, or conditions for the lending of  
13 money that is false, misleading, or deceptive.

14 **2.5 Requirement to Comply with the Department's Investigative Authority.** Based on the Factual  
15 Allegations set forth in Section I, Respondent is in apparent violation of RCW 31.04.145(1)(c) for failing to  
16 comply with the Department's investigative authority by failing to respond to a Directive.

### 17 III. AUTHORITY TO IMPOSE SANCTIONS

18 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3)(b) and (d), the Director may issue an order  
19 revoking the license of a MLO who has violated any provision of the Act or failed to comply with a directive.

20 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6)(e), the Director may issue an order  
21 prohibiting from participation in the affairs of any licensee any MLO for a violation of RCW 31.04.027.

22 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one  
23 hundred dollars per day, per violation, upon a MLO for any violation of the Act.

24 **3.4 Authority to Charge Examination Fee and Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC  
25 208-620-590, WAC 208-620-610(7), every licensee investigated by the Director or the Director's designee shall  
26 pay for the cost of the investigation, calculated at the rate of \$69.01 per staff hour devoted to the investigation.

1 **3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director may recover the  
2 state's costs and expenses for prosecuting violations of the Act.

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

4 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in  
5 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis  
6 for the entry of an Order under RCW 31.04.093, RCW 31.04.165, RCW 34.04.202, and RCW 31.04.205.

7 Therefore, it is the Director's intent to ORDER that:

- 8 **4.1** Respondent Anthony Vincent Muchow's license to conduct the business of a mortgage loan  
9 originator be revoked.
- 10 **4.2** Respondent Anthony Vincent Muchow be prohibited from participation in the conduct of the affairs  
11 of any licensee or other person subject to licensure by the Director, in any manner, for a period of  
12 five (5) years.
- 13 **4.3** Respondent Anthony Vincent Muchow pay a fine, which, as of the date of these Charges, totals  
14 \$10,000.
- 15 **4.4** Respondent Anthony Vincent Muchow pay the costs of the investigation, which, as of the date of  
16 these Charges, totals \$5,000.
- 17 **4.5** Respondent Anthony Vincent Muchow pay the Department's costs and expenses for prosecuting  
18 violations of the Act in an amount to be determined at hearing or by declaration with supporting  
19 documentation in event of default by Respondent Muchow.

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1 **V. AUTHORITY AND PROCEDURE**

2 These Charges and Notice of Intent to Enter an Order to Revoke License, Prohibit from Industry, Impose  
3 Fine, Collect Investigation Fee, and Pay the Costs and Expenses of Prosecution are entered pursuant to the  
4 provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and are subject to the  
5 provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for  
6 a hearing as set forth in the NOTICE OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND TO DEFEND  
7 accompanying these Charges.

8 Dated this 15th day of July 2021.

9  
10 /s/  
11 LUCINDA FAZIO, Director  
12 Division of Consumer Services  
13 Department of Financial Institutions

14 Presented by:

Approved by:

15 /s/  
16 ANTHONY W. CARTER  
Senior Legal Examiner

/s/  
BARBARA J. PENTTILA  
Financial Legal Examiner Supervisor