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

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

Lamplighter Homes Inc. and
Kimberly Ruth Romero, Designated Broker,

Respondents.

NO. C-02-359-03-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENT TO REVOKE LICENSE, IMPOSE
FINES, COLLECT INVESTIGATION FEES, AND
PROHIBIT FROM PARTICIPATION IN
MORTGAGE BROKER INDUSTRY

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"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of August 25, 2003, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

A. **Lamplighter Homes Inc.** ("Lamplighter") is known to conduct the business of a mortgage broker at 149 Hamilton Road, Chehalis, Washington 98532. Lamplighter uses a mailing address of 8560 South Eastern Avenue, Las Vegas, Nevada, 89511.

B. **Kimberly Ruth Romero** ("Romero") was named designated broker on June 26, 2000, and has continued as Designated Broker to date.

1.2 Licenses: Lamplighter was licensed by the Department of Financial Institutions ("Department") to conduct business as a mortgage broker on June 2, 1997, and has continued to be licensed to date.

1 **1.3 Failure to Pay Annual Assessment:** Payment of the annual assessment of \$530.86 for the period
2 ending May 31, 2003, was due to the Department no later than the last business day of May 2003. To date,
3 the Department has not received the required annual assessment payment.

4 **1.4 Failure to Submit Continuing Education Certificate:** A certificate of satisfactory completion of an
5 approved continuing education course for the year 2002 was due to the Department no later than the last
6 business day of May 2002. To date, the Department has not received the required certificate.

7 **1.5 Failure to Notify of Revocation Proceedings:** On October 22, 2001, the State of Idaho Department
8 of Finance issued an Order Revoking Mortgage Broker License against Respondent Lamplighter. To date,
9 Respondents have failed to notify the Department of the revocation of its Idaho mortgage broker license.

10 **1.6 Failure to Notify of Bond Cancellation:** Liberty Bond Services notified the Department on October
11 16, 2002, that Respondent Lamplighter's surety bond was cancelled effective November 15, 2002. To date,
12 Respondents have failed to notify the Department of the cancellation of the surety bond or to provide the
13 required replacement bond.

14 **1.7 Issuance of Directive:** On October 17, 2002, the Department issued a directive to Respondents
15 requiring Respondents to replace or reinstate the required surety bond and to submit to the Department proof
16 of a valid surety bond. To date, Respondents have not responded to the Department's Directive.

17 **1.8 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by
18 Respondents continues to date.

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

2 **2.1 Requirement to Maintain Surety Bond:** Based on the Factual Allegations set forth above,
3 Respondents are in apparent violation of RCW 19.146.205(4)(a) and WAC 208-660-150 for failure to
4 maintain a surety bond.

5 **2.2 Requirement to Pay Annual Assessment:** Based on the Factual Allegations set forth above,
6 Respondents are in apparent violation of RCW 19.146.228(1), WAC 208-660-060(3) and WAC 208-660-061
7 for failing to pay to the Director an annual assessment fee no later than the last business day of the month in
8 which the anniversary date of the issuance of the mortgage broker's license occurs.

9 **2.3 Requirement to Submit Continuing Education Certificate:** Based on the Factual Allegations set
10 forth above, Respondents are in apparent violation of RCW 19.146.215 and WAC 208-660-042(1) for failure
11 to submit a continuing education certificate for 2002.

12 **2.4 Disclosure of Significant Developments:** Based on the Factual Allegations set forth above,
13 Respondents are in apparent violation of WAC 208-660-150(1) for failure to notify the Department of the
14 revocation of Respondent Lamplighter's mortgage broker's license by the State of Idaho and for failure to
15 notify the Department of the cancellation of its surety bond.

16 **2.5 Requirement to Respond to Directive:** Based on the Factual Allegations set forth above, Respondents
17 are in apparent violation of RCW 19.146.235 for failure to respond to a directive.

18 **2.6 Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(ii) and (iii) and WAC 208-660-
19 160(19), the Director may revoke a license for failure to pay a fee required by the director, failure to maintain
20 the required bond, and failure to comply with a directive of the director.

21 **2.7 Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the
22 Director may impose fines on the licensee for failure to maintain a surety bond and failure to comply with any
23 directive or order of the Director.
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1 **2.8 Authority to Charge Examination Fee:** Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2),
2 upon completion of any examination of the books and records of a licensee, the Department will furnish to the
3 licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of
4 for \$46.26 dollars per hour that each staff person devoted to the examination.

5 **2.9 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director
6 may prohibit a covered individual from participation in the conduct of the affairs of a licensed mortgage broker
7 for failure to maintain a surety bond and failure to comply with a directive.

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9 **III. NOTICE OF INTENT TO ENTER ORDER**

10 Respondent's violation of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
11 in the above Facts and Grounds for Entry of Order constitute a basis for the entry of an Order under RCW
12 19.146.220. Therefore, it is the Director's intention to ORDER that:

- 13 3.1 Respondent Lamplighter's mortgage broker license be revoked;
- 14 3.2 Respondent Kimberly Ruth Romero be prohibited from participation in the conduct of affairs of a
15 licensed mortgage broker for five (5) years,
- 16 3.3 Respondents pay the delinquent annual assessment of \$530.86; and
- 17 3.4 Respondents jointly and severally pay an examination fee of \$232.30, calculated at \$46.26 per hour
18 for five (5) staff hours; and
- 19 3.5 Respondents jointly and severally pay a fine of \$4,500.00 for failure to maintain an approved surety
20 bond or alternative and for failure to comply with Department directives, calculated at \$75 per
21 statutory violation per day, for 30 days;
- 22 3.6 Respondents provide the Department with the location of the books, records and other information
23 relating to Lamplighter Homes Inc.'s mortgage broker business, and the name, address and telephone
24 number of the individual responsible for the maintenance of such records in compliance with the Act.

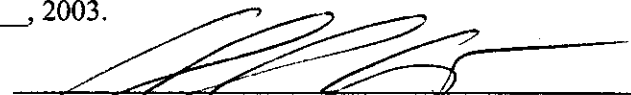
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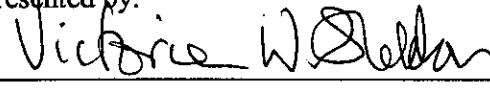
IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221. 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 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 27th day of AUGUST, 2003.


CHUCK CROSS, Acting Director and Enforcement Chief
DIVISION OF CONSUMER SERVICES
DEPARTMENT OF FINANCIAL INSTITUTIONS

Presented by:


Victoria W. Sheldon, Financial Legal Examiner



1 **RCW 19.146.205 License – Application – Exchange of fingerprint data with federal bureau of investigation – Fee – Bond or alternative.**

2 (4)(a) Each applicant for a mortgage broker's license shall file and maintain a surety bond, in an amount of not greater than sixty thousand
3 dollars nor less than twenty thousand dollars which the director deems adequate to protect the public interest, executed by the applicant as
4 obligor and by a surety company authorized to do a surety business in this state as surety. The bonding requirement as established by the director
5 may take the form of a uniform bond amount for all licensees or the director may establish by rule a schedule establishing a range of bond
6 amounts which shall vary according to the annual average number of loan originators or independent contractors of a licensee. The bond shall
7 run to the state of Washington as obligee, and shall run first to the benefit of the borrower and then to the benefit of the state and any person or
8 persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or rules adopted under this
9 chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted
under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter.
Borrowers shall be given priority over the state and other persons. The state and other third parties shall be allowed to receive distribution
pursuant to a valid claim against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final
judgment may be entered prior to one hundred eighty days following the date the claim is filed. The bond shall be continuous and may be
canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective
thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended,
replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon
the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the
penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be
liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under
RCW 19.86.090. The applicant may obtain the bond directly from the surety or through a group bonding arrangement involving a professional
organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

10 (b) In lieu of a surety bond, the applicant may, upon approval by the director, file with the director a certificate of deposit, an irrevocable letter
of credit, or such other instrument as approved by the director by rule, drawn in favor of the director for an amount equal to the required bond.

11 (c) In lieu of the surety bond or compliance with (b) of this subsection, an applicant may obtain insurance or coverage from an association
12 comprised of mortgage brokers that is organized as a mutual corporation for the sole purpose of insuring or self-insuring claims that may arise
from a violation of this chapter. An applicant may only substitute coverage under this subsection for the requirements of (a) or (b) of this
subsection if the director, with the consent of the insurance commissioner, has authorized such association to organize a mutual corporation
under such terms and conditions as may be imposed by the director to ensure that the corporation is operated in a financially responsible manner
to pay any claims within the financial responsibility limits specified in (a) of this subsection. [1997 c 106 § 9; 1994 c 33 § 8; 1993 c 468 § 6.]

13 **RCW 19.146.215 Continuing education – Rules.** The designated broker of every licensee shall complete an annual continuing education
requirement, which the director shall define by rule. [1997 c 106 § 11; 1994 c 33 § 11.]

14 **RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules.** (1) The director shall enforce all laws and rules
relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

15 (2) The director may impose the following sanctions:

16 (a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of
RCW 19.146.050 or 19.146.0201 (1) through (9);

17 (b) Suspend or revoke licenses for:

18 (i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the
application for the original license;

19 (ii) Failure to pay a fee required by the director or maintain the required bond;

20 (iii) Failure to comply with any directive or order of the director; or

21 (iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;

22 (c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

23 (i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

24 (ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any
officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the
application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or
failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the

1 department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the
2 person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be
automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance
with the order. [1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

3 **RCW 19.146.221 Action by director – Hearing – Sanction.** The director may, at his or her discretion and as provided for in *RCW
19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at
4 the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the
action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for
sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter. [1994 c 33 § 13.]

5 **RCW 19.146.223 Director – Administration and interpretation.** The director shall have the power and broad administrative discretion to
administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005. [1994 c 33 § 2.]

6 **RCW 19.146.228 Fees – Rules – Exception.** The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover,
but not exceed, the costs of administering this chapter. These fees may include:

- 7 (1) An annual assessment paid by each licensee on or before a date specified by rule;
8 (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and
(3) An application fee to cover the costs of processing applications made to the director under this chapter.

9 Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of
this chapter occurred or when the mortgage broker provides a remedy satisfactory to the complainant and the director and no order of the director
is issued. All moneys, fees, and penalties collected under the authority of this chapter shall be deposited into the banking examination fund,
10 unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected
under this chapter shall be deposited in the consumer services account. [1997 c 106 § 13; 1994 c 33 § 9.]

11 **RCW 19.146.230 Administrative procedure act application.** The proceedings for denying license applications, issuing cease and desist
orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom
12 or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW. [1994 c 33 § 16; 1993 c 468 §
10.]

13 **RCW 19.146.235 Director – Investigation powers – Duties of person subject to examination or investigation.** For the purposes of
investigating complaints arising under this chapter, the director may at any time, either personally or by a designee, examine the business,
14 including but not limited to the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business of
mortgage brokering, whether such a person shall act or claim to act under or without the authority of this chapter. For that purpose the director
and designated representatives shall have access during regular business hours to the offices and places of business, books, accounts, papers,
15 records, files, safes, and vaults of all such persons. The director or designated person may direct or order the attendance of and examine under
oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and
may direct or order such person to produce books, accounts, records, files, and any other documents the director or designated person deems
16 relevant to the inquiry. If a person who receives such a directive or order does not attend and testify, or does not produce the requested books,
records, files, or other documents within the time period established in the directive or order, then the director or designated person may issue a
17 subpoena requiring attendance or compelling production of books, records, files, or other documents. No person subject to examination or
investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other
information.

18 Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or places of business to
conduct a compliance examination. The director may examine, either personally or by designee, a sample of the licensee's loan files, interview
19 the licensee or other designated employee or independent contractor, and undertake such other activities as necessary to ensure that the licensee
is in compliance with the provisions of this chapter. For those licensees issued licenses prior to March 21, 1994, the cost of such an examination
shall be considered to have been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a license,
20 the director or a designee may visit the licensee's place or places of business only to ensure that corrective action has been taken or to investigate
a complaint. [1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

21 **WAC 208-660-042(1) Continuing education requirement.** (1) The principal or designated broker of a licensee must satisfactorily complete an
approved continuing education course annually. Each licensee must file annually a certificate of satisfactory completion of an approved
22 continuing education course by the licensee's principal or designated broker no later than the last business day of the month in which the
anniversary date of the issuance of the licensee's license occurs.

23 **WAC 208-660-060 Department's fees and assessments.** (1) Upon completion of processing and reviewing an application for a license or
24 branch office certificate, the department will prepare a billing, regardless of whether a license or certificate has been issued, calculated at the
rate of \$35.98 per hour that each staff person devoted to processing and reviewing the application. The application deposit will be applied
against this bill. Any amount left owing to the department will be billed to and paid promptly by the applicant, while any balance remaining
from the deposit will be refunded promptly to the applicant.

1 (2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover
2 the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the
3 examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21,
4 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the
5 first two years after the date of issuance of the license.

6 (3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate.
7 The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the
8 broker's license occurs.

9 (4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to
10 the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$46.26 per hour that each staff
11 person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

12 **WAC 208-660-061 Fee increase.** The division intends to increase its fee and assessment rates each year for several bienniums. The division
13 intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and
14 assessments each fiscal year during the 2001-03 biennium.

15 (1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal year, will increase by a percentage
16 rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the
17 term is defined in RCW 43.135.025.

18 (2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal
19 growth factor.

20 (3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

21 [Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200, 01-12-029, § 208-660-061, filed 5/29/01,
22 effective 7/1/01.]

23 **WAC 208-660-150 Disclosure of significant developments.** (1) A licensee must notify the director in writing within thirty days after
24 the occurrence of any of the following developments:

- 25 (a) Licensee's filing for bankruptcy or reorganization.
- 26 (b) Receipt of notification of license revocation procedures in any state against the licensee.
- 27 (c) The filing of a felony indictment or information related to mortgage brokering activities of the licensee, or any officer, director, principal,
28 or designated broker of the licensee.
- 29 (d) The licensee, or any officer, director, principal, or designated broker of the licensee being convicted of a felony.
- 30 (e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any significant decline in value of an
31 approved alternative held by the director.

32 (f) The filing of any material litigation against the licensee.

33 (2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's principal place of business or any
34 of its branch offices.

35 (3) A licensee must notify the director in writing within five days after a change in the licensee's:

- 36 (a) Name or legal status (e.g., from sole proprietor to corporation, etc.);
- 37 (b) Mailing address or telephone number;
- 38 (c) President, partner, designated broker, or branch office manager;
- 39 (d) Trust account (e.g., change in the status, location, or account number);
- 40 (e) State master business license; or
- 41 (f) Standing with the state of Washington secretary of state.

42 **WAC 208-660-160 License application denial or condition; license suspension or revocation.** The director may deny or condition approval
43 of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or
44 licensee:

45 ... (19) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.

46 **WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act.** Each mortgage broker and each of its
47 principals, designated brokers, officers, employees, independent contractors, and agents shall comply with the applicable provisions of the
48 Mortgage Broker Practices Act. Each violation of any applicable provision of the Mortgage Broker Practices Act, or of any order, directive, or
49 requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each
50 day's continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other
51 penalties for a violation of the Mortgage Broker Practices Act