STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

IN THE MATTER OF DETERMINING Whether there has been a violation of the Mortgage Broker Practices Act of Washington by:	NO. C-06-116-06-SC01
FREESTAND FINANCIAL HOLDING CORP., and JESSE A. GEE, President and Designated Broker, and DONALD PARKER, Employee and Branch Manager.	STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO REVOKE LICENSE, IMPOSE FINE, ORDER RESTITUTION, PROHIBIT FROM INDUSTRY, AND COLLECT INVESTIGATION FEE
Respondents.	

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). After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of July 26, 2006, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Respondent Freestand Financial Holding Corp. (Freestand) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on July 14, 2004, and has continued to be licensed to date. Respondent Freestand is licensed to conduct the business of a mortgage broker at 3200 N. Central Ave., Phoenix, AZ. Respondent Freestand maintained two (2) branch offices in Washington State at 2310 130th Ave NE, Ste B-100, Bellevue, WA, and 2320 130th Ave. NE ste E-104, Bellevue, WA. Both of these branch offices closed on March 23, 2006.

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

B. Respondent Jesse A. Gee (Gee) is the President and Designated Broker of Respondent Freestand. Respondent Gee was named Designated Broker of Respondent Freestand on July 14, 2004, and has continued as Designated Broker to date.

C. Respondent Donald Parker (Parker) is employed as a branch manager for Respondent Freestand.

1.2 Unlicensed Location. Since at least March 7, 2006, Respondents are known to have conducted the business of a mortgage broker from the following location: 413 Sharon Ave. East, Moses Lake, WA 98837. To date, Respondents have never applied for or received a license from the Department to conduct the business of a mortgage broker from this location. To date, the Department has not issued a license to any person to conduct the business of a mortgage broker from this location.

1.3 Unlicensed Activity. Between March 7, 2006, and July 7, 2006, Respondents assisted at least seven (7) borrowers in applying to obtain residential mortgage loans on property located in the State of Washington from the unlicensed location discussed in paragraph 1.2. Respondents assisted at least six (6) of these borrowers in obtaining residential mortgage loans. The borrowers involved in these residential mortgage loans paid fees to Respondent Freestand totaling $ 20,204.77 as follows:

Borrower Botelo	$ 4,589.00
Borrower Spurrier	$ 2,416.40
Borrower Torres	$ 2,722.50
Borrower Lindsey	$ 2,465.40
Borrower Ringer	$ 3,364.67
Borrower Schwabauer	$ 1,730.40
Borrower Orona	$ 2,916.40
Total	$ 20,204.77

1.4 Operating and Advertising Under Unlicensed Name. Respondent Freestand is licensed to conduct the business of a Mortgage Broker in the State of Washington under the name "Freestand Financial Holding Corp." and the d/b/a "Northstar Lending." To date, Respondents have neither requested nor received the written consent of the Director to operate under any name other than the one under which the license is issued, or the d/b/a "Northstar Lending."

A. **Operating Under Unlicensed Name.** Since at least March 7, 2006, Respondents have operated under the name "Basin Brokerage." Respondents have done so by representing themselves to prospective borrowers as Basin Brokerage. Respondents' local telephone listing is under the name Basin Brokerage. Respondents are listed with the Moses Lake Chamber of Commerce as Basin Brokerage.

B. **Advertising Under Unlicensed Name.** Since at least March 7, 2006, Respondents have advertised under the name Basin Brokerage. Respondents have maintained a web site in the name of Basin Brokerage, and Respondents have placed advertisements in local print media under the name Basin Brokerage.

1.5 Prohibited Acts. Respondents have engaged in prohibited acts by making a knowingly false statement to the Department, by obtaining property by fraud or misrepresentation, by employing a scheme or artifice to defraud or mislead borrowers or lenders, and by engaging in an unfair or deceptive practice.

A. On May 2, 2006, Respondent Parker called the Department and spoke with a staff person. He asserted that he had submitted a branch license application in March. To date, the Department has not received a branch application from the Respondents. The Department's only March 2006 contacts with Respondent Parker were via telephone and e-mail. On June 14, 2006, Respondent Parker called a Department staff person. During his conversation with this staff person, Mr. Parker asserted that the name Basin Brokerage had only been used on the web site. Department staff directly asked Mr. Parker to confirm that the term Basin Brokerage had not been used in any other context. Mr. Parker specifically denied that the name had been used in any context aside from the web site. In fact, Mr. Parker had used the name Basin Brokerage in print advertisements and telephone directory listings.

B. In a March 7, 2006, e-mail communication, the Department advised Mr. Parker that he could not hold himself out as being able to offer the services of a mortgage broker from the Moses Lake location without first obtaining a license for that location. In a June 14, 2006, telephone call, the Department reiterated this requirement. Respondent continues to date to engage in the business of a mortgage broker.

C. Respondents have originated (7) loans that have closed since March 7, 2006, from the unlicensed Moses Lake location. Respondents have utilized their main-office license to originate each of these loans.

1.6 Failure to Respond Timely to Directive. Respondent Parker failed to respond to an April 20, 2006, directive issued in connection with the investigation of this matter. The directive required a response on or before May 5, 2006 (15 days after issuance of the directive). The Department did not receive a response. As a result, the Department was forced to issue a subpoena on May 12, 2006. Respondent Parker provided the Department with a partial response to the subpoena on May 25, 2006, and completed his response on May 30, 2006.

1.7 On-Going Investigation. The Department's investigation into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Definition of Mortgage Broker. Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29), "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage loan.

2.2 Definition of Borrower. Pursuant to RCW 19.146.010(2), a "Borrower" is defined as any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

2.3 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(1), (2), (3), and (8) for directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders, engaging in an unfair or deceptive practice toward

any person, obtaining property by fraud or misrepresentation, and negligently making a false statement in connection with an investigation conducted by the Department.

2.4 Requirement to Obtain and Maintain Branch License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.265 for engaging in the business of a mortgage broker from a fixed physical location without first obtaining and maintaining a branch license for that fixed physical location under the Act.

2.5 Operating and Advertising Under Unlicensed Name. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.250 and WAC 208-660-125(3) for operating and advertising under a name other than the one under which the license is issued without obtaining the written consent of the Director.

2.6 Authority to Revoke License. Pursuant to RCW 19.146.220(2)(b)(iv) and WAC 208-660-160, the Director may revoke a license for any violation of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.265, or failure to comply with any directive or order of the Director.

2.7 Authority to Impose Fine. Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any violation of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.265, or failure to comply with a directive or order of the Director.

2.8 Authority to Order Restitution. Pursuant to RCW 19.146.220(d)(ii), the Director may issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to an injured borrower.

2.9 Authority to Prohibit from the Industry. Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director may 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 the Act for any violation of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.265, or failure to comply with a directive or order of the Director.

2.10 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), WAC 208-660-060(4), and WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of forty-seven dollars and seventy-eight cents ($47.78) per hour that each staff person devoted to the investigation.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

3.1 Respondent Freestand Financial Holding Corp.'s license to conduct the business of a mortgage broker be revoked; and

3.2 Respondents Freestand Financial Corp., Jesse Gee, and Donald Parker jointly and severally pay a fine of $35,400 for:

- **a.** Violating RCW 19.146.0201 (1), (2), and (8), calculated at $100 per day for 30 days, per loan; and
- **b.** Violating RCW 19.146.200 and RCW 19.146.265, calculated at $100 per day for 134 days; and
- **c.** Failing to comply with a directive of the director, calculated at $100 per day for 10 days; and

3.3 Respondents Freestand Financial Corp., Jesse Gee, and Donald Parker jointly and severally pay restitution to all borrowers injured by Respondents' illegal mortgage broker practice of originating residential mortgage loans without a license, in an amount to be determined at an adjudicative hearing; and

3.4 Respondent Donald Parker be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years; and

3.5 Respondents Freestand Financial Corp., Jesse Gee, and Donald Parker jointly and severally pay an investigation fee in the amount of $1,120.44 calculated at $47.78 per hour for the 23.45 staff hours devoted to the investigation.

IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Order Restitution, Prohibit from Industry, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 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 1st day of August, 2006.

CHUCK CROSS
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

DAVID SORENSON
Financial Legal Examiner

Approved by:

JAMES R. BRUSSELBACK
Enforcement Chief