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

IN THE MATTER OF INVESTIGATING  
the Loan Originator License Application under the  
Mortgage Broker Practices Act of Washington by:

THOMAS ANDREW HESTMARK,  
  
Respondent.

NO. C-07-192-07-SC02

AMENDED STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO DENY LICENSE APPLICATION  
AND PROHIBIT FROM 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)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.310, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent Thomas Andrew Hestmark (Respondent Hestmark)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Mortgage Express LLC, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 19, 2006.

**1.2 Prior Criminal Acts.** On June 22, 2005, Respondent Hestmark was indicted, in Washington County, Oregon, on one count of Theft of Services, a felony, in violation of ORS 164.125(5)(d) and one count of Identity Theft, a felony, in violation of ORS 165.800. On November 17, 2005, in Washington County, Oregon, in Case No. C051947CR, Respondent Hestmark was convicted of Theft of Services, a felony, in violation of ORS 164.125(5)(d). However, pursuant to ORS 164.570, a felony may be treated as a Class A Misdemeanor at

<sup>1</sup> RCW 19.146 (Amended 2006; Effective January 1, 2007)

1 the election of the district attorney, and in this case was. In Oregon, Class A misdemeanors are punishable by  
2 up to 1 year imprisonment. Pursuant to RCW 9A.20.010(2)(a) and (b) a misdemeanor is any crime punishable  
3 by a fine of not more than one thousand dollars, or by imprisonment in a county jail for not more than ninety  
4 days, or by both such fine and imprisonment. An Oregon Class A misdemeanor is equivalent to a Washington  
5 gross misdemeanor in terms of sentence.

6 **1.3 Responses to Application Questions.** The "Criminal Disclosure" section of the loan originator license  
7 application consists of eight questions, and includes the following instruction:

8 "If the answer to any of the following is "YES", provide complete details of all events or proceedings"  
9 Respondent Hestmark answered "no" to the following questions on the "Criminal Disclosure" section of his  
10 loan originator license application:

- 11 • 1- Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a  
12 domestic, foreign, or military court to misdemeanor involving: financial services or a  
13 financial services-related business or any fraud, false statements or omissions, theft or any  
14 wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a  
15 conspiracy to commit any of these offenses?
- 16 • 2- Been charged with any felony?

17 Respondent Hestmark was obligated by statute to answer questions on the loan originator license application  
18 truthfully and to provide the Department with complete details of all events or proceedings.

## 19 II. GROUNDS FOR ENTRY OF ORDER

20 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,  
21 Respondent Hestmark fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c)  
22 by having been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony  
23 within seven years of the filing of the present application.

24 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent  
25 Hestmark is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making

1 any false statement or willfully making any omission of material fact in connection with any application or any  
2 information filed by a licensee in connection with any application, examination or investigation conducted by  
3 the Department.

4 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set  
5 forth in Section I above, Respondent Hestmark fails to meet the requirements of RCW 19.146.300(1) and (2)  
6 and RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form  
7 prescribed by the Director.

8 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set  
9 forth in Section I above, Respondent Hestmark fails to meet the requirements of RCW 19.146.310(1)(g) and  
10 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the  
11 confidence of the community and to warrant a belief that the business will be operated honestly and fairly  
12 within the purposes of the Act.

### 13 **III. AUTHORITY TO IMPOSE SANCTIONS**

14 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the  
15 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the  
16 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by  
17 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application  
18 of the denial.

19 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue  
20 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed  
21 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker  
22 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

### 23 **IV. NOTICE OF INTENTION TO ENTER ORDER**

24 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
25 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis

1 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.

2 Therefore, it is the Director's intention to ORDER that:

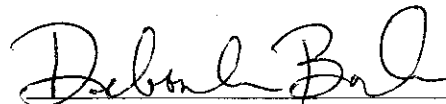
3 **4.1** Respondent Thomas Andrew Hestmark's application for a loan originator license be denied.

4 **4.2** Respondent Thomas Andrew Hestmark be prohibited from participation in the conduct of the affairs of  
5 any mortgage broker subject to licensure by the Director, in any manner, through December 19, 2013.

6 **V. AUTHORITY AND PROCEDURE**

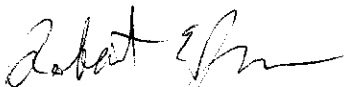
7 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and  
8 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,  
9 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05  
10 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in  
11 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
12 Statement of Charges.

13 Dated this 10<sup>th</sup> day of October, 2007.

14 

15 DEBORAH BORTNER  
16 Director  
17 Division of Consumer Services  
18 Department of Financial Institutions

19 Presented by:

20 

21 ROBERT E. JONES  
22 Financial Legal Examiner

23 Approved by:

24 

25 FATIMA BATIE  
Financial Legal Examiner Supervisor

