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ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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-07-413-08-CO01

CONSENT ORDER

VAN GALDER FINANCIAL and
JERRY DEAN VAN GALDER, Owner,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Van Galder Financial and Jerry Dean Van Galder, (hereinafter Respondents), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-413-07-SC01 (Statement of Charges), entered December 7, 2007, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the

CONSENT ORDER
C-07-413-08-CO01
Van Galder Financial and
Jerry Dean Van Galder

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

1 Statement of Charges. Respondents are agreeing not to contest the Statement of Charges in consideration
2 of the terms of this Consent Order.

3 Based upon the foregoing:

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

6 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
7 hearing before an administrative law judge, and that they have waived their right to a hearing and any and
8 all administrative and judicial review of the issues raised in this matter, or of the resolution reached
9 herein. Accordingly, Respondents agree to withdraw their appeal and to inform the Office of
10 Administrative Hearings in writing of their withdrawal.

11 C. **Suspended (Stayed) Fine.** It is AGREED that Respondents shall jointly and severally pay to
12 the Department a fine of \$10,000, which shall be suspended (stayed) for a period of fifteen years from the
13 date of entry of this Consent Order. If upon expiration of said fifteen year period the stay has not been
14 previously lifted, and the \$10,000 fine has not been previously imposed, and if a notification to lift the
15 stay or a proceeding to lift the stay is not then pending by the Director to impose the \$10,000 fine,
16 then, in such events, this Consent Order shall be considered fully performed by Respondents and
17 completed. If on the expiration of fifteen years from the date of entry of this Consent Order a
18 notification to lift the stay or a proceeding to lift the stay is pending by the Director to impose the
19 \$10,000 fine, then those proceedings shall continue according to the terms of this Consent Order.
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22 D. **Suspended (Stayed) Investigation Fee.** It is AGREED that Respondents shall jointly and
23 severally pay to the Department an investigation fee of \$1,433.40, which shall be suspended (stayed) for a
24 period of fifteen years from the date of entry of this Consent Order. If upon expiration of said fifteen
25

1 year period, the stay has not been previously lifted, and the \$1,433.40 investigation fee has not been
2 previously imposed, and if a notification to lift the stay or a proceeding to lift the stay is not then
3 pending by the Director to impose the \$1,433.40 investigation fee, then, in such events, this Consent
4 Order shall be considered fully performed by Respondents and completed. If on the expiration of
5 fifteen years from the date of entry of this Consent Order a notification to lift the stay or a proceeding
6 to lift the stay is pending by the Director to impose the \$1,433.40 investigation fee, then those
7 proceedings shall continue according to the terms of this Consent Order.
8

9 **E. Prohibition from Industry.** It is AGREED that Respondents shall be prohibited from
10 participating in the conduct of the affairs of any mortgage broker licensed by the Department or any
11 mortgage broker exempt from Washington law under RCW 19.146.020(1)(e) or (g) for fifteen years from
12 the date of entry of this Consent Order in any capacity, including but not limited to: (1) any financial
13 capacity whether active or passive or (2) as an officer, director, principal, designated broker, employee,
14 processor, or loan originator or (3) any management, control, oversight, or maintenance of any trust
15 account(s) in any way related to any residential mortgage transaction or (4) receiving, disbursing,
16 managing, or controlling in any way, consumer trust funds in any way related to any residential mortgage
17 transaction.
18

19 **F. Change of Address.** It is AGREED that Respondents will notify the Department in writing
20 of any changes of their physical address and mailing address while this Consent Order is in effect. Such
21 written notice shall be provided within thirty calendar days of the change of address.

22 **G. Lifting of Stay and Imposing Prohibition.** It is AGREED that:

23 1. If the Department determines that Respondents are in violation of any of the terms and
24 conditions of this Consent Order, and the Department accordingly seeks to lift the stay and impose the
25

1 \$10,000 fine and \$1,433.40 investigation fee, the Department first will notify Respondents in writing
2 of its determination at the address most recently provided by Respondents pursuant to this Consent
3 Order.

4 2. The Department's notification will include:

- 5 a. A description of the alleged noncompliance;
6 b. A statement that because of the noncompliance, the Department seeks to lift the
7 stay and impose the \$10,000 fine and \$1,433.40 investigation fee;
8 c. The opportunity for Respondents to contest the Department's determination of
9 noncompliance in an administrative hearing before an ALJ of OAH; and
10 d. A copy of this Consent Order.

11 3. Respondents will be afforded 10 business days from the date of mailing of the
12 Department's notification to request in writing an administrative hearing to be held before an
13 Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH). Respondents'
14 request for hearing must be sent to the Department and received by the Department within 10 business
15 days of the date of the mailing of the Department's notice.
16

17 4. Respondents, in addition to their request for hearing, may provide a written response to
18 include any information pertaining to the alleged noncompliance.

19 5. The administrative hearing shall be expedited and follow the timing and processes
20 described in this Consent Order.

21 6. If Respondents do not request the hearing within the stated time, the Department
22 immediately will impose the \$10,000 fine and \$1,433.40 investigation fee and pursue whatever action
23 it deems necessary to collect the \$10,000 fine and \$1,433.40 investigation fee.
24

1 7. If requested, the hearing will be held within fifteen business days (or as soon as the
2 schedule of the ALJ permits) from the date of receipt of Respondents' timely request for hearing. The
3 parties will accommodate the prompt scheduling of the hearing.

4 8. The scope and issues of the hearing will be limited solely to whether or not
5 Respondents are in violation of any of the terms and conditions of this Consent Order.

6 9. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party
7 may file a Petition for Review with the Director of the Department.

8 10. The notification and hearing process provided in this Consent Order applies only to
9 this Consent Order. It is solely provided in the event Respondents choose to contest the Department's
10 determination of noncompliance.

11
12 **H. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to
13 abide by the terms and conditions of this Consent Order may result in further legal action by the
14 Director. In the event of such legal action, Respondents may be responsible to reimburse the Director
15 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

16 **I. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
17 entered into this Consent Order, which is effective when signed by the Director's designee.

18 **J. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
19 this Consent Order in its entirety and fully understand and agree to all of the same.

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21 **RESPONDENTS:**

22 **Van Galder Financial**

23 By: _____

24 Jerry Dean Van Galder
Owner

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Date 12/5/08

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[Handwritten signature]

Jerry Dean Van Galder
Individually

12/5/08
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 14th DAY OF December, 2008.

[Handwritten signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Handwritten signature]

STEVEN C. SHERMAN
Financial Legal Examiner



Approved by:

[Handwritten signature]

JAMES R. BRUSSELBACK
Enforcement Chief