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

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

NO. C-07-488-08-FO01

KIRK JAMES WALD,

Respondent.

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. On December 3, 2007, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated December 3, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Kirk James Wald. The Department served the Statement of Charges, cover letter dated December 3, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Kirk James Wald on Respondent on December 3, 2007 by first class mail and Federal Express overnight delivery .

On December 26, 2007, Respondent filed an Application for Adjudicative Hearing. On January 3, 2008, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On January 28, 2008, OAH issued a Notice of Prehearing Conference by Telephone and

1 assigning ALJ Mary Ellen Goodwin (ALJ Goodwin) to preside over prehearing and hearing
2 proceedings and issue an Initial Decision; and scheduling a prehearing conference by telephone on
3 Thursday, February 21, 2008 at 4:00 p.m.

4 On February 21, 2008, representatives for the Department and Respondent's counsel attended a
5 telephonic prehearing conference. On May 12, 2008, ALJ Goodwin issued a Notice of Hearing
6 scheduling an in person hearing on May 21, 2008.

7 On May 21, 2008, all parties attended the hearing. On June 3, 2008, ALJ Goodwin issued an
8 Initial Order Affirming the Department's Denial of Respondent's License Application (Initial Order).

9 This Initial Order –

- 10
- 11 • Made the following findings of fact:
 - 12 ○ On or about December 28, 2006, Kirk James Wald submitted an online
13 application to the Department for a loan originator's license and submitted a
14 completed Uniform Individual Mortgage License/Registration and Consent
15 Form to the Department which was received by the Department on or about
16 January 4, 2007.
 - 17 ○ The Department conducted an investigation pursuant to RCW 19.146.301. The
18 Department's investigation revealed that on or about November 7, 2006, the
19 United States Internal Revenue Service ("IRS") filed a federal tax lien against
20 Respondent with the Pierce County Auditor's office for \$48,519.02 in back
21 taxes owed for the tax period ending December 31, 2002. The Department's
22 investigation also revealed that on or about February 6, 2007, the IRS filed a
23 second tax lien against the Respondent with the Pierce County Auditor's office
24 for \$118,112.15 in back taxes owed from the tax periods ending December 31,
25 2003 through December 31, 2004.
 - On December 3, 2007, the Department issued the Statement of Charges in this
matter. In the Statement of Charges, the Department advised Kirk James Wald,
that he failed to qualify for a mortgage broker license under RCW
19.146.310(1)(g) and WAC 208-660-350(2)(a) by failing to demonstrate
character and general fitness such as to command the confidence of the
community and to warrant a belief that the business will be operated honestly
and fairly within the purposes of the Mortgage Broker Practices Act.

- 1 ○ The Respondent filed a timely application for an administrative hearing to
2 contest the Statement of Charges, which prompted this administrative
3 proceeding before the Office of Administrative Hearings.
- 4 ○ After an initial prehearing conference, the Department filed a timely Motion for
5 Summary Judgment requesting entry of an order holding the license denial to
6 be proper. The motion was supported by a Memorandum in Support of the
7 Department's Motion for Summary Judgment, the Declaration of Charles E.
8 Woode in Support of the Department's Motion with Exhibits A-C, and
9 Declaration of Service dated April 7, 2008. The Respondent submitted a
10 Response in Opposition to the Department's Motion together with the
11 Declaration of Kirk James Wald and Exhibits 1-8 on May 12, 2008.
- 12 ○ On May 12, 2008, Administrative Law Judge Mary Ellen Goodwin conducted a
13 telephone hearing on the motion of the Department of Financial Institutions
14 ("Department") for an Order of Summary Judgment in the above-entitled
15 matter, from the Olympia office of the Office of Administrative Hearings.
16 Chad Standifer, Assistant Attorney General, appeared for the Department. John
17 Sterbick, attorney at law, appeared for the Respondent, Kirk James Wald. The
18 summary judgment hearing was tape recorded.
- 19 ○ On May 12, 2008, Administrative Law Judge Mary Ellen Goodwin issued an
20 Order Denying the Department's Motion for Summary Judgment.
- 21 ○ On May 21, 2008, at 9:00 a.m. an in person hearing on the merits was held in
22 Tacoma, Washington before Administrative Law Judge Mary Ellen Goodwin.
23 Chad Standifer, Assistant Attorney General, appeared for the Department. John
24 Sterbick, attorney at law, appeared for the Respondent, Kirk James Wald. The
25 hearing was tape recorded and transcribed by a court reporter.
- At the time of the filing of his application for a loan originator license on or
 about December 28, 2006, and continuing through the date of the May 21, 2008
 hearing in this matter, Kirk James Wald had federal tax liens filed against him
 in Pierce County, Washington in the amount of \$166,631.17.
- Kirk James Wald suffers from a medical condition diagnosed as "narcolepsy".
- Mr. Wald's medical condition ...causes frequent periods of inability to focus
 on his work tasks and financial affairs. By 2000 he was finding it impossible to
 perform all the duties of his occupation and to manage his financial affairs...he
 became financially disabled. That condition continues, essentially unchanged
 to the present. ...Despite the prescribed medication he is taking, these chronic
 conditions have never been eradicated.

- 1 o Kirk James Wald has not filed his federal income taxes for the years 2002,
2 2003, 2004, 2005 or 2006.

3 • Ordered:

- 4 o The Department's action denying Kirk James Wald's loan originator license is
5 proper and is affirmed.

6 On June 3, 2008, ALJ Goodwin mailed the Initial Order to the Department and its counsel and
7 Respondent and his counsel.

8 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the
9 date of service of the Initial Decision and Order to file a Petition for Review of the Initial Decision and
10 Order. Respondent did not file a Petition for Review during the statutory period.

11 B. Record Presented. The record presented to the Director for his review and for entry of
12 a final decision included the following:

- 13 1. Statement of Charges, cover letter dated December 3, 2007, and Notice of
14 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
15 2. Application for Adjudicative Hearing for Kirk James Wald;
16 3. Request to OAH for Assignment of Administrative Law Judge;
17 4. Notice of Prehearing Conference by Telephone dated January 28, 2008, with
18 documentation of service;
19 5. Notice of Hearing dated May 12, 2008, with documentation of service;
20 6. Order Denying Summary Judgment Motion dated May 12, 2008, with documentation
21 of service;
22 7. Initial Order Affirming the Department's Denial of Respondent's License Application
23 dated June 3, 2008, with documentation of service.
24 8. Copies of the Department's exhibits consisting of the following:
25 a. Exhibit 1 – Copy of Kirk James Wald's online application; and
 b. Exhibit 2 – Copy of Kirk James Wald's Uniform Individual Mortgage
 License/Registration & Consent Form; and

- c. Exhibit 3 – Copies of Federal Tax Lien No. 200611070517 and Federal Tax Lien No. 20070206035; and
- d. Exhibit 4 – Copy of IRS Account Transcript for Tax Period Ending December 31, 2002; and
- e. Exhibit 5 - Copy of IRS Account Transcript for Tax Period Ending December 31, 2003; and
- f. Exhibit 6 – Copy of IRS Account Transcript for Tax Period Ending December 31, 2004; and

9. Tapes of the May 21, 2008 hearing in its entirety.

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director hereby adopts the Initial Order Affirming the Department’s Denial of Respondent’s License Application, which is attached hereto.

II. FINAL ORDER

Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

A. IT IS HEREBY ORDERED, That: Respondent Kirk James Wald’s application for a loan originator license is denied.

B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter.

1 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
2 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
3 notice specifying the date by which it will act on a petition.

4 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
5 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
6 Review made under chapter 34.05 RCW and RCW 34.05.550.

7 D. Judicial Review. Respondent has the right to petition the superior court for judicial
8 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
9 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

10 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
11 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
12 attached hereto.
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14 DATED this 16 day of December 2008.

15 STATE OF WASHINGTON
16 DEPARTMENT OF FINANCIAL INSTITUTIONS



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SCOTT JARVIS
DIRECTOR