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**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-08-172-08-SC01

MCDOWELL MORTGAGE, INC, and
RICHARD ESTEL MCDOWELL, President,
Owner and Designated Broker, and DAVID
RICHARD MCDOWELL, Owner,

STATEMENT OF CHARGES AND
NOTICE OF INTENTION TO ENTER AN
ORDER TO SUSPEND LICENSE , IMPOSE FINE,
AND COLLECT INVESTIGATION FEE

Respondents.

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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)¹. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of the Statement of Charges, the Director, through his designee, Division of Consumer Services Director, Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **McDowell Mortgage, Inc., (Respondent McDowell Mortgage).** Respondent McDowell Mortgage submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct business as a mortgage broker at the following location: 4620 110th Ave NE, Kirkland, WA 98033. The Department received the application on or about November 21, 2007. Respondent McDowell Mortgage was licensed by the Department to conduct business as a mortgage broker on January 1, 2008 and continues to be licensed to date.

B. **Richard Estell McDowell (Respondent Richard McDowell).** Respondent Richard McDowell is the President, Owner and Designated Broker of Respondent McDowell Mortgage. Respondent Richard

¹ RCW 19.146 (As Amended Through 2006)

1 McDowell was named Designated Broker of Respondent McDowell Mortgage on January 1, 2008, and
2 continues as Designated Broker to date. On January 1, 2008 Respondent Richard McDowell was licensed to
3 conduct the business of a loan originator under Respondent McDowell Mortgage and continues to be licensed to
4 date.

5 C. **David Richard McDowell (Respondent David McDowell).** Respondent David McDowell is
6 the Vice President and Owner of Respondent McDowell Mortgage.

7 **1.2 Criminal History.** On or about November 9, 2003, Respondent David McDowell was charged in the
8 King County District Court in Bellevue with one count of Theft in the Third Degree, a Gross Misdemeanor. The
9 King County District Court in Bellevue dismissed the criminal complaint filed against Respondent David
10 McDowell on or about September 2, 2004.

11 **1.3 Responses to Application Questions.**

12 The "Criminal Disclosure" section of the Mortgage Broker license application Form MU1 consists of
13 four questions, and includes the following instruction: "If the answer to any of the following is "YES",
14 provide complete details of all events or proceedings in an attachment, including as applicable; name and
15 location of court, docket or case number, and status and summary of event or proceeding; copies of applicable
16 charge(s), order(s), and/or consent agreement(s)."

17 Respondents answered "no" to the following question on the "Criminal Disclosure" section of the
18 Mortgage Broker license application Form MU1:

- 19 • 8(B)(2) – In the past ten years has the applicant or a control affiliate been charged with a
20 misdemeanor specified in 8(B)(1)?

21 The "Criminal Disclosure" section of the Mortgage Broker license application Form MU2 consists of
22 eight questions, and includes the following instruction: "If the answer to any of the following is "YES",
23 provide complete details of all events or proceedings in an attachment..."

24 Respondent David McDowell answered "no" to the following question on the "Criminal Disclosure"
25 section of the Mortgage Broker license application Form MU2:

1 • 8F(2)-Have you ever been charged with a misdemeanor specified in 8(F)(1)?
2 Respondents were obligated by statute to answer questions on the mortgage broker license application truthfully
3 and to provide the Department with complete details of all events or proceedings.

4 **1.4 Incomplete or Inaccurate Application.** Respondents did not provide an accurate and complete
5 written license application in the form prescribed by the Director.

6 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
7 Respondents continues to date.

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

9 **2.1 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
10 forth in Section I above, Respondents McDowell Mortgage, Inc., Richard McDowell, and David McDowell
11 have failed to meet the requirements of RCW 19.146.205(1), RCW 19.146.210(1), WAC 208-660-030(1) and
12 WAC 208-660-040 by failing to provide an accurate and complete written license application in the form
13 prescribed by the Director.

14 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
15 apparent violation of RCW 19.146.0201(8) for negligently making a false statement or knowingly and willfully
16 making an omission of material fact in connection with any reports filed by a mortgage broker or in connection
17 with an investigation conducted by the Department.

18 **III. AUTHORITY TO IMPOSE SANCTIONS**

19 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2)(b), and WAC 208-660-163, the
20 Director may suspend a license for false statements or any violation of RCW 19.146.050, RCW 19.146.060(3),
21 RCW 19.146.0201(1) through (9) or (12), RCW 19.146.205(4), or RCW 19.146.265.

22 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the
23 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to
24 the Act for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW
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1 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or failure to comply with a directive
2 or order of the Director.

3 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and
4 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person
5 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
6 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
7 hour that each staff person devoted to the investigation.

8 **IV. NOTICE OF INTENTION TO ENTER ORDER**

9 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
10 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
11 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223.

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

- 13 **4.1** Respondent McDowell Mortgage Inc.'s license to conduct the business of a mortgage broker be
14 suspended for a period of thirty (30) days; and
- 15 **4.2** Respondent Richard McDowell's loan originator license to conduct the business of a loan originator be
16 suspended for a period of thirty (30) days; and
- 17 **4.3** Respondents jointly and severally pay a fine in the amount of \$2,250; and
- 18 **4.4** Respondents jointly and severally pay an investigation fee in the amount of \$552 calculated at \$48 per hour
19 for the eleven and one half staff hours devoted to the investigation.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Suspend License, Impose Fine,
3 and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
5 RCW (The Administrative Procedure Act). Respondents may make a written request for hearings as set forth in
6 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
7 Statement of Charges.

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9 Dated this th day of September, 2008.



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DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

FATIMA BATIE
Financial Legal Examiner Supervisor

Approved by:

JAMES R. BRUSSELBACK
Enforcement Chief