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4 **STATE OF WASHINGTON**
5 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
6 **DIVISION OF CONSUMER SERVICES**

7 IN THE MATTER OF DETERMINING
8 Whether there has been a violation of the
9 Mortgage Broker Practices Act of
10 Washington by:

11 JEFFERY GLEN BYERS,
12 Loan Originator,

13 Respondent.

NO. C-08-196-08-SC01

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

14 **INTRODUCTION**

15 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial
16 Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146
17 RCW, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to
18 RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the
19 Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this
20 proceeding and finds as follows:

21 **I. FACTUAL ALLEGATIONS**

22 **1.1 Respondent. Jeffery Glen Byers (Respondent)** was licensed by the Department of Financial
23 Institutions of the State of Washington (Department) to conduct business as a loan originator on
24 February 15, 2007, and has continued to be licensed to date. Respondent is licensed to conduct the
25 business of a loan originator for A+ Mortgage, Inc., a licensed mortgage broker.

¹ RCW 19.146 (2006)

1 **1.2 Prohibited Acts.**

2 A. On or about March 15, 2007, borrower S.F. applied with A+ Mortgage, Inc., for a loan to
3 refinance her primary residence. Respondent was the loan originator who assisted the borrower with
4 the application. At the same time, Respondent was training S.F. to be a loan originator for A+
5 Mortgage, Inc. Page two of the application Respondent prepared for the borrower states the
6 borrower's base employment income to be \$10,000. This income information on the application is in
7 handwriting, whereas the remainder of the information on the application is typed. At the time the
8 borrower signed the application, the income section was blank, and the Respondent was aware that the
9 borrower's income was substantially less than \$10,000. Respondent subsequently submitted a second
10 application to the lender with a stated income of \$13,750, and the borrower obtained a loan based
11 upon this over-stated income. Respondent later provided a statement to the Department stating that
12 the account representative for the lender required the increase in income to keep the debt-to-income
13 ratio below 40%.

15 B. Also on or about March 15, 2007, Respondent assisted borrower S.F. with applying for a
16 loan to refinance an investment property. Respondent prepared a loan application for the borrower
17 stating the borrower's income from employment to be \$10,000. This income information appears on
18 the application in handwriting, whereas the remainder of the information on the application is typed.
19 Respondent subsequently submitted a second application to the lender with a stated income of
20 \$13,750, and the borrower obtained a loan based upon this over-stated income. Respondent later
21 provided a statement to the Department stating that the account representative for the lender required
22 the increase in income to keep the debt-to-income ratio below 40%.

1 **1.3 Failure to Properly Disclose the Yield Spread Premium.** Respondent prepared an initial
2 Good Faith Estimate (GFE) for each of the loans described in paragraph 1.2, above. Each GFE
3 contains the following language under a section entitled Compensation to Broker, "ysp 1-3%."

4 **1.4 Failure to Properly Make Truth-in-Lending Disclosures.** Respondent prepared an initial
5 Truth-in-Lending Disclosures (TIL) for each of the loans described in paragraph 1.2, above. Each TIL
6 includes a payment stream for a variable rate mortgage, but the check box to disclose a "variable rate
7 feature" was not checked.

8 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the
9 Act by Respondent continues to date.
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11 **II. GROUNDS FOR ENTRY OF ORDER**

12 **2.1 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is
13 in apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a
14 scheme, device, or artifice to defraud or mislead borrowers or lenders or any person, for engaging in
15 an unfair or deceptive practice toward any person, and for obtaining property by fraud or
16 misrepresentation.

17 **2.2 Requirement to Properly Disclose Yield Spread Premium.** Based on the Factual
18 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.0201(6)
19 and (11) for failure to properly disclose the yield spread premium on the initial GFE for each loan
20 described in paragraph 1.2 above.

21 **2.3 Requirement to Properly Complete Truth-in-Lending Disclosures.** Based on the Factual
22 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.0201(6),
23 (11), and (15) for failure to properly complete the initial TIL for each loan described in paragraph 1.2,
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1 above, and RCW 19.146.030(1) and (2)(a) for failure to properly complete the initial TIL for the loan
2 described in paragraph 1.2 A, above.

3 **III. AUTHORITY TO IMPOSE SANCTIONS**

4 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2)(e), the Director may suspend
5 a license for any violation of the Act.

6 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a), the Director may impose fines
7 on a loan originator for any violations of RCW 19.146.0201(1), (2), or (3).

8 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-
9 550(5), the Director may collect the costs of an investigation. The investigation charge will be calculated
10 at the rate of \$48 per hour that each staff person devoted to the investigation.
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12 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

17 **4.1** Respondent Jeffery Glen Byers' license to conduct the business of a loan originator shall be
18 suspended for a period of six months; and

19 **4.2** Respondent Jeffery Glen Byers shall pay a fine which as of the date of these charges totals
20 \$7,500;

21 **4.3** Respondent Jeffery Glen Byers shall pay an investigation fee which as of the date of these charges
22 totals \$432, calculated at \$48 per hour for the nine staff hours devoted to the investigation to date.

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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,
3 Impose Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the
4 provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is
5 subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may
6 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
7 AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.
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9 Dated this 19th day of September, 2008.

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12 DEBORAH BORTNER
13 Director
14 Division of Consumer Services
15 Department of Financial Institutions

16 Presented by:

17 
18 STEVEN C. SHERMAN
19 Financial Legal Examiner



20 Approved by:

21 
22 JAMES R. BRUSSELBACK
23 Enforcement Chief
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