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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:

WALDEN MORTGAGE LLC, AND
DAVID A. WALDEN, Principal Owner and
Designated Broker,

Respondents.

NO. C-08-201-08-SC01

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

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 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 Respondents.

A. **Walden Mortgage LLC, (Respondent WM)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on March 21, 2001, and continued to be licensed through December 31, 2007, when its license expired². Respondent WM renewed its license on January 15, 2008. Respondent WM was not licensed from January 1, 2008, through January 14, 2008.

B. **David A. Walden (Respondent Walden)** is the Principal Owner and Designated Broker of Respondent Walden Mortgage LLC. Respondent Walden was issued a Loan Originator license on November 15, 2006, and continues to be licensed to date.

¹ RCW 19.146 (2006).

² RCW 19.146.210(4).

1 **1.2 Untimely Renewal of Mortgage Broker License.** In order to continue conducting business in 2008,
2 the Respondents were required to renew their mortgage broker license before January 1, 2008. The
3 Respondents did not renew their mortgage broker license timely and as a result could not conduct the business
4 of a mortgage broker until their license was renewed on January 15, 2008.

5 **1.3 Unlicensed Location.** Respondents conducted the business of a mortgage broker from 3316 6TH Ave.
6 Tacoma, WA 98406 between January 1, 2008, and January 14, 2008. Respondents did not have a license from
7 the Department to conduct business as a mortgage broker between January 1, 2008, and January 14, 2008.

8 **1.4 Unlicensed Activity.** Between January 1, 2008, and January 14, 2008, Respondents assisted at least 13
9 borrowers to obtain residential mortgage loans on property located in the State of Washington from the
10 unlicensed location discussed in paragraph 1.3.

11 **1.5 Operating and Advertising Under Unlicensed Name.** Between January 1, 2008, and January 14,
12 2008, Respondents were not licensed to conduct the business of a Mortgage Broker in the State of Washington
13 under the name "Walden Mortgage LLC." or any other name. Respondents maintained a website
14 (<http://www.waldenmortgage.net/>) on the internet for the purpose of advertising as a mortgage broker and to
15 conduct the business of a mortgage broker.

16 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
17 Respondents continues to date.

18 II. GROUNDS FOR ENTRY OF ORDER

19 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
20 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
21 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
22 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
23 person in obtaining or applying to obtain a residential mortgage loan.

24 **2.2 Definition of Borrower.** Pursuant to RCW 19.146.010(3) and WAC 208-660-006, a "Borrower" is
25 defined as any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or

1 seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or
2 persons including himself or herself, regardless of whether the person actually obtains such a loan.

3 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
4 apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or
5 artifice to defraud or mislead borrowers or lenders or any person, for engaging in an unfair or deceptive practice
6 toward any person, and for obtaining property by fraud or misrepresentation.

7 **2.4 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
8 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
9 broker without first obtaining and maintaining a license under the Act.

10 **2.5 Requirement to Timely Renew License and Refrain from Conducting Business.** Based on the
11 Factual Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-660-
12 163(16),(17) and (18) for continuing to conduct the business of a mortgage broker after failing to timely renew
13 a license under the Act.

14 **2.6 Operating and Advertising Under Unlicensed Name.** Based on the Factual Allegations set forth in
15 Section I above, Respondents are in apparent violation of RCW 19.146.250 for operating and advertising under
16 a name not licensed by the Department.

17 III. AUTHORITY TO IMPOSE SANCTIONS

18 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), and (3)(a), the Director may impose
19 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any
20 violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW
21 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or any violation of the Act.

22 **3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC
23 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other person subject
24 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
25 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person
devoted to the investigation.

1 **3.3 Authority to Assess Penalty.** Pursuant to WAC 208-660-530, the Director may exercise discretion and by
2 order assess other penalties for a violation of the act.

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

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

- 8 **4.1** Respondents Walden Mortgage LLC and David A. Walden jointly and severally pay a fine of \$1,400;
- 9 **4.2** Respondents Walden Mortgage LLC and David A. Walden jointly and severally pay an investigation fee,
10 which as of the date of these charges is \$480 calculated at \$48 per hour for 10 staff hours devoted to the
11 investigation; and
- 12 **4.3** Respondents Walden Mortgage LLC and David A. Walden jointly and severally pay a penalty equivalent
13 to the amount of fees earned by Respondents from conducting unlicensed business between January 1,
14 2008, and January 14, 2008.

13 **V. AUTHORITY AND PROCEDURE**

14 This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect
15 Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
16 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
17 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth
18 in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying
19 this Statement of Charges.

20 Dated this 21st day of July, 2008.



21 DEBORAH BORTNER
22 Director Division of Consumer Services
23 Department of Financial Institutions

22 Presented by:

23 
24 WILLIAM HALSTEAD
25 Financial Legal Examiner

