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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Consumer Loan Act of Washington by:

AMERICAN HOME EQUITY CORPORATION  
and  
ALAN M. POTT, President and Owner,

Respondents.

NO. C-08-273-09-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO PROHIBIT FROM  
INDUSTRY, IMPOSE FINE, ORDER  
RESTITUTION, COLLECT  
EXAMINATION FEE, AND COLLECT  
INVESTIGATION FEE

**INTRODUCTION**

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date 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. American Home Equity Corporation (Respondent American Home Equity)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on December 19, 2001. Respondent American Home Equity surrendered its license effective February 28, 2008. At the time of surrender, Respondent American Home Equity was licensed to conduct business as a Consumer Loan Company at 2677 North Main Street, Suite 225, Santa Ana, California.



1 lower half of Truth in Lending Disclosures, failing to disclose a prepayment penalty on a Truth in  
2 Lending Disclosure, and listing mortgage broker fees on line 801 of the HUD-1 Settlement Statement  
3 while listing Respondents' fees on line 805.

4 **1.6 Imposing Unlawful Prepayment Penalties.** Respondents imposed a prepayment penalty on  
5 two junior lien mortgage loans.

6 **1.7 Failure to Maintain Adequate Records.** Respondents were unable to locate four entire loan  
7 files which the Department's examiners had requested for review.

8 **1.8 Understating Finance Charges.** Respondents understated the finance charges in two loans.

9 **1.9 On-Going Investigation.** The Department's investigation into the alleged violations of the  
10 Act by Respondents continues to date.

## 11 II. GROUNDS FOR ENTRY OF ORDER

12 **2.1 Requirement to Timely Pay Examination Invoices.** Based on the Factual Allegations set  
13 forth in Section I above, Respondents are in apparent violation of RCW 31.04.145 and WAC 208-620-  
14 590(3) for failing to pay the examination invoices within thirty days.

15 **2.2 Charging Unlawful Fees.** Based on the Factual Allegations set forth in Section I above,  
16 Respondents are in apparent violation of RCW 31.04.027(2), (3), (6), (7), and (10), RCW 31.04  
17 105(2), WAC 208-620-560, and 24 C.F.R. Section 3500.21(b)(1) [Regulation X] for charging  
18 undisclosed loan origination fees, loan origination fees on second lien mortgages which exceeded the  
19 statutory limits, processing fees, and a document preparation fee.

20 **2.3 Requirement to Provide Timely and Accurate Disclosures.** Based on the Factual  
21 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.027(2),  
22 (6), (7), and (10), RCW 31.04.102(2) and (3), WAC 208-620-505, WAC 208-620-510, 24 C.F.R.  
23 Section 3500.21(b)(1) [Regulation X], and 12 C.F.R. Section 226.5b [Regulation Z] for failing to

1 provide timely and accurate Good Faith Estimate Disclosures, Truth in Lending Disclosures, Loan  
2 Servicing Disclosures, Variable Rate Disclosures, Home Equity Plan Disclosures, and HUD-1  
3 Settlement Statements.

4 **2.4 Imposing Unlawful Prepayment Penalties.** Based on the Factual Allegations set forth in  
5 Section I above, Respondents are in apparent violation of RCW 31.04.027 (2) and WAC 208-620-  
6 130(7) for making a junior lien loan to a borrower which contained a prepayment penalty provision in  
7 the note.

8 **2.5 Requirement to Maintain Adequate Records.** Based on the Factual Allegations set forth in  
9 Section I above, Respondents are in apparent violation of RCW 31.04.155 for failing to maintain  
10 sufficient records to enable the Director to determine whether the licensee is complying with the Act.

11 **2.6 Requirement to Accurately Disclose Finance Charges.** Based on the Factual Allegations set  
12 forth in Section I above, Respondents are in apparent violation of RCW 31.04.027(2), (6), (7), and  
13 (10), RCW 31.04.102(2), WAC 208-620-505, WAC 208-620-510, and 12 C.F.R. Section 226.5b  
14 [Regulation Z] for disclosing a finance charge that was understated by more than \$100.

### 15 III. AUTHORITY TO IMPOSE SANCTIONS

16 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), the Director  
17 may issue an order prohibiting from participation in the affairs of any licensee, any officer, principal,  
18 employee, or any other person subject to the Act for any violation of RCW 31.04.027.

19 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of  
20 up to one hundred dollars per day upon the licensee, its employee, or any other person subject to the  
21 Act for any violation of the Act.

1 **3.3 Authority to Order Restitution.** Pursuant to RCW 31.04.093(5), the Director may issue an  
2 order directing a licensee, its employee, or any other person subject to the Act to make restitution to a  
3 borrower or other person who is damaged as a result of a violation of the Act.

4 **3.4 Authority to Charge Examination Fee and Investigation Fee.** Pursuant to RCW  
5 31.04.145(3) and WAC 208-620-590, every licensee examined or investigated by the Director or the  
6 Director's designee shall pay for the cost of the examination or investigation, calculated at the rate of  
7 sixty-nine dollars and one cent (\$69.01) per staff hour devoted to the examination or investigation, and  
8 shall pay travel costs if the licensee maintains its records outside the state.

#### 9 IV. NOTICE OF INTENTION TO ENTER ORDER

10 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as  
11 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose  
12 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW  
13 31.04.205. Therefore, it is the Director's intention to ORDER that:

- 14 **4.1** Respondent American Home Equity Corporation be prohibited from participation in the  
15 conduct of the affairs of any consumer loan company subject to licensing by the Director, in  
16 any manner, for a period of five years; and
- 17 **4.2** Respondent Alan M. Pott be prohibited from participation in the conduct of the affairs of any  
18 consumer loan company subject to licensing by the Director, in any manner, for a period of  
19 five years; and
- 20 **4.3** Respondents American Home Equity Corporation and Alan M. Pott jointly and severally pay  
21 a fine which as of the date of these charges totals \$75,000 for the violations set forth above;  
22 and
- 23 **4.4** Respondents American Home Equity Corporation and Alan M. Pott pay restitution in the  
24 aggregate amount of \$10,935.33 as set forth in Appendix A; and
- 25 **4.5** Respondents American Home Equity Corporation and Alan M. Pott jointly and severally pay  
the costs of the 2007 examination in the amount of \$7,015.43, consisting of an examination  
fee of \$4,830.00, calculated at \$69.00 per hour for seventy staff hours devoted to the  
examination, and \$2,185.43 for travel expenses, and interest which continues to accrue at the  
rate of 1% per month; and

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2 4.6 Respondents American Home Equity Corporation and Alan M. Pott jointly and severally pay  
3 an investigation fee which as of the date of these charges totals \$1,173, calculated at \$69 per  
4 hour for seventeen staff hours devoted to the investigation to date; and

5 **V. AUTHORITY AND PROCEDURE**

6 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry,  
7 Impose Fine, Order Restitution, Collect Examination Fee, and Collect Investigation Fee (Statement of  
8 Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202,  
9 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative  
10 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF  
11 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
12 Statement of Charges.

13 Dated this 9<sup>th</sup> day of February, 2009.

14 

15 DEBORAH BORTNER  
16 Director  
17 Division of Consumer Services  
18 Department of Financial Institutions

19 Presented by:

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21 STEVEN C. SHERMAN  
22 Financial Legal Examiner

23 Approved by:

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25 JAMES R. BRUSSELBACK  
Enforcement Chief



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**RESTITUTION SCHEDULE**

<b>Borrower</b>	<b>Loan Number</b>	<b>Amount Due</b>
T.P.	2106060803	\$2,415.00
A.A.	2104012109	\$2,256.00
M.M.-T.	3505060602	\$ 395.00
J.M.	2806011003	\$1,425.00
C.K.	2806031002	\$1,950.00
T.S.	2805121601	\$1,873.00
E.H.	3407011601	\$ 276.23
E.G.	2105020803	\$ 345.10
<b>TOTAL</b>		<b>\$10,935.33</b>