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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:

JEFFREY SCOTT JUDY,

Respondent.

NO. C-08-298-08-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE,
IMPOSE FINE, REMOVE FROM OFFICE,
PROHIBIT FROM INDUSTRY,
AND COLLECT INVESTIGATION FEE

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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). After having conducted an investigation pursuant to RCW 19.146.235, 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 Respondent Jeffrey Scott Judy was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a loan originator on January 1, 2007 and continues to be licensed to date. Since it was issued, Respondent's loan originator license has been associated with TMBG, Inc.'s¹ (TMBG) mortgage broker license. On or about January 18, 2008, the Department received an MU2 form from TMBG naming Respondent as the President of TMBG effective January 2, 2008.

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¹ TMBG, Inc. is a mortgage broker licensed under the Act.

1 **1.2 Misrepresentations of Borrowers' Information.** In at least four residential mortgage loan
2 transactions, Respondent misrepresented information to lenders in order to obtain residential mortgage loans.
3 Such information included borrowers' liabilities and intent to occupy the properties.

4 **A. Transaction 1** – In or around June 2007, Respondent assisted Borrowers 1 in obtaining a
5 \$249,600 residential mortgage loan to refinance existing residential mortgage loans totaling \$203,000 on
6 property located at 714 21st Pl, Snohomish, WA (21st property). Respondent represented to the lender that
7 Borrowers 1 would be occupying the 21st property as their primary residence. Respondent did not disclose to
8 the lender that Respondent was also in the process of obtaining an additional \$351,000 liability for Borrowers 1
9 in the form of two residential mortgage loans to purchase property located at 1225 22nd St, Snohomish, WA
10 (22nd property).

11 **B. Transaction 2** – In or around June 2007, Respondent assisted Borrowers 1 in obtaining two
12 residential mortgage loans totaling \$351,000 to purchase the 22nd property. Respondent represented to the
13 lenders that Borrowers 1 would be occupying the 22nd property as their primary residence and that the 21st
14 property was a rental property generating \$1,500 per month in rental income and that the 21st property was
15 secured by residential mortgage loans totaling \$201,000. Respondent did not disclose to the lenders that
16 Respondent was also in the process of obtaining an additional \$48,600 liability for Borrowers 1 in the form of a
17 \$249,600 residential mortgage loan to refinance the existing \$203,000 residential mortgage loans on the 21st
18 property.

19 **C. Transaction 3** – In or around February 2008, Respondent assisted Borrowers 2 in obtaining a
20 \$175,000 residential mortgage loan to refinance an existing \$65,000 residential mortgage loan on property
21 located at 2632 177th St SE, Bothell, WA (Bothell property). TMBG funded the loan from its warehouse line of
22 credit. Prior to funding, TMBG requested approval to sell the loan to an investor. The investor was involved in
23 underwriting the loan and approved the purchase of the loan from TMBG before the loan was funded.
24 Respondent represented to the investor that Borrowers 2 would be occupying the Bothell property as their
25 primary residence. Respondent did not disclose to the investor that Respondent was also in the process of

1 obtaining an additional \$417,000 liability for Borrowers 2 in the form of a residential mortgage loan to purchase
2 property located at 17822 NE 203rd St, Woodinville, WA (Woodinville property).

3 **D. Transaction 4** – In or around February 2008, Respondent assisted Borrowers 2 in obtaining a
4 \$417,000 residential mortgage loan to purchase the Woodinville property. Respondent represented to the lender
5 that Borrowers 2 would be occupying the Woodinville property as their primary residence and that the Bothell
6 property was a rental property generating \$1,800 per month in rental income and that the Bothell property was
7 secured by a \$65,000 residential mortgage loan. Respondent did not disclose to the lender that Respondent was
8 also in the process of obtaining an additional \$110,000 liability for Borrowers 2 in the form of a \$175,000
9 residential mortgage loan to refinance the existing \$65,000 residential mortgage loan on the Bothell property.

10 **1.3 Residential Mortgage Loan Disclosures.** In at least one residential mortgage loan transaction
11 (Transaction 1), Respondent failed to provide borrowers with full written disclosures containing the annual
12 percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of
13 each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms
14 may change between the time of disclosure and closing of the loan; and the circumstances under which the
15 variable rate may increase, any limitation on the increase, the effect of an increase, and an example of the
16 payment terms resulting from an increase. Respondent also failed to provide Truth in Lending disclosures
17 completed in compliance with the Truth in Lending Act and Regulation Z in this transaction.

18 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
19 Respondent continues to date.

20 21 **II. GROUNDS FOR ENTRY OF ORDER**

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

3 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10), "Loan Originator" means a natural
4 person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or negotiates
5 terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect
6 compensation or gain. "Loan originator" also includes a person who holds themselves out to the public as able
7 to perform any of these activities. "Loan Originator" does not mean persons performing purely administrative
8 or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks"
9 means the receipt, collection, and distribution of information common for the processing of a loan in the
10 mortgage industry and communication with a borrower to obtain information necessary for the processing of a
11 loan. A person who holds himself or herself out to the public as able to obtain a loan is not performing
12 administrative or clerical tasks.

13 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is in
14 apparent violation of RCW 19.146.0201:

- 15 • (1) for directly or indirectly employing a scheme, device or artifice to defraud or mislead borrowers or
16 lenders or any person;
- 17 • (2) for engaging in an unfair or deceptive practice toward any person;
- 18 • (3) for obtaining property by fraud or misrepresentation;
- 19 • (6) for failing to make disclosures to loan applicants as required by RCW 19.146.030 and any other
20 applicable state or federal law;
- 21 • (7) for making, in any manner, any false or deceptive statement or representation with regard to the
22 rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and
23 switch advertising; and
- 24 • (11) for failing to comply with the disclosure requirements of the Truth in Lending Act, 15 U.S.C. Sec.
25 1601, and Regulation Z, 12 C.F.R. Sec. 226.

1 **2.4 Residential Mortgage Loan Disclosures.** Based on the Factual Allegations set forth in Section I
2 above, Respondent is in apparent violation of RCW 19.146.030 for failing to provide borrowers with full
3 written disclosures containing the annual percentage rate, amount financed, total amount of all payments,
4 number of payments, amount of each payment, amount of points or prepaid interest and the conditions and
5 terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a
6 variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of
7 an increase, and an example of the payment terms resulting from an increase.

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9 **III. AUTHORITY TO IMPOSE SANCTIONS**

10 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2), the Director may revoke a license for
11 any violation of the Act.

12 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a), the Director may impose fines on an
13 employee, loan originator, independent contractor, or agent of the licensee, or other person subject to the Act
14 for any violation of RCW 19.146.0201(1) through (9), or RCW 19.146.030.

15 **3.3 Authority to Remove from Office and Prohibit from the Industry.** Pursuant to RCW
16 19.146.220(5)(a), the Director may issue orders removing from office or prohibiting from participation in the
17 conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator
18 of any licensed mortgage broker or any person subject to licensing under the Act for any violation of RCW
19 19.146.0201(1) through (9), or RCW 19.146.030.

20 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-550(4)(a),
21 the Department may charge forty-eight dollars (\$48) per hour for an examiner's time devoted to an investigation of
22 the books and records of a licensee or other person subject to the Act.

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

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

- 6 **4.1** Respondent Jeffrey Scott Judy's loan originator license be revoked;
- 7 **4.2** Respondent Jeffrey Scott Judy pay a fine which as of the date of this Statement of Charges totals \$15,000;
- 8 **4.3** Respondent Jeffrey Scott Judy be removed as President of TMBG;
- 9 **4.4** Respondent Jeffrey Scott Judy be prohibited from participation in the conduct of the affairs of any
10 mortgage broker subject to licensure by the Director, in any manner, for a period of ten years;
- 11 **4.5** Respondent Jeffrey Scott Judy pay an investigation fee which as of the date of this Statement of Charges
12 totals \$1,008.


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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Remove from Office, Prohibit from Industry, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 4th day of September, 2008.


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


MARK T. OLSON
Financial Examiner



Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief