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ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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-08-298-09-CO01

JEFFREY SCOTT JUDY,
Respondent.

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Jeffrey Scott Judy (hereinafter Respondent), by and through his attorney John A. Long, and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-298-08-SC01 (Statement of Charges), entered September 4, 2008, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

CONSENT ORDER
C-08-298-09-CO01
Jeffrey Scott Judy

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
2 before an administrative law judge, and hereby waives his right to a hearing and any and all administrative and
3 judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent,
4 by his signature below, withdraws his appeal to the Office of Administrative Hearings.

5 **C. Admissions of Facts.** It is AGREED that Respondent admits to all of the Factual Allegations
6 contained in the following paragraphs of the Statement of Charges:

7 1. Paragraph 1.2 of the Statement of Charges. Without contradicting this admission, Respondent
8 contends that his representations of the owners' occupancy to the lenders in Transaction 1 and Transaction 3 were
9 made negligently, rather than intentionally or deliberately, since Respondent contends he believed the terms of
10 those residential mortgage loans permitted such representations of occupancy.

11 2. Paragraph 1.3 of the Statement of Charges.

12 **D. Conclusions of Law.** It is AGREED that Respondent neither admits nor denies any violation of the
13 Mortgage Broker Practices Act. It is further AGREED that Respondent acknowledges the evidence, including but
14 not limited to the Admissions contained in paragraph C of this Consent Order, is sufficient such that an
15 Administrative Law Judge could find that Respondent violated RCW 19.146.0201(1), (2), (3), (6), (7), and (11)
16 and RCW 19.146.030.

17 **E. Indemnification of Lenders.** It is AGREED that the Department has entered into this Consent Order
18 based in part on Respondent's representation that he has delivered letters of indemnification to two lenders
19 offering to indemnify those lenders in the event the borrowers default on the residential mortgage loans discussed
20 in Transaction 1 (paragraph 1.2A) and Transaction 3 (paragraph 1.2C) of the Statement of Charges.

21 **F. Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$15,000, in the form of a
22 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

23 **G. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee
24 of \$1,008, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this

1 Consent Order. The Fine and Investigation Fee may be paid together in one \$16,008 cashier's check made
2 payable to the "Washington State Treasurer."

3 **H. Complete Cooperation with the Department (Statements).** It is AGREED that Respondent shall
4 provide the Department truthful and complete sworn statements outlining his activities with respect to TMBG, Inc.
5 (TMBG) and any and all persons involved or in any way associated with TMBG, including but not limited to
6 owners, employees, independent contractors, agents, businesses and persons with whom TMBG dealt,
7 communicated, or otherwise related. The "sworn statements" may take the form of affidavits, declarations, or
8 deposition testimony, at the Department's discretion. A failure to cooperate fully, truthfully and completely is a
9 breach of this Consent Order.

10 **I. Complete Cooperation with the Department.** In addition to providing sworn statements as
11 described in paragraph H, it is AGREED that Respondent shall cooperate fully, truthfully and completely with the
12 Department and provide any and all information known to him relating in any manner to TMBG and any and all
13 persons involved or in any way associated with TMBG, including but not limited to owners, employees,
14 independent contractors, agents, businesses and persons with whom TMBG dealt, communicated, or otherwise
15 related. It is further AGREED that Respondent shall provide any and all documents, writings or materials, or
16 objects or things of any kind in his possession or under his care, custody, or control that he is authorized to
17 possess, obtain, or distribute relating directly or indirectly to all areas of inquiry and investigation. It is further
18 AGREED that Respondent shall testify fully, truthfully and completely at any and all proceedings related to any
19 Department investigation or enforcement action or both related to TMBG and any Respondents named therein. A
20 failure to cooperate fully, truthfully and completely is a breach of this Consent Order.

21 **J. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide
22 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the
23 event of such legal action, Respondent may be responsible to reimburse the Director for the cost incurred in
24 pursuing such action, including but not limited to, attorney fees.

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K. **Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

L. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent Order in its entirety and fully understands and agrees to all of the same.

RESPONDENT:

Jeffrey Scott Judy
Jeffrey Scott Judy

7/9/09
Date

John A. Long
John A. Long, WSBA No. 15119
Attorney at Law
Attorney for Respondent

7/10/09
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 20th DAY OF August, 2009.

Deborah Bortner
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by: Mark T. Olson
MARK T. OLSON
Financial Examiner



Approved by: James R. Brusselback
JAMES R. BRUSSELBACK
Enforcement Chief

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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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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

