

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**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:

BEYOND FINANCIAL, INC. DBA BEYOND
MORTGAGE, and TERRI WARDEN, Owner and
Designated Broker,
Respondents.

NO. C-08-425-09-CO01

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 Beyond Financial, Inc. DBA Beyond Mortgage (hereinafter Respondent Beyond Financial), and Terri Warden, Owner and Designated Broker (hereinafter Respondent Warden), and finding that the issues raised in the above-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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-425-08-SC01 (Statement of Charges), entered January 9, 2009, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree 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. Respondents are agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

CONSENT ORDER
C-08-425-09-CO01
BEYOND FINANCIAL, INC. DBA BEYOND
MORTGAGE and TERRI WARDEN

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

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

3 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
4 before an administrative law judge, and that they hereby waive their right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
6 Accordingly, Respondents agree to withdraw their appeal and to inform the Office of Administrative Hearings in
7 writing of their withdrawal.

8 C. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$1,650, in the form of a
9 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

10 D. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee
11 of \$156.60, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
12 Consent Order. Respondents may pay both the fine and investigation fee in the form of one cashier's check made
13 payable to the "Washington State Treasurer" upon entry of this Consent Order.

14 E. **Authority to Execute Order.** It is AGREED that the undersigned Respondents have represented and
15 warranted that they have the full power and right to execute this Consent Order on behalf of the parties
16 represented.

17 F. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide
18 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the
19 event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in
20 pursuing such action, including but not limited to, attorney fees.

21 G. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into
22 this Consent Order, which is effective when signed by the Director's designee.

23 H. **Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this
24 Consent Order in its entirety and fully understand and agree to all of the same.

1 **RESPONDENTS:**

2 **Beyond Financial, Inc. DBA Beyond Mortgage**

3 By:

4 *Terri Warden*
5 Terri Warden
6 Owner and Designated Broker

7-30-09
Date

7 *Terri Warden*
8 Terri Warden
9 Individually

7-30-09
Date

10 DO NOT WRITE BELOW THIS LINE

11 THIS ORDER ENTERED THIS 24th DAY OF August, 2009.

12 *Deborah Bortner*
13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 *Deborah Pinsonneault*
19 DEBORAH PINSONNEAULT
20 Financial Legal Examiner



21 Approved by:

22 *James R. Brusselback*
23 JAMES R. BRUSSELBACK
24 Enforcement Chief

1
2
3
4
5
6
7
8

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

9
10
11
12
13
14

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

NO. C-08-425-08-SC01

15
16
17
18
19
20
21
22
23
24
25

BEYOND FINANCIAL, INC. dba BEYOND
MORTGAGE and TERRI WARDEN, Owner and
Designated Broker,

Respondents.

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

26
27
28
29
30
31
32
33
34
35

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 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. **Beyond Financial, Inc. dba Beyond Mortgage (Respondent Beyond Financial)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about November 24, 2004, and continued to be licensed through December 31, 2007, when its license expired². Respondent Beyond Financial renewed its license on February 14, 2008. Respondent Beyond Financial was not licensed from January 1, 2008, through February 13, 2008.

B. **Terri Warden (Respondent Warden)** is the Owner and Designated Broker of Respondent Beyond Financial.

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 Respondents were required to renew their mortgage broker license before January 1, 2008. Respondents did not
3 renew their mortgage broker license timely and as a result could not conduct the business of a mortgage broker
4 until their license was renewed on February 14, 2008.

5 **1.3 Unlicensed Activity.** Between at least January 1, 2008, and February 13, 2008, Respondents
6 performed activity that would require licensure as a mortgage broker under the Act.

7 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
8 Respondents continues to date.

9 II. GROUNDS FOR ENTRY OF ORDER

10 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
11 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
12 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
13 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
14 person in obtaining or applying to obtain a residential mortgage loan.

15 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
16 apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or
17 artifice to defraud or mislead borrowers or lenders or any person, for engaging in an unfair or deceptive practice
18 toward any person, and for obtaining property by fraud or misrepresentation.

19 **2.3 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
20 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
21 broker without first obtaining and maintaining a license under the Act.

22 **2.4 Requirement to Timely Renew License and Refrain from Conducting Business.** Based on the
23 Factual Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-660-
24 163(16), (17), and (18) for continuing to conduct the business of a mortgage broker after failing to timely renew
25 a license under the Act.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), and (3)(a), the Director may impose
3 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any
4 violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW
5 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or any violation of the Act.

6 **3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC
7 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other person subject
8 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
9 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person
10 devoted to the investigation.

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

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

- 16 **4.1** Respondents Beyond Financial, Inc. and Terri Warden jointly and severally pay a fine of \$3,300;
17 and
18 **4.2** Respondents Beyond Financial, Inc. and Terri Warden jointly and severally pay an investigation
19 fee, which as of the date of these charges is \$156.60 calculated at \$48 per hour for 3.2 staff hours
20 devoted to the investigation.

21 //
22 //
23 //
24 //
25 //

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine 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). Respondents 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 9th day of January, 2009.

[Handwritten Signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Handwritten Signature]

DEBORAH PINSONNEAULT
Financial Legal Examiner



Approved by:

[Handwritten Signature]
JAMES R. BRUSSELBACK
Enforcement Chief