

DFI-CONSUMER SERVICES
Mortgage Brokerage Commission Meeting
Examination Unit Report
August 8, 2007

Summary

As of July 31, 2007, the Division of Consumer Services' Examination Unit has performed 43 examinations of Mortgage Brokers: 26 examinations from May 1, 2007 to July 31, 2007 and 17 examinations from October 31, 2006 to April 30, 2007. Although the legislature made January 1, 2007, the effective date of the examination program, the actual work of the Examination Unit started in October 2006, with Mortgage Brokers who volunteered for the program.

The data provided below breaks down the composite rating assigned to the 43 Mortgage Brokers examined, and the number of referrals to enforcement from:

May 1 to July 31, 2007:

<u>Number of Licensees</u>	<u>Composite Rating</u>
9	2
16	3
1	5

Number of Referrals to Enforcement: 3

- Lender Fraud
- Unlicensed branch office
- Unlicensed loan originators

October 31, 2006 to April 30, 2007:

<u>Number of Licensees</u>	<u>Composite Rating Assigned</u>
5	2
6	3
6	4

Number of Referrals to Enforcement: 3

- Bait and Switch (Fixed Rate to ARM)
- Trust Account (failure to deposit third party fees in a trust account)
- Failure to re-disclose increases in fees that inured to the benefit of the broker

Common MB Violations Cited in Exams

- (1) DISCLOSURES - RCW 19.146.030(1) and WAC 208-660-430(1):
 - Failing to disclose Good faith Estimate within three days of application
 - Failing to disclose Truth in Lending Statements within three days of application
- (2) DISCLOSURES - RCW 19.146.030(2)(c)(d)(e) and (3):
 - Disclosure that disclosed rate and terms are` subject to change.
 - Failing to have borrowers execute (signed) lock-in agreement when entered into when it is offered at the beginning of the loan transaction.
 - Failing to provide subsequent rate lock-in agreement when one was not required or offered at the beginning of the transaction; because a lock-in rate was not offered by the mortgage or requested by the consumer when the consumer initially applied for the loan.
- (3) DISCLOSURES - RCW 19.146.030(4)(a)and (b):
 - Failing to provide re-disclosure of Good Faith Estimates (GFEs) after costs to the borrower increased
 - Failing to provide the written explanation with the re-disclosure
- (4) FEDERAL DISCLOSURES - Regulation X, 24 CFR Section 3500 Appendix A, and WAC 208-660-430(12)
 - Disclosing Mortgage Broker Fees on line 801 of Good Faith Estimate
- (5) FEDERAL DISCLOSURES- Regulation B, Equal Credit Opportunity Act (15 U.S.C. §1691), 202.9 Notifications and Fair Credit Reporting Act (15 U.S.C. § 1681):
 - Failing to provide the borrower with a written notice in the event of cancellation
- (6) DISCLOSURES – RCW 19.146.030(2)(d)
 - Failing to provide a statement for copies of appraisal report, title report, or credit report paid by the borrower within five days of a written request
- (7) DISCLOSURES - RCW 19.146.030(2)(f):
 - Failing to provide borrower with a written notice that 3rd Party funds are held in a trust account
- (8) FEDERAL PROHIBITED PRACTICE - Regulation X, (RESPA) section 3500.7 and Part 3500, Appendix B, fact situation 13
 - Engaging in a prohibited practice by not disclosing Yield Spread Premium (YSP)
- (9) PROHIBITED PRACTICE - RCW 19.146.0201(7):
 - Engaging in bait and switch practice by disclosing an adjustable rate

mortgage as a fixed rate mortgage

- Charging fees for services not performed such as Underwriting – Only the creditor may charge a fee for performing the service.

(10) PROHIBITIVE PRACTICE - RCW 19.146.0201(14)(a)(b) and WAC 208-660-300(3):

- Failing to provide proper disclosures when acting as both mortgage broker and real estate agent using the following written disclosure:

THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY. YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS, AND LENDERS, AND TO SELECT ANY MORTGAGE BROKER, OR LENDER OF YOUR CHOOSING.

(11) PROHIBITIVE PRACTICES - WAC 208-660-155(10) & WAC 208-660-155(9):

- Prior to January 1, 2007 failing to update the Department of new independent contractors with agreement on file with the Department
- After January 1, 2007 failing to confirm status of Loan Originator.

(12) CLASS C FELONY - RCW 19.146.050(1):

- Collecting fees for third parties without having a trust account

(13) ADDITIONAL FEDERAL DISCLOSURES – Regulation Z, 12 CFR, Section 226.5b(b)

- Failing to provide home-equity plan disclosures

(14) ADDITIONAL FEDERAL DISCLOSURES - Regulation Z, 12 CFR, Section 226.19(b)

- Failing to provide initial variable rate mortgage program disclosures

(15) ADDITIONAL FEDERAL DISCLOSURES - USA PATRIOT Act Section 326(a) (2)

- Failing to collect borrower identification and information

(16) ADDITIONAL FEDERAL DISCLOSURES - Regulation X, Real Estate Settlement Procedures Act, 24 CFR, section 3500.15(b)(1)

- Failing to provide affiliated business arrangement disclosures