

**DFI-CONSUMER SERVICES**  
**Mortgage Brokerage Commission Meeting**  
**Examination Unit Report**  
**May 9, 2007**

As of April 30, 2007, the Division of Consumer Services' Examination Unit has performed 17 examinations of Mortgage Brokers. 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 17 Mortgage Brokers examined from 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

The composite ratings assigned to reports of examination are based on violations, severity of violations, and adequacy of internal routine and controls. The explanation for the five types of ratings follows:

**Explanation for "1" Rating**

**A mortgage broker in this category is in a strong compliance position.** The mortgage broker has sufficient knowledge of applicable state and federal statutes and regulations, and adequate staff for effectuating compliance. An effective formal compliance program, including an efficient system of internal procedures and controls, has been established. Changes in Mortgage Broker statutes and regulations are promptly reflected in the written or electronic policies, procedures, and compliance monitoring. The broker provides adequate training for employees. If any violations are noted, they relate to relatively minor deficiencies in practices that are easily corrected. The examination reveals no evidence of prohibited practices, reimbursable violations, or practices resulting in repeat violations. Trust account violations are not apparent and ample controls are in place. The broker presents a general fitness, and as a result, the broker presents no cause for subsequent examination.

*Commentary - This rating is for brokers that exhibit a higher emphasis on compliance with their focus on origination. This emphasis is evidenced by a proactive compliance program and limited violations. There is either an independent review process or sufficient controls and confirmations to provide ongoing assurance of quality.*

**Explanation for “2” Rating**

**A Company in this category is in a satisfactory compliance position.** The Company has sufficient knowledge of applicable state statutes, federal regulations, and adequate staff for effectuating compliance. Although a system of internal operating procedures and controls has been established to ensure compliance, violations have occurred. These violations, however, involve oversight on the part of operating personnel. Modifications in the Company’s compliance program and/or the establishment of additional review/audit procedures may eliminate the violations. Compliance monitoring is satisfactory. The examination reveals no evidence of prohibited practices, reimbursable violations, or practices resulting in well-defined patterns causing repeat violations. Trust accounting violations are not apparent and controls are in place. The Company presents a general fitness, and as a result, Companies rated in this category will require the examination be expanded for an additional 24 to 36 month period from the time the final report of examination is issued.

**Explanation for “3” Rating**

**A Company in this category is in a less than satisfactory compliance position.** Companies in this category are a cause for supervisory concern and require supervision to remedy deficiencies. In addition, identified practices resulting in violations may remain uncorrected without supervision. Cost understatements, if present, involve a few consumers and are minimal in amount. Compliance procedures exist but are less than satisfactory. The examination may have revealed evidence of prohibited practices. Although the Company may have the ability to effectuate compliance, increased efforts are necessary. Compliance monitoring procedures require strengthening. Trust accounting violations involve few incidents and can be cured with minimal procedural changes. This may be accomplished by, among other things, designating a compliance officer and developing and implementing a comprehensive and effective compliance program. By identifying a Company with marginal compliance early, additional supervisory measures may be employed to eliminate violations and prevent further deterioration in the Company's less than satisfactory compliance position. Companies rated in this category may require an additional examination to follow up with the correction of these violations within an 18 to 24 month period from the time the final report of examination is issued.

**Explanation for “4” Rating**

**A Company in this category requires close supervisory attention and monitoring to promptly correct compliance deficiencies.** Numerous apparent violations are present. Practices resulting in violations cited at previous examinations when applicable often remain uncorrected. Compliance monitoring is poor or nonexistent. Prohibited practices may be apparent. Clearly, the Company has not exerted sufficient efforts to ensure compliance. Examination findings may indicate a lack of interest in administering an effective compliance program, which may have contributed to the seriousness of the Company’s compliance problem. Internal procedures and controls have not proven effective and are seriously deficient. Trust account violations may be apparent due to poor recordkeeping or not having a trust account. Prompt action on the part of the Department may enable the Company to correct the deficiencies and improve the Company’s

compliance position. Companies rated in this category require an additional examination to follow up on corrective actions taken by the Company to remedy the violations within a 12 to 18 month period from the time the final report of examination is issued.

**Explanation for “5” Rating**

**A mortgage broker in this category is in need of the strongest supervisory attention and monitoring.** The broker is substantially not in compliance with the statutes and regulations. The broker has demonstrated an unwillingness or inability to operate within the scope of consumer laws and regulations. Previous efforts on the part of the Department to obtain voluntary compliance have been unproductive. Harmful acts to consumers, substantial fee overcharges, disclosure understatements, and/or practices resulting in serious repeat violations are present. Examinations rated in this category indicate the broker has flagrantly injured citizens of the State of Washington, and has refused to use the examination process to resolve the violation(s) of law or refuses to stop conducting business in an injurious manner. Normally at this juncture the agent is referred to the Enforcement Section.

*Commentary - This rating is reflective of a broker with widespread documentation problems, numerous fee-related issues, and an intentional refusal to maintain adequate records. Lack of critical loan file documentation or entire loan files impede the examiner’s ability to effectively examine the broker. Unlicensed activity or repeated trusts accounting violations are present. The Department will take formal enforcement action possibly including revocation of license for failure to take prompt corrective action.*

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