

1
2
3
4
5
6
7
8

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

JOHN BOUPHASANE PHANMEESAI, AKA
BOUPHASANE CHIAM

Respondent.

NO. C-07-113-07-FO01

FINAL ORDER

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(2). On April 17, 2007, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Prohibit from Industry (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated April 17, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served the Statement of Charges, cover letter dated April 17, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on April 17, 2007 by first class mail and Federal Express overnight delivery. On April 18, 2007, the documents sent via Federal Express overnight delivery were delivered. The documents sent via first class mail were not returned to the Department by the United States Postal Service.

1 On April 25, 2007, Respondent filed an Application for Adjudicative Hearing. On April 26,
2 2007, the Department made a request to the Office of Administrative Hearings (OAH) to assign an
3 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On
4 May 18, 2007, OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ
5 Leslie A. Wagner (ALJ Wagner) to preside over prehearing and hearing proceedings and issue an
6 Initial Decision. On May 16, 2007, ALJ Wagner issued an Notice of Prehearing Conference
7 scheduling a prehearing conference on Thursday, June 7, 2007 at 8:30 a.m. That Order contained the
8 following instruction to the parties: **“You must provide the Office of Administrative Hearings with**
9 **a telephone number** where you can be reached at the hearing time.” That Order also noted “If you
10 fail to appear or participate in the prehearing conference, hearing, or any other scheduled stage of these
11 proceedings, you may lose your right to a hearing as described in RCW 34.05.440 and RCW
12 18.27.270.”

14 On June 7, 2007, the prehearing conference was convened by ALJ Wagner at 8:30 a.m.
15 Respondent failed to appear. The Department moved for an order of default based on Respondent’s
16 failure to appear. On July 3, 2007, ALJ Wagner issued an Initial Decision and Order of Dismissal
17 dismissing the proceedings. On July 3, 2007, ALJ Wagner sent the Order of Default and Initial Order
18 to the address in Respondent’s Application for Adjudicative Hearing.

19 Pursuant to RCW 34.05.440(3), Respondent had seven (7) days from the date of service of the
20 Initial Decision and Order of Dismissal to file a written motion with OAH requesting that the Initial
21 Decision and Order of Dismissal be vacated, and stating the grounds relied upon. Respondent did not
22 make a request to vacate during the statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-
23 211, Respondent had twenty (20) days from the date of service of the Initial Decision and Order of
24

1 Dismissal to file a Petition for Review of the Initial Decision and Order of Dismissal with the
2 Director. Respondent did not file a Petition for Review during the statutory period.

3 B. Record Presented. The record presented to the Director's designee for her review and
4 for entry of a final decision included the following:

- 5 1. Statement of Charges, cover letter dated April 16, 2007, and Notice of Opportunity to
6 Defend and Opportunity for Hearing, with documentation of service;
- 7 2. Application for Adjudicative Hearing;
- 8 3. Request to OAH for Assignment of Administrative Law Judge;
- 9 4. Notice of Assignment of Administrative Law Judge dated May 16, 2007;
- 10 5. Notice of Prehearing Conference dated May 16, 2007;
- 11 6. Initial Decision and Order of Dismissal dated July 3, 2007.

12
13 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the
14 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

15 II. FINAL ORDER

16 Based upon the foregoing, and the Director's designee having considered the record and
17 being otherwise fully advised, NOW, THEREFORE:

18 A. IT IS HEREBY ORDERED, That:

- 19 1. Respondent John Bouphasane Phanmeesai's application for a loan originator license
20 is denied; and
- 21 2. Respondent John Bouphasane Phanmeesai is banned from participation in the conduct
22 of the affairs of any mortgage broker subject to licensure by the Director, in any
23 manner, through December 11, 2013.

24 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
25 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition

1 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
2 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
3 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
4 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
5 Reconsideration a prerequisite for seeking judicial review in this matter.

6 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
7 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
8 notice specifying the date by which it will act on a petition.

9
10 C. Stay of Order. The Director's designee has determined not to consider a Petition
11 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
12 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

13 D. Judicial Review. Respondent has the right to petition the superior court for judicial
14 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
15 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

16 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
17 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
18 attached hereto.

19
20 DATED this 10th day of December, 2007.



21 STATE OF WASHINGTON
22 DEPARTMENT OF FINANCIAL INSTITUTIONS

23 Deborah Bortner
24 DEBORAH BORTNER
25 DIRECTOR
DIVISION OF CONSUMER SERVICES

1
2
3
4
5
6
7
8
9

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

10
11
12
13
14

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

NO. C-07-113-07-SC01

15
16
17
18
19
20
21
22
23
24
25

JOHN BOUPHASANE PHANMEESAI
AKA BOUPHASANE CHIAM,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION
AND PROHIBIT FROM INDUSTRY

Respondent.

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 19.146.310, 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:

36
37
38
39
40
41
42
43
44
45

I. FACTUAL ALLEGATIONS

1.1 Respondent John Bouphasane Phanmeesai aka Bouphasane Chiam (Respondent Phanmeesai) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Washington Loan Center Inc. a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 11, 2006.

1.2 Prior Criminal Acts. On July 19, 2004, Respondent Phanmeesai pled guilty to Possession of Stolen Property in the Second Degree, a felony pursuant to RCW 9A.56.160(1)(a), in Superior Court of Washington, County of King, Juvenile Court Cause No. 04-8-013480.

1.3 Responses to Application Questions. The "Criminal Disclosure" section of the loan originator license application consists of eight questions, and includes the following instruction:

¹ RCW 19.146 (Amended 2006; Effective January 1, 2007)

1 "If the answer to any of the following is "YES", provide complete details of all events or proceedings"
2 Respondent Phanmeesai answered "no" to the following questions on the "Criminal Disclosure" section of his
3 loan originator license application:

- 4 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a
5 domestic, foreign, or military court to any felony? If Yes, when and where?
- 6 • 2-Have you ever been charged with a felony?
- 7 • 5-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a
8 domestic, foreign, or military court to misdemeanor involving: financial services or a
9 financial services-related business or any fraud, false statements or omissions, theft or any
10 wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a
11 conspiracy to commit any of these offenses?

12 Respondent Phanmeesai was obligated by statute to answer questions on the loan originator license application
13 truthfully and to provide the Department with complete details of all events or proceedings.

14 II. GROUNDS FOR ENTRY OF ORDER

15 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,
16 Respondent Phanmeesai fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-
17 350(2)(c) by having been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a
18 felony within seven years of the filing of the present application.

19 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
20 Phanmeesai is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently
21 making any false statement or willfully making any omission of material fact in connection with any application
22 or any information filed by a licensee in connection with any application, examination or investigation
23 conducted by the Department.

24 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
25 forth in Section I above, Respondent Phanmeesai fails to meet the requirements of RCW 19.146.300(1) and (2)

1 and RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form
2 prescribed by the Director.

3 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
4 forth in Section I above, Respondent Phanmeesai fails to meet the requirements of RCW 19.146.310(1)(g) and
5 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
6 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
7 within the purposes of the Act.

8 III. AUTHORITY TO IMPOSE SANCTIONS

9 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
10 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
11 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
12 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
13 of the denial.

14 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
15 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
16 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
17 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

18 IV. NOTICE OF INTENTION TO ENTER ORDER

19 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
20 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
21 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.

22 Therefore, it is the Director's intention to ORDER that:

23 **4.1** Respondent John Bouphasane Phanmeesai's application for a loan originator license be denied.

24 **4.2** Respondent John Bouphasane Phanmeesai be prohibited from participation in the conduct of the affairs
25 of any licensed mortgage broker, in any manner, through December 11, 2013.

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Prohibit from Industry (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 16th day of April, 2007


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


FATIMA BATIE
Financial Legal Examiner Supervisor

Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief

