

TERMS COMPLETE

FINAL ORDER SUMMARY – Case Number: C-07-147

Name(s) DAVID LOUIS FERNANDEZ

Order Number C-07-147-07-FO01

Effective Date _____

License Number _____
(Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect APPLICATION WAS DENIED

Not Apply until DECEMBER 28, 2013

Prohibition/Ban until DECEMBER 28, 2013

| Investigation Costs | \$0 | Due | Paid | Date |
|----------------------------|-----|-----|------|------|
| | | | | Y N |

| Assessment(s) | \$0 | Due | Paid | Date |
|----------------------|-----|-----|------|------|
| | | | | Y N |

| Monetary Penalty | \$0 | Due | Paid | Date |
|-------------------------|-----|-----|------|------|
| | | | | Y N |

Other _____

Special Instructions _____

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**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:

NO. C-07-147-07-FO01

DAVID LOUIS FERNANDEZ,

FINAL ORDER

Respondent.

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 June 11, 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 June 12, 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 June 12, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on June 13, 2007 by first class mail Federal Express overnight delivery.

On June 13, 2007, Respondent filed an Application for Adjudicative Hearing. On June 18, 2007, the Department made a request to the Office of Administrative Hearings (OAH) to assign an

1 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges.
2 On June 20, 2007, ALJ Brian O. Watkins issued a Notice of Prehearing Conference by Telephone
3 scheduling a prehearing conference on Tuesday, June 26, 2007 at 1:30 pm. That Notice contained the
4 following instruction to the parties: "Parties must call 10 minutes prior to the start of the conference.
5 The receptionist will take your phone number and the administrative law judge will return your call to
6 initiate the prehearing conference." That Notice also noted "If you fail to appear or participate in the
7 prehearing conference, hearing, or any other scheduled stage of these proceedings, you may lose your
8 right to a hearing."
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10 On June 26, 2007, Charles Clark, Assistant Attorney General, attorney for the Department,
11 called in to participate in the telephonic prehearing conference. Respondent did not call in for the June
12 26, 2007 telephonic prehearing conference. The ALJ, rescheduled the telephonic prehearing
13 conference to July 12, 2007 at 1:30 pm and issued a new Notice of Prehearing Conference by
14 Telephone. That Notice also contained the following instruction to the parties: "Parties must call 10
15 minutes prior to the start of the conference. The receptionist will take your phone number and the
16 administrative law judge will return your call to initiate the prehearing conference." That Notice also
17 noted "If you fail to appear or participate in the prehearing conference, hearing, or any other scheduled
18 stage of these proceedings, you may lose your right to a hearing."
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20 On July 12, 2007, the prehearing conference was convened by ALJ Watkins at 1:30 pm.
21 Respondent failed to call in for this prehearing conference and ALJ Watkins was unable to contact
22 Respondent at the last telephone number provided by Respondent. The Department moved for an order
23 of default based on Respondent's failure to appear. On July 12, 2007, ALJ Watkins issued an Order of
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1 Default affirming the Statement of Charges. On July 12, 2007, ALJ Watkins sent the Order of Default
2 to the address on Respondent's Application for Adjudicative Hearing.

3 On or about July 18, 2007, Respondent Fernandez sent a letter to OAH requesting another
4 opportunity for a hearing. On or about October 29, 2007, ALJ Watkins issued an Order denying
5 Respondent Fernandez's motion to vacate the July 12, 2007 Default Order and reinstated the July 12,
6 2007 Default Order.

7 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the
8 date of service of the Order of Default to file a Petition for Review of the Order of Default with the
9 Director. Respondent did not file a Petition for Review during the statutory period.

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

- 12 1. Statement of Charges, cover letter dated June 12, 2007, and Notice of Opportunity to
13 Defend and Opportunity for Hearing, with documentation of service;
- 14 2. Application for Adjudicative Hearing;
- 15 3. Request to OAH for Assignment of Administrative Law Judge;
- 16 4. Notice of Prehearing Conference by Telephone dated June 21, 2007, with
17 documentation of service;
- 18 5. Notice of Prehearing Conference by Telephone dated June 27, 2007, with
19 documentation of service;
- 20 6. Order of Default dated July 12, 2007, with documentation of service.
- 21 7. Notice of Evidentiary Hearing on Appellant's Motion to Vacate Default Order
- 22 8. Initial Decision and Order Denying Respondent's Motion to Vacate Default Order
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1 C. Factual Findings and Grounds For Order. Pursuant to 34.05.440(2), the Director's
2 designee hereby adopts the Statement of Charges, which is attached hereto.

3 II. FINAL ORDER

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

6 A. IT IS HEREBY ORDERED, That:

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- 8 1. Respondent DAVID LOUIS FERNANDEZ's application for a loan originator license
is denied; and
 - 9 2. Respondent DAVID LOUIS FERNANDEZ is banned from participation in the
10 conduct of the affairs of any mortgage broker subject to licensure by the Director, in
any manner, through December 28, 2013.

11 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
12 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
13 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
14 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
15 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
16 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
17 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

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

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8 DATED this 17th day of December, 2007.



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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

[REDACTED]

DEBORAH BORTNER
DIRECTOR
DIVISION OF CONSUMER SERVICES

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**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:

DAVID LOUIS FERNANDEZ,

Respondent.

NO. C-07-147-07-SC01

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

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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)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:

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I. FACTUAL ALLEGATIONS

1.1 Respondent David Louis Fernandez (Respondent Fernandez) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Walden Mortgage LLC, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 28, 2006.

1.2 Prior Criminal Acts.

A. On or about March 26, 2002, Respondent Fernandez pled guilty in Pierce County Superior Court, Cause No. 01-1-03007-0, to the charge of unlawful possession of a controlled substance with intent to deliver, a felony pursuant to RCW 69.50.401(a)(1)(iii);

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

1 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
2 Fernandez is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently
3 making any false statement or willfully making any omission of material fact in connection with any application
4 or any information filed by a licensee in connection with any application, examination or investigation
5 conducted by the Department.

6 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
7 forth in Section I above, Respondent Fernandez fails to meet the requirements of RCW 19.146.300(1) and (2)
8 and RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form
9 prescribed by the Director.

10 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
11 forth in Section I above, Respondent Fernandez fails to meet the requirements of RCW 19.146.310(1)(g) and
12 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
13 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
14 within the purposes of the Act.

15 III. AUTHORITY TO IMPOSE SANCTIONS

16 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
17 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
18 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
19 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
20 of the denial.

21 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
22 ~~orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed~~
23 ~~mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker~~
24 ~~or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).~~

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

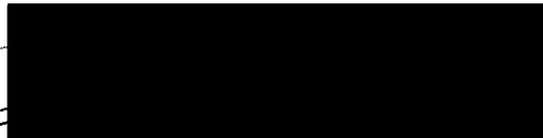
2 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
3 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
4 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.
5 Therefore, it is the Director's intention to ORDER that:

- 6 **4.1** Respondent David Louis Fernandez's application for a loan originator license be denied.
7 **4.2** Respondent David Louis Fernandez be prohibited from participation in the conduct of the affairs of any
8 mortgage broker subject to licensure by the Director, in any manner, through December 28, 2013.

9 **V. AUTHORITY AND PROCEDURE**

10 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and
11 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
12 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
13 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in
14 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
15 Statement of Charges.

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17 Dated this 17th day of June, 2007.



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20 **DEBORAH BORTNER**
21 Director
22 Division of Consumer Services
23 Department of Financial Institutions



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Presented by:



CHARLES E. WOODE
Financial Legal Examiner

Approved by:



FATIMA BATIE
Financial Legal Examiner Supervisor