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: RASHAD LOUSTAUNAU, Respondent.	NO. C-07-441-08-FO01 FINAL ORDER

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), Scott Jarvis, pursuant to RCW 34.05.440(2). On October 24, 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 October 26, 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 October 26, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on October 29, 2007, by first class mail and Federal Express overnight delivery.

On November 15, 2007, Respondent filed an Application for Adjudicative Hearing. On November 26, 2007, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. OAH issued a Notice of Assignment of Administrative Law Judge assigning ALJ Robert P.

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Kingsley (ALJ Kingsley) to preside over prehearing and hearing proceedings and issue an Initial Decision. On April 3, 2008, ALJ Kingsley issued a Notice of Pre-hearing Conference by Telephone scheduling a prehearing conference on Tuesday, April 22, 2008 at 2:30 p.m. That Notice contained the following instruction to the parties: "Parties shall appear by calling … ten minutes before the time designated above, making adjustment for your time zone." The Notice also stated, "Default: If you fail to appear or participate in the prehearing conference, hearing, or any other scheduled stage of these proceedings, you may lose your right to a hearing as described in RCW 34.05.440."

On April 22, 2008, the prehearing conference was convened by ALJ Kingsley at 2:30 p.m. Respondent failed to appear and ALJ Kingsley was unable to contact Respondent at the last telephone number provided by Respondent. The Department moved for an order of default based on Respondent's failure to appear. On April 24, 2008, ALJ Kingsley issued an Order of Dismissal Appellant Default (Order of Dismissal) affirming the Statement of Charges. On April 24, 2008, ALJ Kingsley sent the Order of Dismissal to the address in Respondent's Application for Adjudicative Hearing.

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

B. Record Presented. The record presented to the Director for his review and for entry of a final decision included the following:

1. Statement of Charges, cover letter dated October 26, 2007, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;

2. Application for Adjudicative Hearing;

3. Request to OAH for Assignment of Administrative Law Judge;

4. Notice of Prehearing Conference by Telephone dated April 3, 2008, with documentation of service;

5. Order of Dismissal dated April 24, 2008, with documentation of service.

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the Director hereby adopts the Statement of Charges, which is attached hereto.

II. FINAL ORDER

Based upon the foregoing, and the Director having considered the record and being otherwise fully advised, NOW, THEREFORE:

A. IT IS HEREBY ORDERED, That:

1. Respondent Rashad Loustaunau's application for a loan originator license is denied; and

2. Respondent Rashad Loustaunau is banned from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, through December 29, 2016.

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

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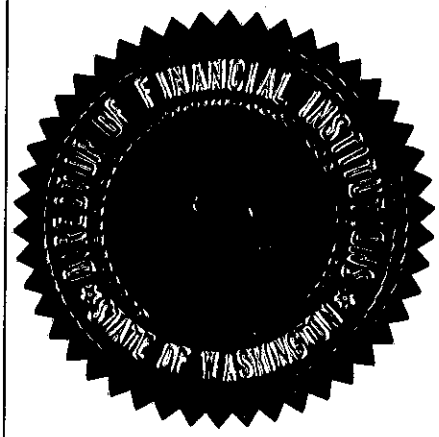
A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

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

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

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

DATED this 17th day of June, 2008.



STATE OF WASHINGTON
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SCOTT JARVIS
DIRECTOR
DEPARTMENT OF FINANCIAL INSTITUTIONS

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IN THE MATTER OF INVESTIGATING the Loan Originator License Application under the Mortgage Broker Practices Act of Washington by: RASHAD LOUSTAUNAU, Respondent.	NO. C-07-441-07-SC01 STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO DENY LICENSE APPLICATION AND PROHIBIT FROM INDUSTRY

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:

I. FACTUAL ALLEGATIONS

1.1 Respondent Rashad Loustaunau (Respondent Loustaunau) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under WC Mortgage LLC, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 29, 2006.

1.2 Prior Felony Charge. On or about November 1, 2005, Respondent Loustaunau was charged with Unlawful Possession of Marijuana with the Intent to Deliver pursuant to RCW 69.50.401(1)(2)(c), a felony, in the Superior Court of Washington for King County (Cause No. 05-1-12558-2 KNT). On or about April 7, 2006, the charge was amended and Respondent Loustaunau pleaded guilty to the gross misdemeanor of

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

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Attempted Possession of Marijuana with the Intent to Deliver pursuant to RCW 9A.28.020 and RCW 69.50.4013.

1.3 Responses to Application Questions. The "Criminal Disclosure" section of the loan originator license application consists of eight questions. Respondent Loustaunau failed to disclose the felony charge outlined in paragraph 1.2 when he answered the following questions:

- 1- Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a domestic, foreign, or military, court to any felony? If Yes, when and where?

  Respondent Loustaunau's response:

  > 12-10-1995 PLEAD GUILTY TO 2 COUNTS ACCESSORY 1ST DEGREE ROBBERY, SENTENCE WAS 47 MONTHS, DID 36 IN CONFINEMENT, AND 11 MONTHS ON PROBATION.

- 2- Have you ever been charged with any felony?

  Respondent Loustaunau's response:

  > SEE # 1

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

II. GROUNDS FOR ENTRY OF ORDER

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

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

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

III. AUTHORITY TO IMPOSE SANCTIONS

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

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

IV. NOTICE OF INTENTION TO ENTER ORDER

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

4.1 Respondent Rashad Loustaunau's application for a loan originator license be denied.

4.2 Respondent Rashad Loustaunau be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, through December 29, 2016.

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 24th day of October, 2007.

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

WILLIAM HALSTEAD
Financial Legal Examiner

Approved by:

FATIMA BATIE
Financial Legal Examiner Supervisor

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