

1  
2  
3  
4  
5  
6  
7  
8

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

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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Consumer Loan Act of Washington by:

NO. C-08-317-10-FO01

SPIRE HOME MORTGAGE d/b/a SPIRE HOME  
MORTGAGE CORP,

FINAL ORDER

Respondent.

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(1). On December 17, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Collect Annual Assessments, Collect Late Fees, and Collect Investigation Fee (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 December 21, 2009, Notices of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Spire Home Mortgage d/b/a Spire Home Mortgage Corp, Jerami A. Marshal, Richard S. Fedele, and Joaquin Torre. The Department served the Statement of Charges, cover letter dated December 21, 2009, Notices of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing on Spire Home Mortgage d/b/a Spire Home Mortgage Corp, Jerami A. Marhsal, Richard S. Fedele, and Joaquin Torre by First-Class mail, Certified First-Class mail, and Federal Express overnight delivery at the following addresses: 301 Edgewater Place, Suite 310, Wakefield, Massachusetts 01880 (the address of record); 730 Brush Hill Road, Milton, Massachusetts, 02186 (730 Brush Hill address, address of Richard S. Fedele); Post Office Box 349, Wakefield, Massachusetts, 01880-0649 (P.O. Box 349 address, address of Richard S. Fedele); 8 Upton Street, Dunstable, Massachusetts, 01827 (8 Upton Street address, address of Jerami A. Marshal); and 742

1     Boxford Street, North Andover, Massachusetts, 01845 (742 Boxford Street address, address of Joaquin Torre);  
2     and, at the Registered Agent address C/O Paracorp Incorporated, at 1780 Barnes Boulevard, South West,  
3     Building F, Tumwater, Washington (registered agent address). On December 29, 2009, the documents sent via  
4     Certified First-Class mail to the P.O. Box 349 address, address of Richard S. Fedele, were signed for by "Terry  
5     Busplascki" (sic). On December 22, 2009, and December 29, 2009, the documents sent via Federal Express  
6     overnight delivery to the address of record, and to the 742 Boxford Street address, address of Joaquin Torre,  
7     were returned to the Department as undeliverable, respectively. On December 22, 2009, the documents sent via  
8     Federal Express overnight delivery to the 730 Brush Hill address, address of Richard S. Fedele, were delivered  
9     and signed for by J. Fedele. On December 22, 2009, the documents sent via Federal Express overnight delivery  
10    to the 8 Upton Street address, address of Jerami A. Marshal, were delivered and signed for by J. Marshal. On  
11    December 22, 2009, the Department received verification from the United States Postal Service that mail for J.  
12    Marshal was being received at the 8 Upton Street address. On January 6, 2010, the documents sent via First-  
13    Class mail to the 742 Boxford Street address, address of Joaquin Torre were returned to the Department as  
14    "undeliverable" by the United States Postal Service. On February 5, 2010, the documents sent via First-Class  
15    mail to the address of record were returned to the Department as "undeliverable" by the United States Postal  
16    Service. The documents served by First-Class mail to both the 8 Upton Street address, address of Jerami A.  
17    Marshal, and the registered agent address, were not returned to the Department by the United States Postal  
18    Service.

19           On January 26, 2010, the Director, through Consumer Services Division Director Deborah Bortner,  
20    entered an Amended Statement of Charges (amending list of Respondents to only include "Spire Home  
21    Mortgage d/b/a Spire Home Mortgage Corp."), and Notice of Intention to Enter an Order to Revoke License,  
22    Impose Fine, Collect Annual Assessments, Collect Late Fees, and Collect Investigation Fee (Amended  
23    Statement of Charges, C-08-317-10-SC02). A copy of the Amended Statement of Charges is attached and  
24    incorporated into this order by this reference. The Amended Statement of Charges was accompanied by a cover  
25    letter dated January 26, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank

1 Application for Adjudicative Hearing for Spire Home Mortgage d/b/a Spire Home Mortgage Corp. The  
2 Department served the Amended Statement of Charges, cover letter dated January 26, 2010, Notice of  
3 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Spire  
4 Home Mortgage d/b/a Spire Home Mortgage Corp. on Respondent by First-Class mail and Federal Express  
5 overnight delivery at the address of record, the 730 Brush Hill address, address of Richard S. Fedele; the P.O.  
6 Box 349 address, address of Richard S. Fedele; the 8 Upton Street address, address of Jerami A. Marshal; and at  
7 the registered agent address. On January 27, 2010, the documents sent via Federal Express overnight delivery  
8 to the registered agent address were delivered and signed for by C. Westby. On January 27, 2010, the  
9 documents sent via Federal Express overnight delivery to the address of record were returned to the Department  
10 as "undeliverable." On February 22, 2010, the documents sent via First-Class mail to the 742 Boxford Street  
11 address, the address of Joaquin Torre were returned to the Department as "undeliverable" by the United States  
12 Postal Service. On February 22, 2010, the documents sent via First-Class mail to the registered agent address  
13 were returned to the Department by the United States Postal Service as "return to sender" with a note that stated  
14 "we are no longer the registered agent." The documents sent via First-Class mail to the 8 Upton Street address,  
15 address of Jerami A. Marshal; and the 730 Brush Hill address, address of Richard S. Fedele, were not returned to  
16 the Department by the United States Postal Service.

17 Respondent did not request an adjudicative hearing within twenty calendar days after the Department  
18 served it with the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for in WAC 208-  
19 08-050(2).

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

- 22 1. Statement of Charges, cover letter dated December 21, 2009, Notice of Opportunity to  
23 Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for  
24 Spire Home Mortgage d/b/a Spire Home Mortgage Corp, Jerami A. Marshal, Richard S.  
25 Fedele, and Joaquin Torre, with documentation of service; and
2. Amended Statement of Charges, cover letter dated January 26, 2010, Notice of Opportunity  
to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for  
Spire Home Mortgage d/b/a Spire Home Mortgage Corp., with documentation of service

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

3  
4 II. FINAL ORDER

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

7 A. IT IS HEREBY ORDERED, That:

- 8 1. Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp.'s license to conduct  
9 the business of a Consumer Loan Company is revoked;
- 10 2. Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp. pay a fine, totaling  
11 \$12,000;
- 12 3. Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp. pay the annual  
13 assessment fee due for the years-ended December 31, 2007; December 31, 2008; and,  
14 December 31, 2009, respectively; as calculated in accordance with the instructions for the  
15 annual assessment worksheets for the same year, or calculated pursuant to statute;
- 16 4. Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp. pay a late penalty  
17 calculated at \$50 per day for each report for each day of delay in filing; for the years-ended  
18 December 31, 2007; December 31, 2008; and, December 31, 2009, respectively;
- 19 5. Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp. pay an investigation  
20 fee, which as of the date of the Statement of Charges totaled \$928.18, calculated at \$69.01  
21 per hour for the thirteen and five-tenths staff hours devoted to the investigation; and
- 22 6. Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp. maintain records in  
23 compliance with the Act and provide the Department with the location of the books, records  
24 and other information relating to Respondent Spire Home Mortgage d/b/a Spire Home  
25 Mortgage Corp.'s consumer loan business, and the name, address and telephone number of  
the individual responsible for maintenance of such records in compliance with the Act.

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

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

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

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

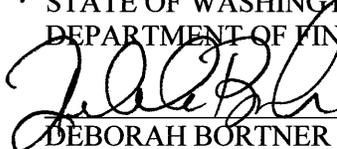
10 E. Non-compliance with Order. If Respondent does not comply with the terms of this order, the  
11 Department may seek its enforcement by the Office of Attorney General to include the collection of fines, fees,  
12 and late penalties imposed herein.

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

15 DATED this 27<sup>th</sup> day of April, 2010.



16 STATE OF WASHINGTON  
17 DEPARTMENT OF FINANCIAL INSTITUTIONS

18   
19 DEBORAH BORTNER  
20 DIRECTOR  
21 DIVISION OF CONSUMER SERVICES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Consumer Loan Act of Washington by:

NO. C-08-317-10-SC02

SPIRE HOME MORTGAGE, d/b/a SPIRE  
HOME MORTGAGE CORP,

AMENDED STATEMENT OF CHARGES AND  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO REVOKE LICENSE, IMPOSE  
FINE, COLLECT ANNUAL ASSESSMENT,  
COLLECT LATE FEES, AND COLLECT  
INVESTIGATION COSTS.

Respondent.

**INTRODUCTION**

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available at that time, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, issued a Statement of Charges, No. C-08-317-09-SC01. Thereafter, the Director's designee determined to amend the Statement of Charges, No. C-08-317-09-SC01. Now, then, the Director, through his designee, Division of Consumer Services Director Deborah Bortner issues this Amended Statement of Charges, Number C-08-317-10-SC02. Amendments include changes to the caption above and changes to paragraphs 1.1, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6.

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent: Spire Home Mortgage, d/b/a Spire Home Mortgage Corp, (Respondent Spire)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on October 30, 2006, and continues to be licensed to date. Respondent Spire is owned 100 percent by Summit Mortgage, LLC. Summit Mortgage, LLC appears to have "closed its doors" on or about October 17, 2007.

1 **1.2 Licensed Location:** Respondent Spire is licensed to conduct the business of a Consumer Loan  
2 Company at 301 Edgewater Place, Suite 310, Wakefield, Massachusetts 01880.

3 **1.3 Annual Report:** An annual report is due to the Department on or before the first day of March of each  
4 year concerning the business and operations of each licensed place of business conducted during the preceding  
5 calendar year. The annual report must be made under oath and must be in the form prescribed by the Director.  
6 To date, Respondent has not provided the annual reports relating to the 2007 or 2008 calendar years which were  
7 due by March 1 of the following year. The annual report for the year ending December 31, 2009, will be due no  
8 later than March 1, 2010.

9 **1.4 Annual Assessment:** A calculation worksheet and an annual assessment fee are due to the Department  
10 on or before the first day of March of each year relating to the previous calendar year. To date, Respondent has  
11 not provided the calculation worksheets or paid the annual assessment fees for the following calendar years:  
12 2007, which was due by March 1, 2008; and 2008, which was due by March 1, 2009. The calculation worksheet  
13 and annual assessment fee for the year ending December 31, 2009, will be due no later than March 1, 2010.

14 **1.5 Surety Bond:** The Hartford Fire Insurance Company notified the Department on or about November  
15 19, 2007, that Respondent Spire's surety bond would be cancelled effective December 25, 2007. To date,  
16 Respondent has not provided a reinstatement of the cancelled surety bond, or a replacement surety bond, or  
17 approved alternative.

18 **1.6 Failure to Respond to Directives.** On December 6, 2007, December 31, 2007, March 15, 2008, July  
19 29, 2008, and January 28, 2009, the Department served directives on Respondent by First-Class mail and  
20 Federal Express overnight delivery. On July 30, 2008, the directive dated July 29, 2008, sent via Federal  
21 Express overnight delivery was delivered. The directives dated December 31, 2007, and March 15, 2008, sent  
22 via First-Class mail were not returned to the Department by the United States Postal Service. These directives  
23 variously required Respondent to provide its 2007 and 2008 Consolidated Annual Reports, pay its Annual  
24 Assessments owed, if any, pay its Annual Assessment Late Penalty, and provide a surety bond or acceptable  
25

1 alternative, or provide office closure documents. To date, the Department has not received a response to these  
2 directives.

3 **1.7 Change in Address:** Mail from the Department addressed to Respondent Spire's licensed location and  
4 sent via the United States Postal Service has been returned marked "Return to Sender. Attempted - Not  
5 Known. Unable to Forward." To date, Respondent has not notified the Department in writing of a change in the  
6 location of its place of business or obtained the Department's approval for a change in the location of its place  
7 of business.

8 **1.8 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by  
9 Respondent continues to date.

## 10 II. GROUNDS FOR ENTRY OF ORDER

11 **2.1 Requirement to File Annual Report:** Based on the Factual Allegations set forth in Section I above,  
12 Respondent is in apparent violation of RCW 31.04.155 and WAC 208-620-430 for failing to provide an annual  
13 report to the Director, under oath and in the form prescribed by the Director, on or before the first day of March,  
14 concerning the business and operations of each licensed place of business conducted during the preceding  
15 calendar year.

16 **2.2 Requirement to Calculate and Pay Annual Assessment:** Based on the Factual Allegations set forth  
17 in Section I above, Respondent is in apparent violation of RCW 31.04.085 and WAC 208-620-430 for failing to  
18 provide to the Director a completed annual assessment calculation worksheet and failing to pay to the Director  
19 an annual assessment fee on or before the first day of March, relating to the previous calendar year.

20 **2.3 Requirement to Maintain Surety Bond:** Based on the Factual Allegations set forth in Section I  
21 above, Respondent is in apparent violation of RCW 31.04.045(3) and WAC 208-620-320 for failing to file and  
22 maintain a surety bond or approved alternative with the Director.

23 **2.4 Requirement to Respond to Directives.** Based on the Factual Allegations set forth in Section I above,  
24 Respondent is in apparent violation of RCW 31.04.145 for failure to comply with a directive issued by the  
25 Department.

1 **2.5 Requirement to Notify Director of Change in Address:** Based on the Factual Allegations set forth in  
2 Section I above, Respondent is in apparent violation of RCW 31.04.075 and WAC 208-620-470 for changing its  
3 place of business from the street address designated in the license without notifying the Director in writing and  
4 without obtaining the Director's prior approval.

### 5 III. AUTHORITY TO IMPOSE SANCTIONS

6 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3) and WAC 208-620-570(1), (6), and  
7 (11), the Director may revoke a license if a licensee fails to pay any fee due the state of Washington, or fails to  
8 comply with any specific order or demand of the Director lawfully made and directed to the licensee in  
9 accordance with the Act, or violates any provision of the Act or any rule adopted under the Act either  
10 knowingly or without exercise of due care.

11 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one  
12 hundred dollars per day on a licensee, its employee or loan originator, or other person subject to the Act for any  
13 violations of the Act, or failure to comply with any order or subpoena issued by the director under this chapter.

14 **3.3 Authority to Collect Annual Assessments and Late Fees.** Pursuant to RCW 31.04.085 and WAC 208  
15 620-430(1) each licensee must pay to the Director an annual assessment as determined in rule by the Director by  
16 March 1<sup>st</sup> of the following year. Pursuant to WAC 208-620-430(2) a licensee that fails to submit the required  
17 annual report and worksheet by the March 1<sup>st</sup> due date is subject to a penalty of fifty dollars per report for each day  
18 of delay.

19 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590(1), upon  
20 completion of any investigation of the books and records of a licensee or other person subject to the Act, the  
21 Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the  
22 investigation. The investigation charge will be calculated at the rate of sixty nine dollars and one cent per hour that  
23 each staff person devoted to the investigation.

24 **3.5 Authority to Issue Orders Directing Action:** Pursuant to RCW 31.04.093(5)(b), the Director may  
25 issue an order directing a licensee to take such affirmative action as is necessary to comply with the Act.

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

2 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in  
3 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 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the  
5 Director's intention to ORDER that:

- 6 **4.1** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp's license to conduct the  
7 business of a Consumer Loan Company be revoked; and
- 8 **4.2** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp provide to the Director  
9 completed Consolidated Annual Reports and Annual Assessment Worksheets, including all  
10 required supporting documentation, for each of the years ended December 31, 2007, and  
11 December 31, 2008, respectively. Additionally, Respondent Spire provide to the Director a  
12 completed Consolidated Annual Report and Annual Assessment Worksheet, including all required  
13 supporting documentation, for the year ending December 31, 2009, on or before March 1, 2010;  
14 and
- 15 **4.3** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp pay the delinquent Annual  
16 Assessments due for the years ended December 31, 2007, and December 31, 2008, respectively, as  
17 calculated in accordance with the instructions for the Annual Assessment Worksheets for the same  
18 years, less any amounts previously paid by Respondent Spire's bonding company. Additionally,  
19 Respondent Spire pay the Annual Assessment for the year ending December 31, 2009, as  
20 calculated in accordance with the instructions for the Annual Assessment Worksheet for the same  
21 year, on or before March 1, 2010; and
- 22 **4.4** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp. pay a late penalty  
23 calculated at \$50 per day for each report.; and
- 24 **4.5** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp pay a fine, which as of the  
25 date of this Statement of Charges totals \$12,000; and
- 4.6** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp pay an investigation fee,  
which as of the date of this Statement of Charges totals \$928.18, calculated at \$69.01 per hour for  
13.45 staff hours devoted to the investigation; and
- 4.7** Respondent Spire Home Mortgage d/b/a Spire Home Mortgage Corp maintain records in  
compliance with the Act and provide the Director with the location of the books, records and  
other information relating to Respondent Spire's consumer loan company business, and the  
name, address and telephone number of the individual responsible for maintenance of such  
records in compliance with the Act.

//  
//

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine,  
3 Collect Annual Assessment, Collect Late Fees, and Collect Investigation Cost. (Statement of Charges) is  
4 entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205,  
5 and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may  
6 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND  
7 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

8 Dated this 5<sup>th</sup> day of January, 2010.

9  
10 

11 DEBORAH BORTNER  
12 Director  
13 Division of Consumer Services  
14 Department of Financial Institutions

15 Presented by:

16  
17   
18 MICHEAL FREER  
19 Financial Examiner



20 Approved by:

21   
22 JAMES R. BRUSSELBACK  
23 Enforcement Chief