



State of Washington

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

**BRIEF ADJUDICATIVE PROCEEDING**

IN THE MATTER OF INVESTIGATING  
Whether there has been a violation of the Mortgage  
Broker Practices Act of Washington (chapter  
19.146 RCW) by:

INWEST ADVANTAGE INC.,

Respondent.

NO. C-09-325-10-FO01

FINAL DECISION AND ORDER

**I. DIRECTOR'S CONSIDERATION**

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. On September 15, 2009, the Director, through Consumer Services Division Director, Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (Statement of Charges) against InWest Advantage Inc., Respondent. 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 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for a Brief Adjudicative Proceeding for InWest Advantage Inc. The Department served the Statement of Charges, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for a Brief Adjudicative Proceeding for InWest Advantage Inc., on Respondent, on September 15, 2009, by First-Class mail and Federal Express overnight delivery.

On October 19, 2009, the Department received from Respondent's representative, Nikolay Borisenko, a completed Application for Brief Adjudicative Proceeding. On November 20, 2009, the Division of Consumer Services made a request to the BAP Hearing Officer, Joseph M. Vincent, (BAP Hearing Officer Vincent) to schedule and conduct a hearing on the Statement of Charges. On November 23, 2009, BAP Hearing Officer Vincent issued a Notice of Assignment & Time to File Additional Materials giving Respondent until Wednesday, December 9, 2009, to provide additional materials.

On March 1, 2010, BAP Hearing Officer Vincent issued an Initial Decision and Order. This Initial Decision and Order includes the following Findings of Fact:

- Respondent was originally licensed as a mortgage broker on March 14, 2007.
- Respondent was required to file a Mortgage Broker Annual Report (MB AR) on or before March 31 of every year following any year in which it held a Mortgage Broker license.
- Respondent was required to file the MB AR for 2007 on or before March 31, 2008.
- Respondent did not submit its 2007 MB AR on or before March 31, 2008.
- Respondent was required to file the 2008 MB AR on or before March 31, 2009, but the Department did not receive an MB AR from the Respondent by this date.
- The Department issued a Statement of Charges on September 9, 2009.
- Respondent filed the 2008 MB AR on October 19, 2009.
- Respondent's representative was on notice of the importance and legal requirement of timely filing of the MBAR on or before March 31<sup>st</sup> of each year for as long as Respondent remained a licensee.

The Initial Decision and Order ordered Respondent to pay a fine of \$3,000 and to pay investigative costs of \$96. On March 1, 2010, the Initial Decision and Order was mailed to Respondent via First-Class mail.

Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the date of service of the Initial Decision and Order to file a Petition for Review of the Initial Decision and Order. 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, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;
2. Completed application for Brief Adjudicative Proceeding for InWest Advantage Inc.;
3. Letter requesting the scheduling of a Brief Adjudicative Proceeding;
4. Notice of Assignment & Time To File Additional Materials dated September 17, 2009;
5. Letter from Designated Broker Nikolay Borisenko, dated October 19, 2009;
6. Memorandum of Robert Jones to Hearing Officer Vincent, dated February 25, 2010, which includes the Department's Resolution and Closure of Complaint No. 28610; and
7. Initial Decision and Order dated March 1, 2010, with documentation of service.

C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director hereby adopts the Initial Decision and Order, 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 InWest Advantage Inc., pay a fine of \$3,000; and
2. Respondent InWest Advantage Inc., pay an investigative fee of \$96.

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.

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. Non-compliance with Order. If InWest Advantage Inc., does not comply with the terms of this order, the Department may seek its enforcement by the Office of Attorney General to include the collection of the fine and fees imposed herein.

F. 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 28<sup>th</sup> day of May, 2010, at Tumwater, Washington.



  
SCOTT JARVIS, Director  
Washington State Department of Financial Institutions

NOTICE TO THE PARTIES

Judicial Review of this Final Decision and Order is available to a party according to the provisions set out in Part V of the Washington Administrative Procedure Act, RCW 34.05.510 through RCW 34.05.598, inclusive. Judicial Review may be made by filing a Petition for Judicial Review (RCW 34.05.570) within thirty (30) days of the date of the Final Decision and Order, as permitted under RCW 34.05.542(2). The contents of the Petition for Review shall be according to the requirements of RCW 34.05.546.

This is to certify that the above FINAL DECISION AND ORDER has been served upon the following parties on May 28, 2010, by depositing a copy of same in the United States mail, postage prepaid.

  
SUSAN PUTZIER

**Mailed to the following:**

ATTN: Nikolay Borisenko  
Designated Broker  
InWest Advantage, Inc.  
524 Cantera Ct.  
Roseville, CA 95747

ATTN: Nikolay Borisenko  
Designated Broker  
InWest Advantage, Inc.  
17914 E 12<sup>th</sup> Ct  
Greenacres, Washington 99016

ATTN: Pacific Registered Agents, Inc  
Registered Agent  
InWest Advantage, Inc.  
5400 Carillon Point Ste 412  
Kirkland, Washington 98033

James R. Brusselback  
Enforcement Chief  
Department of Financial Institutions  
Division of Consumer Services  
P.O. Box 41200  
Olympia, Washington 98504-1200



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**II. GROUNDS FOR ENTRY OF ORDER**

**2.1 Requirement to File Mortgage Broker Annual Report.** Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.290(1) and WAC 208-660-400(1), (2), (3), and (4) for failing to file the mortgage broker annual report.

**III. AUTHORITY TO IMPOSE SANCTIONS**

**3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a licensee or other person subject to the Act for any violations of the Act.

**3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person devoted to the investigation.

**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 and RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

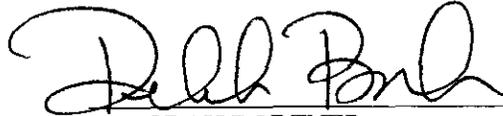
- 4.1** Respondent InWest Advantage pay a fine of \$3,000; and
- 4.2** Respondent InWest Advantage pay an investigation fee, which as of the date of these charges is \$96 calculated at \$48 per hour for two staff hours devoted to the investigation; and
- 4.3** Respondent InWest Advantage file the 2008 annual report of mortgage broker activity.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect  
3 Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,  
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05  
5 RCW (The Administrative Procedure Act). Respondent may make a written request for a Brief Adjudicative  
6 Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF  
7 ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

8 Dated this 15<sup>th</sup> day of September, 2009.

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

16 Presented by:

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18 \_\_\_\_\_  
19 FATIMA BATIE  
20 Financial Legal Examiner Supervisor

21 Approved by:

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23 \_\_\_\_\_  
24 JAMES R. BRUSSELBACK  
25 Enforcement Chief

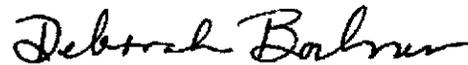




1 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE the  
2 Request for Brief Adjudicative Proceeding form within twenty (20) days from the date you received this notice, this  
3 will constitute a waiver of your right to a Brief Adjudicative Proceeding and the Director will find that you do not  
4 contest the allegations of the Statement of Charges. Upon such a finding by the Director a final order will be  
5 immediately entered disposing of this matter as described in the Statement of Charges. If you desire a Brief  
6 Adjudicative Proceeding in this matter, please return the attached Request for Brief Adjudicative Proceeding to:

7 Department of Financial Institutions  
8 Division of Consumer Services  
9 Attn: Fatima Batie  
10 PO Box 41200  
11 Olympia, Washington 98504-1200

12 Dated this 15<sup>th</sup> day of September 2009.

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14 DEBORAH BORTNER  
15 Director  
16 Division of Consumer Services  
17 Department of Financial Institutions

