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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

NO. C-09-470-10-FO01

DBSA HOLDINGS, INC.,  
d/b/a FOUNDATION CAPITAL GROUP, INC., and  
ALEX SHEKHTER, President, Owner, and  
Designated Broker,

FINAL ORDER

Respondents.

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**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 February 15, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Decline to Renew Licenses, Prohibit from Industry, Impose Fine, Order Restitution, 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 February 18, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for DBSA Holdings, Inc. and Alex Shekhter. The Department served the Statement of Charges, cover letter dated February 15, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for DBSA Holdings, Inc. and Alex Shekhter on Respondents on February 18, 2010, by First-Class mail and Federal Express overnight delivery. On February 19, 2010, the documents sent via Federal Express overnight delivery were delivered to Respondents at their licensed address. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service as undeliverable.

1 Respondents DBSA Holdings, Inc. and Alex Shekhter did not request an adjudicative hearing within  
2 20 calendar days after the Department served them with the Notice of Opportunity to Defend and Opportunity  
3 for Hearing, as provided for in WAC 208-08-050(2).

4 B. Record Presented. The record presented to the Director's designee for her review and for entry of  
5 a final decision included the Statement of Charges, cover letter dated February 15, 2010, Notice of Opportunity to  
6 Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for DBSA Holdings, Inc.  
7 and Alex Shekhter, with documentation of service;

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

## 10 II. FINAL ORDER

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

13 A. IT IS HEREBY ORDERED, that:

14 1. Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. and Alex Shekhter's  
15 license to conduct the business of a mortgage broker is revoked;

16 2. Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. and Alex Shekhter's  
17 application to renew their license to conduct the business of a mortgage broker is denied;

18 3. Respondent Alex Shekhter's license to conduct business as a loan originator is revoked;

19 4. Respondent Alex Shekhter's application to renew his license to conduct business as a loan  
20 originator is denied;

21 5. Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. is prohibited from  
22 participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any  
23 manner, for a period of five years;

24 6. Respondent Alex Shekhter is prohibited from participation in the conduct of the affairs of any  
25 mortgage broker subject to licensure by the Director, in any manner, for a period of five years;

1           7.       Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. and Alex Shekhter  
2 shall jointly and severally pay a fine in the amount of \$10,000;

3           8.       Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. and Alex Shekhter  
4 shall jointly and severally pay restitution to borrower J.C. in the amount of \$7,999;

5           9.       Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. and Alex Shekhter  
6 shall jointly and severally pay an investigation fee in the amount of \$1,296; and

7           10.      Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc. and Alex Shekhter  
8 shall maintain records in compliance with the Act and provide the Department with the location of the books,  
9 records and other information relating to Respondents' mortgage broker business, and the name, address and  
10 telephone number of the individual responsible for maintenance of such records in compliance with the Act.

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

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

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

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

1 E. Non-compliance with Order. If you do not immediately comply with the terms of this order, the  
2 Department may seek its enforcement by the Office of the Attorney General to include the collection of the fines,  
3 fees, and restitution imposed herein.

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

6 DATED this 13<sup>th</sup> day of May, 2010.

7 STATE OF WASHINGTON  
8 DEPARTMENT OF FINANCIAL INSTITUTIONS



DEBORAH BORTNER  
DIRECTOR  
DIVISION OF CONSUMER SERVICES

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**STATE OF WASHINGTON  
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IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

DBSA HOLDINGS, INC.,  
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and  
ALEX SHEKHTER, President, Owner, and  
Designated Broker,  
Respondents.

NO. C-09-470-10-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO REVOKE LICENSES, DECLINE  
TO RENEW LICENSES, PROHIBIT FROM  
INDUSTRY, IMPOSE FINE, ORDER  
RESTITUTION, AND COLLECT INVESTIGATION  
FEE

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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).<sup>1</sup> After having conducted an investigation pursuant to RCW 19.146.210 and RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the Director, by and through his designee, Deborah Bortner, Director, Division of Consumer Services, institutes this proceeding and finds as follows:

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**I. FACTUAL ALLEGATIONS**

**1.1 Respondents.**

**A. DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., (Respondent DBSA)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on August 11, 2003. On or about December 30, 2009, Respondents applied to renew their license to conduct business as a mortgage broker. Respondents' application is pending. Respondent DBSA conducts the business of a mortgage broker at one location located at 8400 Juniper Creek Lane, Suite 102, San Diego, California.

<sup>1</sup> RCW 19.146 (1994) and (2006).

1           **B. Alex Shekhter (Respondent Shekhter)** is President, Owner, and Designated Broker of  
2 Respondent DBSA. Respondent Shekhter was licensed by the Department to act as Designated Broker on  
3 August 11, 2003, and continues to be so licensed to date.

4 **1.2 Failure to Specify All Fees which Inure to the Respondents' Benefit.** On or about November 21,  
5 2006, borrower J.C. applied to Respondents for a residential mortgage loan.<sup>2</sup> Respondents provided an initial  
6 Good Faith Estimate Disclosure (GFE) which disclosed the following fees:

|                                  |         |
|----------------------------------|---------|
| 7           Loan Origination Fee | \$4,800 |
| 8           Processing Fee       | \$ 650  |
| Underwriting Fee                 | \$ 650  |
| Administration Fee               | \$ 350  |

9 The initial GFE, however, did not disclose to the borrower that these fees would inure to the Respondents'  
10 benefit. Respondents subsequently received these fees at closing.

11 **1.3 Failure to Re-disclose an Increase in Fees Payable to Respondents.** The initial GFE provided by  
12 Respondents to borrower J.C. on or about November 21, 2006, disclosed a Loan Origination Fee of \$4,800 for a  
13 base loan amount of \$320,000. The final GFE, provided by Respondents on or about January 26, 2007,  
14 disclosed a Loan Origination Fee of \$6,999 for a base loan amount of \$319,000. Respondents did not, however,  
15 provide the borrower with a written explanation for the increased fee.

16 **1.4 Failure to Timely Disclose Significant Developments.** On or about November 5, 2008, Respondents'  
17 Residential Mortgage Lender license from the State of California was revoked. Respondents did not notify the  
18 Department of this revocation until October 26, 2009; almost one year later.

19 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
20 Respondents continues to date.

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23 <sup>2</sup> Borrower J.C. filed a complaint with the Department on or about November 19, 2008. As part of the process,  
24 Respondents were requested to take a specific remedial action. Respondents did not agree with the Department's  
25 determination and chose not to comply with the requested resolution.

1 **II. GROUNDS FOR ENTRY OF ORDER**

2 **2.1 Requirement to Disclose All Fees which Inure to the Respondents' Benefit.** Based on the Factual  
3 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2), (3), and  
4 (6) and RCW 19.146.030(1) for failing to provide borrowers with a written disclosure, within three days  
5 following receipt of a loan application, specifying all fees which inure to the benefit of the mortgage broker.

6 **2.2 Requirement to Re-disclose an Increase in Fees Payable to Respondents.** Based on the Factual  
7 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2), (3), (6),  
8 and (13) and RCW 19.146.030(4) for failing to re-disclose, in writing, at least three days prior to closing, an  
9 increase in fees which will be paid to the mortgage broker.

10 **2.3 Requirement to Disclose Significant Developments.** Based on the Factual Allegations set forth in  
11 Section I above, Respondents are in apparent violation of WAC 208-660-400(26)(b) for failing to notify the  
12 Department within 10 days of the revocation of Respondents' California license.

13 **III. AUTHORITY TO IMPOSE SANCTIONS**

14 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(b)(iv)(1994), the Director may revoke  
15 a license for any violations of RCW 19.146.0201(1) through (9). Pursuant to RCW 19.146.220(2)(e)(2006), for  
16 violations committed after January 1, 2007, the Director may revoke a license for any violation of the Act.

17 **3.2 Authority to Deny License Renewal.** Pursuant to RCW 19.146.210(2), the Director shall not issue a  
18 license if the applicant, any of its principals, or the designated broker have had a license issued under this  
19 chapter or any similar state statute suspended or revoked within five years of the filing of the present  
20 application.

21 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(i)(1994) and RCW  
22 19.146.220(5)(a)(2006), the Director may issue orders removing from office or prohibiting from participation in  
23 the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan  
24 originator of any licensed mortgage broker or any person subject to licensing under the Act for any violation of  
25 RCW 19.146.0201(1) through (9) or RCW 19.146.200.

1 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i)(1994) and WAC 208-660-165, the  
2 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to  
3 the Act for any violations of RCW 19.146.0201(1) through (9), RCW 19.146.030, or RCW 19.146.200.

4 Pursuant to RCW 19.146.220(2)(e)(2006), for violations committed after January 1, 2007, the Director may  
5 impose a fine for any violation of the Act.

6 **3.5 Authority to Order Restitution.** Pursuant to RCW 19.146.220(d)(ii)(1994), the Director may issue orders  
7 directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to an  
8 injured borrower. Pursuant to RCW 19.146.220(2)(e), for violations committed after January 1, 2007, the  
9 Director may order restitution for any violation of the Act.

10 **3.6 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-550, the  
11 Department may charge an investigation fee at the rate of \$48 per hour for each hour of examiner time devoted  
12 to an investigation conducted after January 1, 2007.

#### 13 **IV. NOTICE OF INTENTION TO ENTER ORDER**

14 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
15 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions constitute a basis  
16 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221, and RCW 19.146.223.

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

18 **4.1** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., and Alex Shekhter's license to  
19 conduct the business of a mortgage broker be revoked;

20 **4.2** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., and Alex Shekhter's  
21 application to renew their license to conduct the business of a mortgage broker be denied;

22 **4.3** Respondent Alex Shekhter's license to conduct business as a loan originator be revoked;

23 **4.4** Respondent Alex Shekhter's application to renew his license to conduct business as a loan originator be  
24 denied;

25 **4.5** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., be prohibited from  
participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any  
manner, for a period of five years;

- 1 **4.6** Respondent Alex Shekhter be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five years;
- 2 **4.7** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., and Alex Shekhter jointly and
- 3 severally pay a fine which as of the date of these charges totals \$10,000;
- 4 **4.8** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., and Alex Shekhter jointly and
- 5 severally pay restitution to borrower J.C. in the amount of \$7,999;
- 6 **4.9** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., and Alex Shekhter jointly and
- 7 severally pay an investigation fee which as of the date of these charges totals \$1,296, calculated at \$48 per hour for
- 8 the 27 examiner hours devoted to the investigation after January 1, 2007; and
- 9 **4.10** Respondents DBSA Holdings, Inc., d/b/a Foundation Capital Group, Inc., and Alex Shekhter maintain
- 10 records in compliance with the Act and provide the Department with the location of the books, records and other
- 11 information relating to Respondents' mortgage broker business, and the name, address and telephone number of the
- 12 individual responsible for maintenance of such records in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses, Decline to  
3 Renew Licenses, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee  
4 (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW  
5 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative  
6 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF  
7 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of  
8 Charges.

9 Dated this 15<sup>th</sup> day of February, 2010.



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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 STEVEN C. SHERMAN  
19 Financial Legal Examiner

20 Approved by:

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22 JAMES R. BRUSSELBACK  
23 Enforcement Chief