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

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

INTERCONTINENTAL CAPITAL GROUP,
INC. d/b/a FELLOWSHIP HOME LOANS,
NMLS No. 60134, and
DUSTIN A. DiMISA, NMLS NO. 65398,

Respondents.

No. C-15-1674-16-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST, IMPOSE
FINE, COLLECT INVESTIGATION FEE,
and RECOVER COSTS AND EXPENSES
OF PROSECUTION

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Washington State Department of Financial Institutions (Director) is responsible for the administration of RCW 31.04, the Consumer Loan Act (Act). Having conducted an investigation pursuant to RCW 31.04.145, 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 Charles E. Clark, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Respondent Intercontinental Capital Group, Inc. (Respondent ICG) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a consumer loan company on or about October 22, 2012, and continues to be licensed to date.

B. Respondent Dustin Anthony DiMisa (Respondent DiMisa) has been a Control Person, the President, and the Chief Executive Officer at Respondent ICG since February 02, 2010. Respondent DiMisa is not licensed by the Department. During

1 all times relevant to this matter Respondent DiMisa, as Owner, President, and CEO of
2 Respondent ICG, was responsible for marketing and compliance for Respondent ICG.

3 **1.2 Unfair, Deceptive, and Misleading Advertisements.**

4 **A. Direct Mail Solicitations.** On or about March 10, 2015, and March 25, 2015,
5 Respondents ICG and DiMisa (collectively, Respondents) mailed approximately 1,520 copies of a
6 solicitation to Washington State residents. Each solicitation contained similar offers related to the
7 Federal Housing Authority (FHA) refinance loans. As an example, one solicitation was captioned,
8 “RE: FHA MIP Reduction Pursuant to Section 203(C)(2)(B) of the National Housing Act
9 (“NHA”).”¹ The MIP Reduction Solicitation closely resembles an official government notice
10 regarding borrowers’ loans and does not adequately disclose that it is a solicitation to refinance a
11 borrower’s mortgage with Respondent ICG. The MIP Reduction Solicitation characterizes the
12 product as a reduction in the borrower’s monthly mortgage insurance premium under the borrower’s
13 existing loan supported by FHA. The MIP Reduction Solicitation also includes an application form
14 titled “MIP REDUCTION CASE NUMBER REQUEST FORM.” This document appears to be an
15 official government form and does not identify that it was sent by Respondents. The MIP Reduction
16 Solicitation included information about the borrower’s current loan without disclosing the name of
17 source of that information.

18 **B. Radio and Internet Advertising.** During 2015, and continuing through the date of
19 this Statement of Charges, Respondents have advertised in Washington State on the radio and the
20 Internet that Respondents’ mortgage loan products include the following features for consumers:

- 21 • “two months off from paying [their] mortgage;”
- 22 • “\$1,000.00 cash back at closing;” and
- 23 • “a free appraisal with [their] loan application.”

24

¹Referred to hereafter as “MIP Reduction Solicitation.”
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INTERCONTINENTAL CAPITAL GROUP, INC. *et al.*

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

2 **2.1 Unfair or Deceptive Practice.** Based on the Factual Allegations set forth in Section I above,
3 Respondents are in apparent violation of RCW 31.04.027(2) for directly or indirectly engaging in
4 any unfair or deceptive practice toward any person.

5 **2.2 Advertisements Designed to Resemble Official Communications.** Based on the Factual
6 Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-620-
7 630(1)(a),(e), and (f).

8 **2.3 False or Deceptive Statements or Representations.** Based on the Factual Allegations set
9 forth in Section I above, Respondents are apparent violation of RCW 31.04.027(2) for making, in
10 any manner, any false or deceptive statement or representation by being in apparent violation of
11 WAC 208-620-550(5) and WAC 208-620-640.

12 **2.4 False, Misleading, or Deceptive Advertisements or Promotions.** Based on the Factual
13 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.135
14 for advertising, in any manner whatsoever, any statement or representation with regard to the rates,
15 terms, or conditions for the lending of money that is false, misleading, or deceptive, and by being in
16 apparent violation of WAC 208-620-550(5).

17 **2.5 Advertisements Using Borrowers' Current Information.** Based on the Factual
18 Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-620-
19 630(7) by using advertisements including information about a borrower's current loan that
20 Respondent ICG did not obtain from a solicitation, application, or loan, without providing the
21 borrower with the name of the source of the information.

22 **2.6 Violations of Applicable Federal Law.** Based on the Factual Allegations set forth in
23 Section I above, Respondents are in apparent violation of RCW 31.04.027(13) for violating any
24 applicable federal laws relating to the activities governed by the Act, including the advertising

1 prohibitions contained in the Federal Trade Commission Act, 15 U.S.C. §§ 41-58; the Truth in
2 Lending Act, 15 U.S.C. § 1601 and Regulation Z, 12 C.F.R. § 1026; and the Mortgage Acts and
3 Practices – Advertising (MAP) rule, Regulation N, 12 C.F.R. § 1014.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 31.04.093(5)(a), the
6 Director may issue an order directing a licensee, or other person subject to the Act, to cease and
7 desist from conducting business in a manner that is injurious to the public or violates any provision
8 of the Act.

9 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
10 up to one hundred dollars per day, per violation, upon the licensee, or any other person subject to the
11 Act, for any violation of the Act.

12 **3.3 Authority to Charge Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-
13 620-590, every licensee examined or investigated by the Director or the Director's designee shall
14 pay for the cost of the investigation, calculated at the rate of \$69.01 per staff hour devoted to the
15 investigation, and shall pay travel costs if the licensee maintains its records outside the state.

16 **3.4 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
17 may recover the state's costs and expenses for prosecuting violations of the Act.

18 **IV. NOTICE OF INTENT TO ENTER ORDER**

19 Respondents violations of the provisions of RCW 31.04 and WAC 208-620, as set forth in
20 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions,
21 constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and
22 RCW 31.04.205.

23 Therefore, it is the Director's intent to ORDER that:

24 //

1 Dated this 11th day of October, 2016.



[Redacted signature]

CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

7 Presented by:

8 [Redacted signature]

9 ROBERT E. JONES
Financial Legal Examiner

11 [Redacted signature]

12 IGOR VOLOSHIN
Financial Legal Examiner

13 Approved by:

15 [Redacted signature]

16 STEVEN C. SHERMAN
Enforcement Chief