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: Micki L. Green, Respondent.	NO. C-04-091-05-SC01 STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO PROHIBIT FROM INDUSTRY

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 as of February 18, 2005, the Director institutes this proceeding and alleges as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent: Micki L. Green (Green) was employed as an independent contractor by All Fund Mortgage, a licensed consumer loan company, from October 20, 1999, until April 23, 2001. Green was employed as an independent contractor by 1st Metropolitan Mortgage, a licensed consumer loan company, from approximately 2001 until March 6, 2003. Green also claimed to be doing business as Premier Mortgage Northwest and Acceptance Mortgage. Green is known to have conducted business at the following location(s):

All Fund Mortgage
22925 E. Joseph Ave.
Otis Orchards, WA

All Fund Mortgage
404 N. Pines Rd. Ste. A
Spokane, WA

1st Metropolitan Mortgage
12213 E. Broad Way Ste. 8
Spokane, WA 99202

1.2 Investigation: The Department received information from the Spokane County Sheriff's Department that Green had used the personal identification and financial information from her mortgage loan customers to commit multiple counts of identity theft, forgery and theft. The Department initiated an investigation to review the allegations against Green and remained in contact with the Spokane County Sheriff's Department. Green was prosecuted by the Spokane County Prosecutor's Office for identity theft, forgery, and theft that related to the theft of consumers' personal identification and financial information she had gathered while working as a loan officer for licensed consumer loan companies.

1.3 Criminal Conviction of Felonies: On September 23, 2004, in the Superior Court of Spokane County before the Honorable Judge Kathleen O'Connor, in Cause No. 04-1-00617-2, Green plead guilty to the following:

A. **Theft 2** – (Four Counts) RCW 9A.56.040

B. **Identity Theft 1** –(One Count) RCW 9.35.020(2)

C. **Identity Theft 2** –(Five Counts) RCW 9.35.020(3)

1.4 Sentence: As a result of Green's conviction of the ten felonies described in Paragraph 1.3 above, judgment and sentence was ordered against Green as follows:

A. **Restitution, Fees and Fines:** Green was ordered to pay restitution to the injured victims. Green was also ordered to pay $710 in other fees and fines.

B. **No Contact:** Green was ordered not to have contact with the victims for five years.

C. **Confinement:** Green was ordered to serve 25 months of confinement in the custody of the Washington State Department of Corrections. After serving her period of confinement, Green will serve 25 months of community custody.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Authority to Prohibit from the Industry: Pursuant to RCW 31.04.093(6)(b) and (6)(e), the Director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee, or loan originator, or any person subject to the Act, for a conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony, and for a violation of RCW 31.04.027(1), (2), and (3). Under RCW 31.04.027(1), (2), and (3), it is a violation of the Act for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to: (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person; (2) Directly or indirectly engage in any unfair or deceptive practice toward any person; (3) Directly or indirectly obtain property by fraud or misrepresentation.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

3.1 Respondent Micki L. Green be prohibited from participation in the conduct of the affairs of any licensed consumer loan company, in any manner, for a period of ten (10) years; and

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IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from the Industry is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents 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 and Notice of Intention to Enter an Order to Prohibit from the Industry.

Dated this 3rd day of March, 2005.

CHUCK CROSS
Director and Enforcement Chief
Division of Consumer Services
Department of Financial Institutions

Presented by:

Ned Jursek
Financial Legal Examiner

RCW 31.04.027 Violations of chapter.
It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property; or

(10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or otherwise fail to comply with any requirement of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act, 15 U.S.C. Sec. 1691 and regulation B, Sec. 202.9, 202.11, and 202.12, or any other applicable federal statute, as now or hereafter amended, in any advertising of residential mortgage loans or any other consumer loan company activity.

[2001 c 81 § 3.]

RCW 31.04.093 Licensing -- Applications -- Regulation of licensees--Director's duties -- Fines -- Orders.
(1) The director shall enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may deny applications for licenses for:

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in RCW 31.04.045 and 31.04.055;

(b) Violation of an order issued by the director under this chapter or another chapter administered by the director, including but not limited to cease and desist orders and temporary cease and desist orders;

(c) Revocation or suspension of a license to conduct lending, or to provide settlement services associated with lending, by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

(d) Filing an incomplete application when that incomplete application has been filed with the department for sixty or more days, provided that the director has given notice to the licensee that the application is incomplete, informed the applicant why the application is incomplete, and allowed at least twenty days for the applicant to complete the application.

(3) The director may suspend or revoke a license issued under this chapter if the director finds that:

(a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee, either knowingly or without the exercise of due care, has violated any provision of this chapter or any rule adopted under this chapter; or

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have allowed the director to deny the application for the original license. The director may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist unless the director finds that the grounds for revocation or suspension are of general application to all offices or to more than one office operated by the licensee, in which case, the director may revoke or suspend all of the licenses issued to the licensee.

(4) The director may impose fines of up to one hundred dollars per day upon the licensee, its employee or loan originator, or other person subject to this chapter for:

(a) Any violation of this chapter; or

(b) Failure to comply with any order or subpoena issued by the director under this chapter.

(5) The director may issue an order directing the licensee, its employee or loan originator, or other person subject to this chapter to:

(a) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter;

(b) Take such affirmative action as is necessary to comply with this chapter; or

(c) Make restitution to a borrower or other person who is damaged as a result of a violation of this chapter.

(6) The director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee or loan originator, or any person subject to this chapter for:

(a) False statements or omission of material information from an application for a license that, if known, would have allowed the director to deny the original application for a license;

(b) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony;

(c) Suspension or revocation of a license to engage in lending, or perform a settlement service related to lending, in this state or another state;

(d) Failure to comply with any order or subpoena issued under this chapter; or

(e) A violation of RCW 31.04.027.

(7) Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter, to take such affirmative action as is necessary to comply with this chapter, and may include a summary suspension of the licensee's license and may order the licensee to immediately cease the conduct of business under this chapter. The order shall become effective at the time specified in the order. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether the order will become permanent. Such hearing shall be held within fourteen days of receipt of a request for a hearing unless otherwise specified in chapter 34.05 RCW.

(8) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose fines, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter.

(9) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a borrower.

(10) Every license issued under this chapter remains in force and effect until it has been surrendered, revoked, or suspended in accordance with this chapter. However, the director may on his or her own initiative reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if the director finds that the licensee meets all the requirements of this chapter.

[2001 c 81 § 8; 1994 c 92 § 166; 1991 c 208 § 10.]

RCW 31.04.145 Investigations and examinations -- Director's duties -- Production of information -- Costs.
(1) For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the director may at any time, either personally or by designees, investigate or examine the loans and business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee and of every person who is engaged in the business making or assisting in the making of loans at interest rates authorized by this chapter, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For these purposes, the director or designated representatives shall have free access to the offices and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons. The director or persons designated by the director may require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, records, files, and any other information the director or designated persons deem relevant to the inquiry. The director may require the production of original books, accounts, papers, records, files, and other information; may require that such original books, accounts, papers, records, files, and other information be copied; or may make copies himself or herself or by designee of such original books, accounts, papers, records, files, or other information. If a licensee or person does not attend and testify, or does not produce the requested books, accounts, papers, records, files, or other information, then the director or designated persons may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, records, files, or other information.

(2) The director shall make such periodic examinations of the affairs, business, office, and records of each licensee as determined by rule.

(3) Every licensee examined or investigated by the director or the director's designee shall pay to the director the cost of the examination or investigation of each licensed place of business as determined by rule by the director.

[2001 c 81 § 11; 1995 c 9 § 2; 1994 c 92 § 169; 1991 c 208 § 15.]

RCW 31.04.165 Director -- Broad administrative discretion -- Rule making--Actions in superior court.
(1) The director has the power, and broad administrative discretion, to administer and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by loan companies subject to this chapter. The director shall adopt all rules necessary to administer this chapter and to ensure complete and full disclosure by licensees of lending transactions governed by this chapter.

(2) If it appears to the director that a licensee is conducting business in an injurious manner or is violating any provision of this chapter, the director may order or direct the discontinuance of any such injurious or illegal practice.

(3) For purposes of this section, "conducting business in an injurious manner" means conducting business in a manner that violates any provision of this chapter, or that creates the reasonable likelihood of a violation of any provision of this chapter.

(4) The director or designated persons, with or without prior administrative action, may bring an action in superior court to enjoin the acts or practices that constitute violations of this chapter and to enforce compliance with this chapter or any rule or order made under this chapter. Upon proper showing, injunctive relief or a temporary restraining order shall be granted. The director shall not be required to post a bond in any court proceedings.

[2001 c 81 § 13; 1994 c 92 § 171; 1991 c 208 § 17.]

RCW 31.04.202 Application of administrative procedure act.
The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies under this chapter, and any review or appeal of such action, shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

[2001 c 81 § 15.]

RCW 31.04.205 Enforcement of chapter -- Director's discretion -- Hearing -- Sanctions.
The director or designated persons may, at his or her discretion, take such action as provided for in this chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action, then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

[2001 c 81 § 16.]