



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

GREENLAKE FINANCIAL, INC., and
RYAN M. MOSLEY,
Owner and Designated Broker,

Respondents.

NO. C-07-038-09-FO01

FINAL 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 34.05.440(2). On November 21, 2008, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, 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 November 26, 2008, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Greenlake Financial, Inc., and Ryan M. Mosley. The Department served the Statement of Charges, cover letter dated November 26, 2008, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Greenlake Financial, Inc., and Ryan M. Mosley on Respondents on November 26, 2009, by First-Class mail and Certified Mail.

1 On December 8, 2008, Respondent Mosley filed an Application for Adjudicative Hearing. No
2 Application for Adjudicative Hearing was filed for Respondent Greenlake Financial, Inc. On March
3 12, 2009, the Department made a request to the Office of Administrative Hearings (OAH) to assign an
4 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On
5 October 28, 2009, Administrative Law Judge Lisa Groeneveld-Mejir issued a Notice of Telephone
6 Prehearing Conference scheduling a prehearing conference on Thursday, November 19, 2009, at 2:00
7 p.m. That Notice contained the following instruction to the parties: "Parties shall appear by calling
8 locally (206) 389-3400 or long-distance (800) 845-8830 ten minutes before the time designated
9 above...." That Notice also noted "If you fail to appear or participate in the pre-hearing conference,
10 hearing, or any other scheduled stage of these proceedings, you may lose your right to a hearing as
11 described in RCW 34.05.440." A copy of the Notice was mailed to Respondent Mosley at the address
12 provided on his Application for Administrative Hearing.
13

14 On November 19, 2009, the prehearing conference was convened by ALJ Groeneveld-Mejir at
15 2:00 p.m. Respondent Mosley failed to attend the telephonic prehearing conference and did not
16 otherwise appear or contact OAH. The Department moved for an order of default based on
17 Respondent Mosley's failure to appear. On December 1, 2009, ALJ Groeneveld-Mejir issued an Order
18 of Dismissal Respondent Default (Order of Dismissal) dismissing Respondent Mosley's appeal of the
19 Statement of Charges. On December 1, 2009, OAH sent the Order of Default and Initial Order to the
20 address in Respondent Mosley's Applications for Adjudicative Hearing.
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22 Pursuant to RCW 34.05.440(3), Respondent Mosley had seven days from the date of service of
23 the Order of Dismissal to file a written motion with OAH requesting that the Order of Dismissal be
24 vacated, and stating the grounds relied upon. Respondent Mosley did not make a request to vacate
25 during the statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent Mosley

1 had 20 days from the date of service of the Order of Dismissal to file a Petition for Review of the
2 Order of Default and Initial Order with the Director. Respondent Mosley did not file a Petition for
3 Review during the statutory period.¹

4 B. Record Presented. The record presented to the Director for his review and for entry of
5 a final decision included the following:

- 6 1. Statement of Charges, cover letter dated November 26, 2008, and Notice of
7 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 8 2. Applications for Adjudicative Hearing for Ryan M. Mosley;
- 9 3. Request to OAH for Assignment of Administrative Law Judge;
- 10 4. Notice of Telephone Prehearing Conference dated October 28, 2009, with
11 documentation of service;
- 12 5. Order of Dismissal Respondent Default dated December 1, 2009, with documentation
13 of service.

14 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the
15 Director hereby adopts the Statement of Charges, which is attached hereto.

16 II. FINAL ORDER

17 Based upon the foregoing, and the Director having considered the record and being
18 otherwise fully advised, NOW, THEREFORE:

19 A. IT IS HEREBY ORDERED, that:

- 20 1. Respondent Ryan M. Mosley is prohibited from participation in the conduct of the
21 affairs of any mortgage broker subject to licensure by the Director, in any manner,
22 for a period of ten years from the date of this Final Order;
- 23 2. Respondent Ryan M. Mosley shall pay a fine in the amount of \$20,000;

24
25 ¹ Respondent Mosley was erroneously notified by OAH that he had 30 days to appeal the Order of Dismissal to the
Superior Court pursuant to RCW 34.05.542. This period expired on December 31, 2009.

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2 3. Respondent Ryan M. Mosley shall pay an investigation in the amount of \$2,112;
3 and

4 4. Respondents Greenlake Financial, Inc., and Ryan M. Mosley shall maintain
5 records in compliance with the Act and provide the Department with the location
6 of the books, records, and other information relating to Respondents' mortgage
broker business, and the name, address, and telephone number of the individual
responsible for maintenance of such records in compliance with the Act.

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

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

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

20 D. Judicial Review. Respondents have the right to petition the superior court for
21 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
22 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.
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1 E. Non-compliance with Order. If you do not comply with the terms of this order within 30
2 days from the date this Final Order is served upon you, the Department may seek its enforcement by the
3 Office of Attorney General to include the collection of the fine and fee imposed herein.

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

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8 DATED this 15th day of February 2010.



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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS


SCOTT JARVIS
DIRECTOR

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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:

GREENLAKE FINANCIAL, INC., and
RYAN M. MOSLEY,
Owner and Designated Broker,

Respondents.

NO. C-07-038-08-SC01

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

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)¹. After having conducted an investigation pursuant to RCW 19.146.235, 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 Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Greenlake Financial, Inc., (Greenlake) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on April 20, 2005. Respondent Greenlake surrendered its license on September 25, 2007.

B. Ryan M. Mosley (Mosley) was the owner and Designated Broker of Respondent Greenlake at all times relevant to this Statement of Charges. Respondent Mosley was named Designated Broker of Respondent Greenlake on April 20, 2005.

¹ RCW 19.146 (1994) OR (2006) OR both

1 **1.2 Examination.** From January 29, 2007, to February 1, 2007, the Department conducted an
2 examination of Respondent's business practices for the twenty-five month period ending December
3 31, 2006. The Department's examiners reviewed twenty-four loan files.

4 **1.3 Withholding Loan Files.** As part of the examination process, Respondents provided the
5 Department with a list of loans represented to be those originated during the examination period.
6 During the course of the examination, the Department's examiners determined that this list of loans
7 was inconsistent with the number of loan files on hand; suggesting that some loan files were missing.
8 On March 1, 2006, an investigator for the Department interviewed Respondent Mosley and
9 Respondents' employee, Denise Materi-Powell, concerning the missing loan files. Respondent
10 Mosley and Ms. Materi-Powell each admitted that they were aware that as many as 30-40 loan files
11 were missing documents that should have been in the loan files, and that they intentionally hid the files
12 in a closet to keep them from being reviewed by the Department's examiners.
13

14 **1.4 Failure to Maintain Funds from Borrower for Payment of Third-Party Providers in**
15 **Trust.** In six of the loans examined, Respondents obtained funds for third-party services at closing
16 but failed to deposit those funds into a trust account within three business days.

17 **1.5 Failure to Complete or Provide Rate Lock Disclosure.** In four of the loan examined, there
18 was no evidence in the loan file that Respondents provided the mandatory Rate Lock Disclosure. In
19 one loan file examined, the Rate Lock Disclosure was not properly completed.
20

21 **1.6 Failure to Complete Rate Lock Agreement.** In four of the loans examined, Respondents did
22 not provide properly completed Rate Lock Agreements.

23 **1.7 Failure to Properly Complete Truth-in-Lending Disclosure.** In five of the loans examined,
24 Respondents did not check the box on the Truth-in-Lending Disclosure disclosing a variable rate
25 mortgage when the anticipated loan had an adjustable rate.

1 **1.8 Failure to Provide Variable Rate Loan Program Disclosure.** In ten of the loans examined,
2 Respondents did not provide the mandatory Variable Rate Loan Program disclosure.

3 **1.9 Failure to Provide Home Equity Plan Disclosures.** In three of the loans examined,
4 Respondents did not provide Home Equity Plan Disclosures required under the Truth-in-lending Act.

5 **1.10 Failure to Provide Notice of Action Taken.** In three of the loans examined, Respondents did
6 not provide a Notice of Action Taken within 30 days of the last file activity. In one of the loans
7 examined, Respondents provided the Notice of Action Taken, but it did not state what action was
8 taken.

9 **1.11 Failure to Collect Customer Information required by the USA Patriot Act.** In nine of the
10 loans examined, Respondents did not collect the customer information required by the USA Patriot
11 Act.
12

13 **1.12 Failure to Provide Privacy Disclosure.** In three of the loans examined, Respondents did not
14 provide the privacy disclosures required by the Gramm-Leach-Bliley Act.

15 **1.13 Failure to Provide Credit Disclosures.** In nine of the loans examined, Respondents did not
16 provide credit disclosures required by the Fair Credit Reporting Act. In three of the loans examined,
17 the credit disclosures were incomplete.

18 **1.14 Failure to Properly Complete Good Faith Estimate.** In three of the loans examined,
19 Respondents used line 801 of the Good Faith Estimate Disclosure to disclose their mortgage broker
20 fee.
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22 **1.15 Failure to Properly Surrender License.** As stated in section 1.1 A, above, Respondents
23 surrendered their license to conduct business as a mortgage broker on September 25, 2007.
24 Respondents, however, failed to provide the physical address where their loan files would be kept as
25 required in section 1 K of the license surrender form (Form MU1). The Department sent Respondent

1 Mosley an email on November 7, 2007, and a Directive on February 21, 2008, asking him to provide
2 the missing information, but to date Respondent Mosley has not provided the physical address where
3 the loan files are kept.

4 **1.16 Failure to Respond to Directive.** As stated in section 1.15, above, on February 21, 2008, the
5 Department served a Directive on Respondent Mosley by certified mail directing Respondent Mosley
6 to provide the physical address where his loan files were kept. The information was due on or before
7 March 3, 2008, but was not provided by that date. On March 6, 2008, the Department received an
8 email from Respondent Mosley stating he would send the required information immediately, but to
9 date the information has not been provided.

10
11 **1.17 On-Going Investigation.** The Department's investigation into the alleged violations of the
12 Act by Respondents continues to date.

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

14 **2.1 Requirement to Make Records Available.** Based upon the Factual Allegations set forth in
15 Section 1 above, Respondents are in apparent violation of RCW 19.146.0201(8) (2006), RCW
16 19.146.060(2) (2006), and RCW 19.146.235(9) (2006) for hiding loan files from the Department's
17 examiners with the intent to prevent examination of those files.

18 **2.2 Requirement to Maintain Funds from Borrower for Payment of Third-Party Providers in**
19 **Trust.** Based on the Factual Allegations set forth in Section I above, Respondents are in apparent
20 violation of RCW 19.146.050, WAC 208-660-08010, WAC 208-660-08015, WAC 208-660-08020,
21 WAC 208-660-08025, WAC 208-660-08030, and WAC 208-660-08032 for failing to deposit funds
22 received from a borrower or on behalf of a borrower for payment of third-party provider services in a
23 trust account of a federally insured financial institution located in this state, prior to the end of the
24 third business day following receipt of such monies.
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1 **2.3 Requirement to Provide Complete Disclosures.** Based on the Factual Allegations set forth
2 in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2), (6), (7), and (10),
3 RCW 19.146.030(2), and the following federal laws:

4 The Truth-in-Lending Act, 15 U.S.C. Sec. 1601 and Regulation Z, 12
5 C.F.R. Sec. 226;

6 The Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 and
7 Regulation X, 24 C.F.R. Sec. 3500;

8 The Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691 and Regulation B,
9 Sec. 202.9, 202.11, and 202.12;

10 Title V, Subtitle A of the Financial Modernization Act of 1999 (known as
11 the "Gramm-Leach-Bliley act");

12 The Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.; and

13 The USA Patriot Act, 31 U.S.C. Sec. 5318

14 for failing to provide borrowers with complete Rate Lock Disclosures, Variable Rate Disclosures,
15 Truth-in-Lending Disclosures, Good faith Estimate Disclosures, Credit Disclosures, and Privacy
16 Disclosures, and for failing to collect customer information required by the USA Patriot Act.

17 **2.4 Requirement to Provide Complete Rate Lock Agreement.** Based on the Factual
18 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
19 19.146.030(2)(c) for failing to provide completed rate lock agreements.

20 **2.5 Requirement to Properly Surrender License.** Based on the Factual Allegations set forth in
21 Section I above, Respondents are in apparent violation of RCW 19.146.210(5) and WAC 208-660-
22 163(19) for failing to properly complete closure forms to include the physical address where
23 Respondents' records will be kept.

1 **2.6 Requirement to Comply with Directives.** Based on the Factual Allegations set forth in
2 Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to comply with
3 a Directive from the Director.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Liability for Conduct of Others.** Pursuant to RCW 19.146.245, a licensed mortgage broker is
6 liable for any conduct violating the Act by the designated broker or a loan originator employed or
7 engaged by the mortgage broker. Pursuant to RCW 19.146.200 (2006), a designated broker or principal
8 is responsible for an employee's violations of the Act if the designated broker or principal directs or
9 instructs the conduct or, with knowledge of the specific conduct, approves or allows the conduct.
10

11 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(i) and (iv)
12 (1994) and RCW 19.146.220(5) (2006), the Director may issue orders removing from office or
13 prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any
14 officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject
15 to licensing under the Act for any violation of RCW 19.146.0201(1) through (9), RCW 19.146.030
16 through RCW 19.146.080, or failure to comply with a directive or order of the Director.

17 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-
18 165, the Director may impose fines on a licensee, employee or loan originator of the licensee, or other
19 person subject to the Act for any violations of RCW 19.146.0201(1) through (9), RCW 19.146.030
20 through RCW 19.146.080, or failure to comply with a directive or order of the Director. Pursuant to
21 RCW 19.146.220(2) (2006), the Director may impose a fine on any licensee or other person subject to
22 the Act for any violation of the Act committed after January 1, 2007.
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1 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-
2 550(5) (2006), the Department may collect the costs of investigation. The investigation charge will be
3 calculated at the rate of \$48 per hour for each staff person devoted to the investigation.

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

5 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as
6 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
7 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and
8 RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:
9

- 10 **4.1** Respondent Ryan M. Mosley 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 ten years; and
11 **4.2** Respondent Ryan M. Mosley pay a fine which as of the date of these charges totals \$20,000; and
12 **4.3** Respondent Ryan M. Mosley pay an investigation fee which as of the date of these charges totals
13 \$2,112 , calculated at \$48 per hour for the forty-four staff hours devoted to the investigation; and
14 **4.4** Respondents maintain records in compliance with the Act and provide the Department with the
15 location of the books, records and other information relating to Respondent's mortgage broker
16 business, and the name, address, and telephone number of the individual responsible for
maintenance of such records in compliance with the Act.

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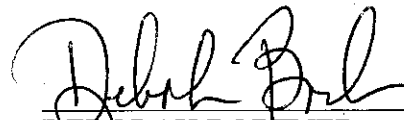
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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, 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.

Dated this 21st day of November, 2008.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

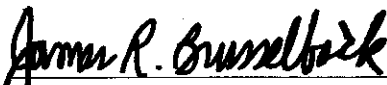
Presented by:



STEVEN C. SHERMAN
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief