

Terms Completed

ORDER SUMMARY – Case Number: C-07-060

Name(s): Scott Konecky

Order Number: C-07-060-08-CO02

Effective Date: March 20. 2008

License Number: n/a
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect: None

Not Apply Until: n/a

Not Eligible Until:

Prohibition/Ban Until: n/a

Investigation Costs	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Respondent agrees to cooperate fully with the Department in any future hearing in this case.

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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-07-060-08-CO02

AMERICAN LENDING CORPORATION,
SHAWN D. KONECKY, President,
SCOTT H. KONECKY, Vice President, and
LISA A. HILL, Secretary,

CONSENT ORDER

SCOTT H. KONECKY

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Scott H. Konecky (hereinafter Respondent Scott Konecky), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent Scott Konecky have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-060-07-SC01 (Statement of Charges), entered September 26, 2007, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent Scott Konecky hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above captioned matter as they relate to Respondent Scott Konecky may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges as to Respondent Scott Konecky only and agree that Respondent Scott Konecky

CONSENT ORDER

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SCOTT H. KONECKY
C-07-060-08-CO02

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 does not admit any wrongdoing by its entry. Respondent Scott Konecky is further agreeing not to contest the
2 Statement of Charges in consideration of the terms of this Consent Order.

3 Based upon the foregoing:

4 A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the
5 activities discussed herein.

6 B. **Waiver of Hearing.** It is AGREED that Respondent Scott Konecky has been informed of the right to
7 a hearing before an administrative law judge, and that he has waived his right to a hearing and any and all
8 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

9 Accordingly, Respondent Scott Konecky agrees to withdraw his appeal and to inform the Office of Administrative
10 Hearings in writing of his withdrawal.

11 C. **Stipulation to Facts.** Respondent Scott Konecky declares under penalty of perjury under the laws of
12 the State of Washington that the following facts are true and correct:

13 1. Respondent Shawn Konecky is Respondent Scott Konecky's brother.

14 2. Respondent Shawn Konecky founded American Lending Corporation in about 1997 and
15 named Respondent Scott Konecky as Vice President of the corporation to satisfy filing
16 requirements.

17 3. Respondent Scott Konecky never worked at the Oregon office of American Lending
18 Corporation and never had any duties as Vice President.

19 4. Respondent Scott Konecky has never had an ownership or management interest in American
20 Lending Corporation.

21 D. **Complete Cooperation with the Department.** It is AGREED that Respondent Scott Konecky shall
22 cooperate fully, truthfully, and completely with the Department and provide any and all information known to him
23 relating in any manner to American Lending Corporation and any and all persons involved or in any way
24 associated with American Lending Corporation, including, but not limited to, the named Respondents, employees,
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1 businesses, and persons with whom American Lending Corporation dealt, communicated, or otherwise related. It
2 is further AGREED that Respondent Scott Konecky shall provide any and all documents, writings or materials, or
3 objects or things of any kind in her possession or under his care, custody, or control relating directly or indirectly
4 to all areas of inquiry and investigation. A failure to cooperate fully, truthfully, and completely is a breach of this
5 Consent Order. It is further AGREED that Respondent Scott Konecky shall testify fully, truthfully, and
6 completely at any proceeding related to the Department's investigation and enforcement actions related to this
7 matter, including, but not limited to, American Lending Corporation and the named Respondents.

8 **E. No Fines, Investigation Costs, or Prohibitions.** It is AGREED that Respondent Scott Konecky will
9 not be subject to any fines, investigation costs, or prohibitions related to or resulting from this matter.

10 **F. Participation in the Industry.** Respondent Scott Konecky REPRESENTS that he is not currently
11 participating in the residential mortgage industry in Washington. Respondent Scott Konecky AGREES that in the
12 future, should he wish to participate in the residential mortgage industry in Washington in any capacity, he will
13 fully and completely comply with the Mortgage Broker Practices Act and the rules adopted thereunder, and any
14 and all relevant statutes and regulations in place at that time. It is further AGREED that the conduct giving rise to
15 the above-referenced Statement of Charges will not be considered by the Department in the assessment of any
16 future application for a mortgage broker or loan originator license in Washington, in the event Respondent Scott
17 Konecky wishes to pursue the application.

18 **G. Non-Compliance with Order.** It is AGREED that Respondent Scott Konecky understands that
19 failure to abide by the terms and conditions of this Consent Order may result in further legal action by the
20 Director. In the event of such legal action, Respondent Scott Konecky may be responsible to reimburse the
21 Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.


22 **H. Voluntarily Entered.** It is AGREED that the undersigned Respondent Scott Konecky has voluntarily
23 entered into this Consent Order, which is effective when signed by the Director's designee.
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1 I. Completely Read, Understood, and Agreed. It is AGREED that Respondent Scott Konecky has
2 read this Consent Order in its entirety and fully understand and agree to all of the same.

3 **RESPONDENT:**


4 **SCOTT H. KONECKY**

5 Signed this 2nd day of MARCH, 2008, in Los Angeles, California.


6
7 
8 Scott H. Konecky

9 DO NOT WRITE BELOW THIS LINE


10 THIS ORDER ENTERED THIS 20th DAY OF March, 2008.

11
12 
13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 
19 Steven C. Sherman
20 Financial Legal Examiner

21 Approved by:

22 
23 James R. Brusselback
24 Enforcement Chief



25 CONSENT ORDER

SCOTT H. KONECKY
C-07-060-08-CO02

**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-07-060-07-SC01

AMERICAN LENDING CORPORATION,
SHAWN D. KONECKY, President,
SCOTT H. KONECKY, Vice President, and
LISA A. HILL, Secretary,

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

Respondents.

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. **American Lending Corporation (American Lending)** of La Grande, Oregon, is registered with the Washington Secretary of State as a for-profit corporation incorporated in the State

¹ RCW 19.146 (1994)

1 of Oregon. American Lending has never been licensed as a mortgage broker in the State of
2 Washington, and American Lending does not qualify for any exemption from the Act.

3 **B. Shawn D. Konecky (Shawn Konecky)** is President of American Lending Corporation
4 and has never been licensed as a mortgage broker in the State of Washington.

5 **C. Scott H. Konecky** is Vice President of American Lending Corporation and has never
6 been licensed as a mortgage broker in the State of Washington.

7 **D. Lisa A. Hill** is Secretary of American Lending Corporation and has never been licensed
8 as a mortgage broker in the State of Washington.
9

10 **1.2 Unlicensed Location.** Respondents are known to have conducted the business of a mortgage
11 broker from 1202 Adams Avenue, La Grande, Oregon 97850. To date, Respondents have never
12 applied for or received a license from the Department to conduct the business of a mortgage broker
13 from that or any other location.

14 **1.3 Unlicensed Activity.** Between July 1, 2005, and August 1, 2005, Respondent American
15 Lending assisted at least one (1) borrower in applying to obtain a residential mortgage loan on
16 property located in the State of Washington from the unlicensed locations discussed in paragraph 1.2.

17 **1.4 Failure to Respond to Directives.** On October 17, 2006, the Department served a directive on
18 Respondents American Lending and Shawn Konecky by Federal Express Overnight Delivery and by
19 first class mail. This Directive required Respondents to provide a list of all residential mortgage loans
20 made by American Lending for borrowers in the State of Washington, and several specific loan
21 documents for each file. The deadline for providing these documents was on or before October 31,
22 2006. Respondent Shawn Konecky telephoned the Department on October 17, 2006, and confirmed
23 receipt of the Directive, but Respondents did not provide the required documents.
24
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1 On January 10, 2007, the Department served a subpoena on Respondents American Lending
2 and Shawn Konecky demanding production of the same documents requested in the Department's
3 Directive of October 17, 2006. On January 12, 2007, Respondent Shawn Konecky telephoned the
4 Department, confirmed receipt of the subpoena, and requested clarification of the specific documents
5 the Department wanted. The Department provided this information, but Respondents did not provide
6 the required documents. To date, Respondents have not provided the documents required by these
7 directives.

8 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the
9 Act by Respondents continues to date.
10

11 II. GROUNDS FOR ENTRY OF ORDER

12 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-
13 010(29), "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
14 compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or
15 applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make
16 a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage
17 loan.

18 **2.2 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in
19 Section I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the
20 business of a mortgage broker without first obtaining and maintaining a license under the Act.

21 **2.3 Requirement to Comply with Directives.** Based on the Factual Allegations set forth in
22 Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to comply with
23 two directives issued by the Department.
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III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Issue an Order to Cease and Desist. Pursuant to RCW 19.146.220(2)(d)(i), the Director may issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to cease and desist from conducting business in a manner that is injurious to the public or violates any provision of the Act.

3.2 Authority to Impose Fine. Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any violations of RCW 19.146.200 or failure to comply with a directive or order of the Director.

3.3 Authority to Prohibit from the Industry. Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act for any violation of RCW 19.146.200 or failure to comply with a directive or order of the Director.

3.4 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), WAC 208-660-060(4), and WAC 208-660-061, upon completion of any investigation of any person subject to the Act, the Department is entitled to collect an investigation fee calculated at the rate of forty-seven dollars and seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

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

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

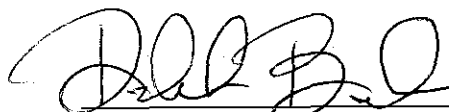
- 6 **4.1** Respondents American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A.
7 Hill cease and desist conducting the business of a mortgage broker in the State of Washington;
- 8 **4.2** Respondents American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A.
9 Hill jointly and severally pay a fine of \$9,000;
- 10 **4.3** Respondent American Lending Corporation be prohibited from participation in the conduct of the
11 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of
12 five (5) years; and
- 13 **4.4** Respondent Shawn D. Konecky be prohibited from participation in the conduct of the affairs of
14 any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)
15 years; and
- 16 **4.5** Respondent Scott H. Konecky be prohibited from participation in the conduct of the affairs of any
17 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;
18 and
- 19 **4.6** Respondent Lisa A. Hill be prohibited from participation in the conduct of the affairs of any
20 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;
21 and
- 22 **4.7** Respondents American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A.
23 Hill jointly and severally pay an investigation fee in the amount of \$668.92 calculated at \$47.78
24 per hour for the fourteen (14) staff hours devoted to the investigation; and
- 25 **4.8** Respondents maintain records in compliance with the Act and provide the Department with the
location of the books, records and other information relating to Respondent American Lending
Corporation's mortgage broker 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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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist,
3 Impose Fine, Prohibit from Industry, and Collect Investigation Fee (Statement of Charges) is entered
4 pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and
5 RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative
6 Procedure Act). Respondent 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
8 Statement of Charges.
9

10 Dated this 26th day of September, 2007.
11

12 

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


17 Presented by:

18 

19 STEVEN C. SHERMAN
20 Financial Legal Examiner



22 Approved by:

23 
24 JAMES R. BRUSSELBACK
25 Enforcement Chief