

TERMS COMPLETE

FINAL ORDER SUMMARY – Case Number: C-07-158

Name(s) Andrew Barrett Vaughey

Order Number C-07-158-10-FO01

Effective Date February 1, 2010

License Number 1404190

License Effect Denied

Not Apply until February 1, 2015

Prohibition/Ban until February 1, 2015

Investigation Costs	\$	Due	Paid	Date:
			Y N	

Assessment(s)	\$	Due	Paid	Date
			Y N	

Monetary Penalty	\$	Due	Paid	Date
			Y N	

Other

Special Instructions

1 STATE OF WASHINGTON  
2 DEPARTMENT OF FINANCIAL INSTITUTIONS  
3 DIVISION OF CONSUMER SERVICES

4 IN THE MATTER OF INVESTIGATING  
5 the Loan Originator License Application under the  
6 Mortgage Broker Practices Act of Washington by:

7 ANDREW BARRETT VAUGHEY,

8 Respondent.

NO. C-07-158-10-FO01

FINAL ORDER

9 I. DIRECTOR'S CONSIDERATION

10 A. Procedural History: This matter has come before the Director of the Department of Financial  
11 Institutions of the State of Washington (Director) pursuant to RCW 34.05.440(1). On May 17, 2007, the  
12 Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and  
13 Notice of Intent to Enter an Order to Deny License Application and Prohibit from Industry (Statement of  
14 Charges) against Respondent Andrew Barrett Vaughey (Respondent Vaughey). A copy of the Statement of  
15 Charges is attached and incorporated into this order by this reference. The Statement of Charges was  
16 accompanied by a cover letter dated May 17, 2007, a Notice of Opportunity to Defend and Opportunity for  
17 Hearing, and a blank Application for Adjudicative Hearing. The Department served the Statement of Charges,  
18 cover letter dated May 17, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank  
19 Application for Adjudicative Hearing on Respondent Vaughey on May 17, 2007, by United States Postal  
20 Service.

21 On May 29, 2007, Respondent Vaughey filed an Application for Adjudicative Hearing. On March 19,  
22 2009, the Department made a request to the Office of Administrative Hearings (OAH) to assign an  
23 Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On October  
24 22, 2009, ALJ Anita T. Davidson issued a Notice of Pre-Hearing Conference scheduling a pre-hearing  
25 conference for Thursday, November 19, 2009, at 3:45 p.m.

//

//

1 On November 19, 2009, Respondent Vaughey failed to appear for the pre-hearing conference. On January  
2 12, 2010, ALJ Joan E. Tierney issued an Order of Dismissal - Respondent Default dismissing the appeal. OAH  
3 sent the Order of Dismissal to all parties.

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

- 6 1. Statement of Charges, cover letter dated May 17, 2007, and Notice of Opportunity to Defend and  
7 Opportunity for Hearing, with documentation of service;
- 8 2. Completed Application for Adjudicative Hearing;
- 9 3. Request to OAH for Assignment of Administrative Law Judge;
- 10 4. Notice of Pre-Hearing Conference dated October 22, 2009, with documentation of service;
- 11 5. Order of Dismissal dated January 12, 2010, with documentation of service.

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

14 II. FINAL ORDER

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

17 A. IT IS HEREBY ORDERED that:

- 18 1. Respondent Andrew Barrett Vaughey's application for a loan originator license is denied; and
- 19 2. Respondent Andrew Barrett Vaughey is prohibited from participation in the conduct of the affairs of  
20 any mortgage broker subject to licensure by the Director, in any manner, for five years from the date  
this Final Order is entered.

21 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent Vaughey has the right to file a Petition for  
22 Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the  
23 Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater,  
24 Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of

25 //

1 service of the Final Order. The Petition for Reconsideration shall not stay the effectiveness of this Order, nor is a  
2 Petition for Reconsideration a prerequisite for seeking judicial review in this matter.

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

6 C. Stay of Order. The Director has determined not to consider a Petition to Stay the effectiveness of this  
7 order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter  
8 34.05 RCW and RCW 34.05.550.

9 D. Judicial Review. Respondent Vaughey has the right to petition the superior court for judicial review of  
10 this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for  
11 Judicial Review, see RCW 34.05.510 and sections following.

12 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service is  
13 effective upon deposit of this Final Order in the United States Postal Service, declaration of service attached.

14  
15 DATED this 15<sup>th</sup> day of February, 2010.

16 STATE OF WASHINGTON  
17 DEPARTMENT OF FINANCIAL INSTITUTIONS

18   
19 SCOTT JARVIS, DIRECTOR  
20 DEPARTMENT OF FINANCIAL INSTITUTIONS



1  
2  
3  
4  
5  
6

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

IN THE MATTER OF INVESTIGATING  
the Loan Originator License Application under the  
Mortgage Broker Practices Act of Washington by:

ANDREW BARRETT VAUGHEY,

Respondent.

NO. C-07-158-07-SC01

STATEMENT OF CHARGES and NOTICE  
OF INTENT TO ENTER AN ORDER TO  
DENY LICENSE APPLICATION AND  
PROHIBIT FROM INDUSTRY

7  
8

**INTRODUCTION**

9 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial  
10 Institutions of the State of Washington (Director) is responsible for the administration of the Mortgage  
11 Broker Practices Act (Act)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.310, and  
12 based upon the facts available as of the date of this Statement of Charges, the Director, through his  
13 designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds  
14 as follows:

15  
16

**I. FACTUAL ALLEGATIONS**

17 **1.1 Respondent Andrew Barrett Vaughey** (Respondent Vaughey) submitted an application to the  
18 Department of Financial Institutions of the State of Washington (Department) for a loan originator  
19 license under Seattle Mortgage Advisors NW, Inc., a mortgage broker licensed under the Act. The on-  
20 line application was received by the Department on or about December 26, 2006.

21 **1.2 Responses to Application Questions.** The "Regulatory Action Disclosure" section of the loan  
22 originator license application includes the following instruction:

"If the answer to any of the following is "YES," provide complete details of all events or proceedings."

23 The application asks whether the applicant has ever been subject to regulatory actions, as follows:

24  
25

---

<sup>1</sup> RCW 19.146 (Amended 2006; Effective January 1, 2007)

1 Has any State or federal regulatory agency or foreign financial regulatory agency ever:

- 2 1. Found you to have made a false statement or omission or been dishonest, unfair, or  
3 unethical?
- 4 2. Found you to have been involved in a violation of a financial services-related  
5 regulation(s) or statute(s)?
- 6 3. Found you to have been a cause of financial services-related business having its  
7 authorization to do business denied, suspended, revoked, or restricted?
- 8 4. Entered an order against you in connection with a financial services-related activity?
- 9 5. Denied, suspended, or revoked your registration or license, disciplined you, or  
10 otherwise by order, prevented you from associating with a financial services-related  
11 business or restricted your activities?
- 12 6. Barred you from association with an entity regulated by such commission, authority,  
13 agency, or officer, or from engaging in a financial services-related business?
- 14 7. Issued charges or an order based on violations of any law or regulations that prohibit  
15 fraudulent, manipulative, or deceptive conduct?
- 16 8. Have you ever had an authorization to act as an attorney, accountant, or State or  
17 federal contractor that was revoked or suspended?
- 18 9. Are you now the subject of any regulatory proceeding that could result in a "yes"  
19 answer to any part of (1 to 7) or 8?

20 1.3 Respondent Vaughey answered "no" to each of the above questions.

21

22

23

1 1.4 In fact, on or about February 3, 2005, the NASD<sup>2</sup> (formerly National Association of  
2 Securities Dealers) initiated a regulatory action against Respondent Vaughey alleging fraud  
3 under Section 10(B) of the Securities Exchange Act of 1934 and SEC Rule 10B-5<sup>3</sup>. The  
4 NASD further alleged that Respondent Vaughey violated NASD Conduct Rules 2110<sup>4</sup> and  
5 2120<sup>5</sup>, and called a NASD staff member and a witness with the intent to harass and intimidate.

6 1.5 On or about April 6, 2005, the NASD accepted an Offer of Settlement from Respondent  
7 Vaughey and entered a Decision and Order against him. Pursuant to the Decision, Respondent  
8 Vaughey, without admitting or denying the allegations, consented to the entry of findings as to  
9 the violation of Section 10(B) of the Securities Exchange Act of 1934 and SEC Rule 10B-5,  
10 and agreed to sanctions including a fine of \$10,000 and an industry bar for two years, from  
11 May 16, 2005 through May 15, 2007.

12 1.6 The "Employment History" section of the loan originator application instructs applicants to  
13 provide complete employment history for the past 10 years. Respondent Vaughey failed to disclose  
14 prior employment history with Vaughey Consulting Group, Inc., Aura Financial Services, Inc., and  
15 Saint Clair Investment & Loan.

16  
17  
18 <sup>2</sup> The NASD is a non-governmental self-regulatory organization (SRO) granted regulatory authority and overseen by the U.S. Securities and Exchange  
Commission. The NASD is the front line regulator of most U.S.-based stockbrokers and brokerage firms, creating and enforcing industry regulations and  
standards based on the federal securities laws.

19 <sup>3</sup> The action alleged that Respondent, by the use of the means of instrumentalities of interstate commerce or the mails, intentionally or recklessly  
20 employed devices to defraud customers and their registered representatives by making untrue statements of material facts and/or omitting to state material  
facts necessary to make the statements made by Respondent, in light of the circumstances under which they were made, not misleading.

21 <sup>4</sup> NASD Conduct Rule 2110. Standards of Commercial Honor and Principles of Trade  
A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

22 <sup>5</sup> NASD Conduct Rule 2120. Use of Manipulative, Deceptive or Other Fraudulent Devices  
23 No member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent  
device or contrivance.

1 1.7 Respondent Vaughey was obligated by statute to answer questions on his loan originator  
2 license application truthfully, and to provide the Department with complete details of the  
3 NASD regulatory action and his employment history.

4 1.8 On-Going Investigation. The Department's investigation into the alleged violations of the Act by  
5 Respondent Vaughey continues to date.  
6

## 7 II. GROUNDS FOR ENTRY OF ORDER

8 **2.1 Requirement to Comply with Chapter or Rules.** Based on the Factual Allegations set forth in  
9 Section I above, Respondent Vaughey is in violation of WAC 208-660-500(3)(i) for willfully making  
10 an omission of material fact in connection with his loan originator application by failing to disclose the  
11 prior NASD regulatory action and employment history. A violation of WAC 208-660-500(3)(i)  
12 provides grounds, pursuant to RCW 19.146.0201(8), for entry of an order barring Respondent  
13 Vaughey from participation in the affairs of a licensed mortgage broker.

14 **2.2 Requirement to Demonstrate Character and General Fitness.** Based on the Factual  
15 Allegations set forth in Paragraph 1.4 through 1.9 above, Respondent Vaughey fails to meet the  
16 requirements of RCW 19.146.310(1)(g) and WAC 208-660-350(2)(a) by failing to demonstrate  
17 character and general fitness such as to command the confidence of the community and to warrant a  
18 belief that the business will be operated honestly and fairly within the purposes of the Act.  
19

## 20 III. AUTHORITY TO IMPOSE SANCTIONS

21 **3.1 Authority to Deny Application for Loan originator License.** Pursuant to RCW 19.146.310(2)  
22 and WAC 208-660-350(7), the Director shall deny a loan originator license if the conditions of RCW  
23

1 19.146.310(1) have not been met by the applicant, and shall notify the applicant and any mortgage  
2 brokers listed on the application of the denial.

3 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may  
4 issue an order prohibiting a loan originator from participation in the conduct of the affairs of a licensed  
5 mortgage broker for any violation of RCW 19.146.0201(1) through (9).

#### 6 7 **IV. NOTICE OF INTENT TO ENTER ORDER**

8 Respondent Vaughey's violations of the provisions of chapter 19.146 RCW and chapter 208-660  
9 WAC, as set forth above, constitute a basis for the entry of an Order under RCW 19.146.220,  
10 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310. Therefore, it is the Director's intent to  
11 **ORDER that:**

12 **4.1** Respondent Andrew Barrett Vaughey's application for a loan originator license be denied.

13 **4.2** Respondent Andrew Barrett Vaughey be prohibited from participation in the conduct of the affairs  
14 of any licensed mortgage broker, in any manner, for five years.

#### 15 16 **V. AUTHORITY AND PROCEDURE**

17 This Statement of Charges and Notice of Intent to Enter an Order to Deny License Application and  
18 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of  
19 RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the  
20 provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a  
21 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND  
22 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

1 Entered and Dated this 17<sup>th</sup> day of May, 2007.

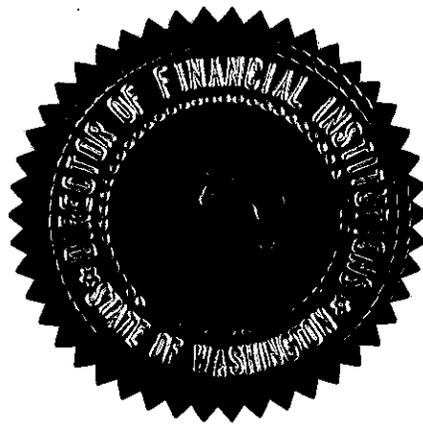
2 [Redacted Signature]

3 DEBORAH BORTNER  
4 Director  
5 Division of Consumer Services  
6 Department of Financial Institutions

6 Presented by:

7 [Redacted Signature]

8 ANTHONY W. CARTER  
9 Enforcement Attorney



11 Approved by:

12 [Redacted Signature]

13 FATIMA BATIE  
14 Financial Legal Examiner Supervisor

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25