

Terms Completed

ORDER SUMMARY – Case Number: C-07-166

Name(s): Carolyn Janette Corthell aka Carolyn Covey

Order Number: C-07-166-07-FO01

Effective Date: March 17, 2009

License Number: DFI: 35867

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)

License Effect: Denial
If applicable, you must specifically note the ending dates of terms.

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: _____



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

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

CAROLYN CORTHELL aka CAROLYN COVEY,

Respondent.

OAH NO. 2007-DFI-0030

NO. C-07-166-07-FO01

FINAL DECISION & ORDER

THIS MATTER has come before the Director ("hereinafter, "Director") of the Department of Financial Institutions (hereinafter, "Department") in the above-enumerated administrative action pursuant to Initial Decision and Order on Motion for Summary Judgment (hereinafter, "Initial Order") based upon a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application (hereinafter, "Statement of Charges") issued by the Division of Consumer Services (hereinafter, "Division") on or about June 7, 2007, under the authority of the Mortgage Broker Practices Act, Ch. 19.146 RCW (hereinafter, "MBPA").

The Respondent, CAROLYN CORTHELL aka CAROLYN COVEY (hereinafter, "Respondent") timely requested an Administrative Hearing to contest the Statement of Charges, and this matter was assigned to the Office of Administrative Hearings (hereinafter, "OAH"), which designated Administrative Law Judge Julie K. Emmal (hereinafter, "Administrative Law Judge") to hear the case. The Division made a Motion for Summary Judgment (hereinafter, "Summary Judgment Motion"), by and through its counsel, Assistant Attorney General, Charles Clark (hereinafter, "Division Counsel"). Respondent filed a response to the Summary Judgment Motion through her attorney, Brian H. Wolfe (hereinafter, "Respondent's Counsel"). Then, on March 1, 2008, the Administrative Law Judge issued an Initial Order granting the summary judgment in favor of the Division. The Initial Order contained Findings of Fact (hereinafter, "FOF") and Conclusions of Law (hereinafter, "COL").

1 More than twenty (20) days has elapsed since the entry and service of the Initial Order.
2 Respondent has not filed any petition for review of the Initial Order.

3 The Division subsequently presented this matter to the Director for entry of a final decision
4 and order prepared by the Division. However, this proposed final decision and order prepared by the
5 Division was in the nature of a *default or uncontested* final order – i.e., in a form and style that is
6 properly reserved for those cases which are either (1) uncontested from inception or (2) come before
7 the Director as a result of an applicant’s default.

8 This case *was* contested by Respondent in the sense that Respondent timely requested an
9 administrative hearing and filed a response to the Summary Judgment Motion, by and through
10 Respondent’s Counsel. Respondent therefore did *not* default. Respondent simply did not file a
11 petition for review of the Initial Order. Division’s proposed final decision and order are
12 inappropriate in form and substance, because they do not convey to the parties or to a superior court
13 (in the event of judicial review) the Director’s required deliberation, even in circumstances such as
14 these, of the sufficiency and propriety of the Administrative Law Judge’s grant of summary
15 judgment.

16 Accordingly, the Director subsequently received and has now considered the entire Record.
17 This Final Decision and Order are based upon a consideration of the entire Record, including,
18 without limitation, the following:

- 19 1. License application dated December 18, 2006 (hereinafter, “Application”);
- 20 2. Statement of Charges;
- 21 3. Application for Adjudicative Hearing;
- 22 4. Summary Judgment Motion of Division Counsel, including Memorandum in Support of
23 Department’s Motion for Summary Judgment and Declaration of William J Halstead with
24 Exhibits;
- 25 5. Respondent’s Counsel’s Memorandum in Opposition to Department’s Motion for
Summary Judgment and Declaration of Carolyn Corthell in Opposition to Department’s
Motion for Summary Judgment; and
6. The Initial Order.

1.0 Summary of the Case

This case concerns whether Respondent is automatically disqualified from obtaining a Loan
Originator License (hereinafter, “License”) by reason of having been convicted in the United States

1 District Court for the District of Oregon of two counts of Social Security Fraud and one count of
2 Theft of Government Property, and if so, whether, as argued by Respondent's Counsel, the applicable
3 date of "conviction" was the date of jury verdict (June 28, 2000) instead of the date of sentencing
4 (October 31, 2000). A prospective licensee is automatically disqualified from obtaining a License if
5 convicted of any type of felony or a gross misdemeanor involving dishonesty or financial misconduct
6 within 7 years of the date of application for a loan originator license.¹

6 2.0 Preliminary Considerations

7 2.1 Standards for Summary Judgment in Administrative Actions. The Director takes note
8 preliminarily of the following standards which are to be applied to motions for summary judgment in
9 an administrative action under the Administrative Procedures Act, Chapter 34.05 RCW (hereinafter,
10 "APA"). The Department has adopted the Model Rules of Procedure, Chapter 10-08 WAC, except to
11 the extent of any conflict with the Department's Rules of Procedure.² WAC 10-08-135 sets forth the
12 standards to be followed by the Department and the Administrative Law Judge, as its agent, when
13 considering the Summary Judgment Motion and the Summary Judgment Response, and declares that
14 "[a] motion for summary judgment may be granted and an order issued [only] if the written record
15 shows that there is no genuine issue as to any material fact and that the moving party is entitled to
16 judgment as a matter of law." In evaluating the application of this standard, the Director may rely on
17 applicable law from sources other than WAC 10-08-135 itself and must be respectful of the
18 constitutional rights of respondents.³ To that end, the Director is required to weigh on review all
19 pleadings, evidence and argument in a light most favorable to the non-moving party.⁴ If there is any
20 inference of a triable issue of fact, then summary judgment is inappropriate.⁵ Litigants are entitled to

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¹ RCW 19.146.310(1) (d and (2) and WAC 208-660-350(2)(c).

22 ² WAC 208-08-020(1) declares: "The department adopts the model rules of procedure as set forth in WAC 10-08-035 through 10-08-230. If there is a
23 conflict between the model rules and this chapter, the rules in this chapter shall govern. Wherever the term 'agency' appears in the model rules it means
the department of financial institutions."

24 ³ WAC 10-08-220 declares: "Nothing in chapter 10-08 WAC is intended to diminish the constitutional rights of any person or to limit or modify
additional requirements imposed by statute, including the Administrative Procedure Act."

25 ⁴ *Reid v. Pierce County*, 136 Wn.2d 195, 201, 961 P.2d 333 (1998).

⁵ *Davis v. W. One Auto. Group*, 140 Wn. App. 449, 456 (2007).

1 a dispositive hearing on all issues of fact and law.¹ These principles apply equally to the
2 Administrative Law Judge and to the Director evaluating the Initial Order.²

3 2.2 Proper Consideration by Director absent Petition for Review. Respondent did not file
4 a petition for review contesting the Initial Order. However, even when a party has *not* filed a petition
5 for review, the Director still has the authority and duty, prior to entering a Final Decision and Order,
6 to consider whether any part of the Initial Order is *not* supported by the Record³ and whether
7 confirmation of the Initial Order, without modification, would be an error of law. Indeed, with
8 regard to the COL as contained in the Initial Order, the Director is obliged, in the manner of a
9 reviewing court, to consider the statutes and implementing regulations of the Division under the error
10 of law standard, which permits the Director to substitute his judgment for that of the Statement of
11 Charges and the Administrative Law Judge's Initial Order.⁴

12 2.3 Director's Consideration of FOF and COL. After due consideration of the entire
13 Record, the Director is of the decided view that the Administrative Law Judge was correct in finding
14 that the date of "conviction" was the date of the jury verdict on June 28, 2000. The Director notes
15 that the Division did not make a Petition for Review of the Initial Order based upon this aspect of the
16 Administrative Law Judge's Initial Order. Therefore, the Director has determined that the Initial
17 Order is appropriate in its entirety.

18 3.0 Findings of Fact. Now, therefore, the Director re-affirms FOF 1 through FOF 7, inclusive,
19 at pages 1-2 of the Initial Order.

20 4.0 Conclusions of Law. Now, therefore, the Director re-affirms: COL 1 through COL 6,
21 inclusive, at page 2 of the Initial Order.

22 5.0 Final Order. Having made Findings of Fact and Conclusions of Law as set forth above, IT IS
23 HEREBY ORDERED AS FOLLOWS:

24 5.1 Denial of License. The application of Respondent, CAROLYN CORTHELL aka
25 CAROLYN COVEY, for a Loan Originator License is DENIED.

¹ *Jones v. Allstate Ins. Co.*, 146 Wn.2d 291, 300-01, 45 P.3d 1068 (2002), citing *Lybbert v. Grant County*, 141 Wn.2d 29, 34, 1 P.3d 1124 (2000).

² *Folsom v. Burger King*, 135 Wn.2d 658, 663, 958 P.2d 301 (1998).

³ See RCW 34.05.464(4); see also *Northwest Steelhead v. Washington State Department of Fisheries*, 78 Wn. App. 778, 896 P.2d 1292 (1995); see also *Towle v. Department of Fish and Wildlife*, 94 Wn.App. 196, 971 P.2d 591 (1999).

⁴ See *Aponte v. Dep't of Soc. & Health Servs.*, 92 Wn. App. 604, 616-17, 965 P.2d 626 (1998), *review denied*, 137 Wn.2d 1028 (1999); cited in Nationscapital at p. 737.

1 5.2 Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
2 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
3 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
4 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten (10) days of service of this Final Order upon Respondent. The
6 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
7 Reconsideration a prerequisite for seeking judicial review in this matter. A timely Petition for
8 Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the
9 agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the
10 date by which it will act on a petition.

11 5.3 Stay of Order. The Director has determined not to consider a Petition to stay
12 the effectiveness of this order. Any such requests should be made in connection with a Petition for
13 Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

14 5.4 Judicial Review. Respondent has the right to petition the superior court for judicial
15 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
16 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

17 5.5 Service. For purposes of filing a Petition for Reconsideration or a Petition for
18 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
19 attached hereto.

20 5.6 Effectiveness and Enforcement of Final Order. Pursuant to the Administrative
21 Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective immediately
22 upon deposit in the United States Mail.

23 Dated at Tumwater, Washington, on this 17th day of March, 2009.

24 WASHINGTON STATE DEPARTMENT
25 OF FINANCIAL INSTITUTIONS

By:


Scott Jarvis, Director



STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS

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VANCOUVER OFFICE OF
ADMINISTRATIVE HEARINGS

In Re:

Docket No. 2007-DFI-0030
DFI No. C-07-166-07-SC01

Carolyn Corthell aka Carolyn Covey

INITIAL ORDER

Appellant

License

On August 15, 2007, Administrative Law Judge Julie Emmal, heard arguments on a Motion for Summary Judgment (the Motion) in the above matter filed by the Department of Financial Institutions (hereinafter, "Department"). The Appellant, Carolyn Corthell, appeared through her attorney Brian H. Wolfe. The Department was represented by Charles E. Clark, Assistant Attorney General (AAG).

The Department filed their Motion in writing by September 17, 2007 and Ms Corthell filed her response as required by September 28, 2007.

FINDINGS OF FACT

1. On or about December 18, 2006, Ms Corthell submitted an on-line application to the Department for a loan originator license.
2. As part of her application, Ms Corthell submitted a Uniform Individual Mortgage/License Registration and Consent Form.
3. Ms Corthell responded on her application to questions relating to being charged with and/or convicted of a felony with, "yes, one time in 1999. These questions are confusing - I was convicted of a crime, but never one dealing with my employment in the financial organization I have worked in."
4. On October 13, 1999, Ms Corthell was indicted in the United States District Court for the District of Oregon, with two counts of Social Security Fraud and one count of Theft of Government Property, each being a felony.
5. On June 28, 2000, Ms Corthell was convicted, following a jury trial, of the charges and a sentence was imposed on October 31, 2000.

6. On June 07, 2007, the Department issued a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application on the basis that Ms Corthell was convicted of a felony within seven years of the filing of her application.

7. On or about June 30, 2007, Ms Corthell filed a timely request for a hearing.

CONCLUSIONS OF LAW

1. Jurisdiction. There is jurisdiction to hear and decide the Motion for Summary Judgment. Revised Code of Washington (RCW) 34.05.437, Washington Administrative Code (WAC) 10-08-135.

2. Summary Judgment. A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. WAC 10-08-135. In a summary judgment motion, the moving party bears the initial burden of showing that there is no issue of material fact. *Young v. Key Pharmaceuticals*, 112 Wn.2d 216, 225, 770 P.2d 182 (1989). If the moving party meets this initial burden, the burden shifts to the nonmoving party to prove that there are material issues of fact. *In re Dependency of L. S.*, 62 Wn.App. 1, 9, 813 P.2d 133 (1991). Questions of fact may be determined as a matter of law if "reasonable minds could reach but one conclusion." *Ruff v. County of King*, 125 Wn.2d 697, 704, 887 P.2d 886 (1995).

3. RCW 19.146.310 requires, in relevant part, that the director shall issue a license after the director concludes that the applicant has not been convicted of a felony within seven years of the date of the application.

4. Ms Corthell cites WAC 208.66.010(14) and Black's Law Dictionary as authorities for the interpretation that the date of the conviction was June 28, 2000 rather than October 31, 2000. The undersigned finds these arguments persuasive and concludes the conviction at issue occurred on June 28, 2000.

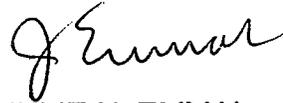
5. As a result of her felony conviction on June 28, 2000, Ms Corthell cannot be issued a license if she applied before June 28, 2007, which she did.

6. There is no dispute concerning the material fact that Ms Corthell filed the application at issue before the seven years had run following her conviction. Therefore, the Department is required to deny an application for a license when the applicant has been convicted of a felony within seven years of the application. Accordingly, the undersigned concludes that Department is entitled to judgment as a matter of law, and the Motion for Summary Judgment in the present matter should be granted.

DECISION

The Motion for Summary Judgment made by the Department on on August 15, 2007, is GRANTED. The Appellant's License Application is DENIED. The Appellant's Request for Administrative Hearing is DISMISSED with prejudice.

Served on the date of mailing.



JULIE K. EMMAL
Administrative Law Judge

cc: Carolyn J. Corthell
Brian Wolfe
Charles E. Clark, AAG
Fatima Batie
Barb Cleveland, OAH

NOTICE TO THE PARTIES

Pursuant to RCW 34.05.464 and WAC 10-08-211, any party to this proceeding may file a petition for review of this initial order. You must file your petition for review with the Director of the Department of Financial Institutions, PO Box 41200, Olympia, WA 98504-1200 [mailing address] or Department of Financial Institutions, 150 Israel Rd. S.W., Tumwater, WA 98501 [physical address]. The petition for review must be filed within twenty (20) days from the date this initial order was mailed to you. A copy of the petition for review must be sent to all parties of record. Your petition for review must specify the portions of the initial order with which you disagree, and must refer to the evidence in the record which supports your position.

Any party to this proceeding may file a reply to a petition for review. The reply must be filed with the Director of the Department of Financial Institutions at the address above within ten (10) days from the date the petition for review was mailed.

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**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:

CAROLYN CORTHELL aka, CAROLYN
COVEY,

Respondent.

NO. C-07-166-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION

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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 19.146.310, 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondent Carolyn Corthell aka Carolyn Covey (Respondent Corthell) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Crown Point Enterprises, Inc. dba Lighthouse Financial Group, a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 18, 2006.

1.2 Prior Criminal Acts. On October 31, 2000 Respondent Corthell was convicted of the following three crimes, all felonies pursuant to 42 USC Sec. 408 and 18 USC Sec. 3559, in the United States District Court, District of Oregon:

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|---------------------------------|-------------------------------------|
| a. 42 USC Sec. 408(a)(4) | Social Security Fraud |
| b. 42 USC Sec. 408(a)(4) | Social Security Fraud |
| c. 18 USC Sec. 641 | Theft of Government Property |

¹ RCW 19.146 (Amended 2006; Effective January 1, 2007)

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

2 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,
3 Respondent Corthell fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by
4 having been convicted of a felony within seven years of the filing of the present application.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
7 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
8 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
9 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
10 of the denial.

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

12 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
13 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
14 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.
15 Therefore, it is the Director's intention to ORDER that:

16 **4.1** Respondent Carolyn Corthell's application for a loan originator license be denied.

17 **V. AUTHORITY AND PROCEDURE**

18 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application
19 (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW
20 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative
21 Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF
22 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of
23 Charges.
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1 Dated this 17th day of June, 2007.

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DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

4 Presented by:

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8 WILLIAM J. HALSTEAD
Financial Legal Examiner



9 Approved by:

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12 FATIMA BATIE
13 Financial Legal Examiner Supervisor

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