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ATTORNEY GENERAL
OF WASHINGTON

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GOVERNMENT COMPLIANCE
& ENFORCEMENT



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

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

JESSE ERIC GREEN,

Respondent.

OAH Docket No. 2008-DFI-0011

No. C-07-268-07-FO01

FINAL DECISION & ORDER
AFFIRMING SUMMARY JUDGMENT
AND REVOKING LICENSE

THIS MATTER has come before the Director ("hereinafter, "Director") of the Department of Financial Institutions (hereinafter, "Department") in the above-enumerated administrative action in regard to the online Loan Originator License Application of JESSE ERIC GREEN dated December 21, 2006 (hereinafter, "License Application") and pursuant to Proposed Findings of Fact, Conclusions of Law and Initial Order on Motion For Summary Judgment (hereinafter, "Initial Order"), based upon a Statement of Charges and Notice of Intention to Enter an Order to Revoke License (hereinafter, "Statement of Charges") issued by the Division of Consumer Services (hereinafter, "Division") on or about December 18, 2007, under the authority of the Mortgage Broker Practices Act, Ch. 19.146 RCW (hereinafter, "MBPA").

1.0 Procedural History. The Respondent, JESSE ERIC GREEN (hereinafter, "Respondent") timely requested an Administrative Hearing to contest the Statement of Charges (hereinafter, "Application for Hearing"), and this matter was assigned to the Office of Administrative Hearings, which designated Administrative Law Judge Michael W. Furtado (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, Kate Reynolds (hereinafter, "Division Counsel"). Respondent filed a "Response to the Department's Motion for Summary of Judgement (sic)" (hereinafter,

1 "Response"). Based upon the record, including the Statement of Charges, Summary Judgment
2 Motion, Declaration of William Halstead in support of Summary Judgment Motion, the
3 Respondent's Loan Originator Application, Respondent's Pleas of Guilty (dated December 3,
4 2001, and February 4, 2005, respectively), and the Respondent's filed Response, the
5 Administrative Law Judge issued the Initial Order on July 3, 2008, containing findings of fact
6 (hereinafter, "FOF") and conclusions of law (hereinafter, "COL").
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8 More than twenty (20) days has expired since service by mail on July 3, 2008, of the
9 Initial Order, and neither party has brought before the Director a petition for review of the
10 Initial Order.

11 The Director has now considered –

- 12 1. The License Application;
- 13 2. The Statement of Charges;
- 14 3. The Application for Hearing;
- 15 4. Memorandum in Support of Summary Judgment Motion;
- 16 5. The Declaration of William Halstead in support of Summary Judgment Motion,
17 (hereinafter, "Halstead Declaration"), and all supporting exhibits, including
18 evidence of Respondent's guilty pleas dated December 3, 2001, and February 4,
19 2005;
- 20 6. Respondent's Response; and
- 21 7. The Initial Order.

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23 2.0 Summary of the Case. This is a case in which Respondent was licensed by the
24 Division on June 20, 2007, to conduct business as a Loan Originator. However, the Division
25 discovered that Respondent was convicted of theft in the third degree in Kent Municipal Court
26 on December 3, 2001, within less than seven (7) years of the date of his license, and was
27 subsequently convicted on February 4, 2005, in Aukeen District Court of theft in the third
28 degree. Both crimes are gross misdemeanors involving financial misconduct. Both
29 convictions were had within seven (7) years of the grant of license. Respondent failed to
30 make a full disclosure of his past criminal conduct on his License Application and simply
31 stated that he had "got in trouble for shoplifting when I was 18 in 2001," ignoring completely
32 any mention of the 2005 conviction. In his Response, Respondent did not dispute any of the
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1 material findings contained in the Division's Memorandum in Support of Summary Judgment
2 Motion.

3 Under RCW 19.146.220(2)(b), the Director may revoke a license for false statements
4 or omissions of material information on the application that, if known, would have allowed
5 the Director to deny the application for the original license.

6 3.0 Director's Considerations.

7 3.1 Standards for Summary Judgment in Administrative Actions. The Department
8 has adopted the Model Rules of Procedure, Chapter 10-08 WAC, except to the extent of any
9 conflict with the Department's Rules of Procedure.¹ WAC 10-08-135 sets forth the standards
10 to be followed by the Department and the Administrative Law Judge, as its agent, when
11 considering the Summary Judgment Motion, Batie Declaration, Respondent's Reply, and
12 Dekman Declaration, and declares that "[a] motion for summary judgment may be granted
13 and an order issued [only] if the written record shows that there is no genuine issue as to any
14 material fact and that the moving party is entitled to judgment as a matter of law." In
15 evaluating the application of this standard, the Director may rely on applicable law from
16 sources other than WAC 10-08-135 itself and must be respectful of the constitutional rights of
17 respondents.² To that end, the Director is required to weigh on review all pleadings, evidence
18 and argument in a light most favorable to the non-moving party.³ If there is any inference of a
19 triable issue of fact, then summary judgment is inappropriate.⁴ Litigants are entitled to a
20 dispositive hearing on all issues of fact and law.⁵ Summary judgment may be granted if
21 reasonable minds could reach only one conclusion based upon the facts in evidence, and
22 neither the non-moving party, Administrative Law Judge or the Director may rely upon
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27 ¹ 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
28 there is a conflict between the model rules and this chapter, the rules in this chapter shall govern. Wherever the term 'agency' appears in the
29 model rules it means the department of financial institutions."

30 ² 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
31 modify additional requirements imposed by statute, including the Administrative Procedure Act."

32 ³ Reid v. Pierce County, 136 Wn.2d 195, 201, 961 P.2d 333 (1998).

33 ⁴ Davis v. W. One Auto. Group, 140 Wn. App. 449, 456 (2007).

34 ⁵ 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).

1 speculation or argumentative assertions that unresolved factual issues remain to be tried.⁶
2 These principles apply equally to the Administrative Law Judge and to the Director evaluating
3 the Initial Order.⁷

4 3.2 Appropriateness of Summary Judgment. The Director finds that there is only
5 one conclusion in this case based upon the record and that summary judgment was appropriate
6 as a matter of law.

7 IT IS HEREBY ORDERED AS FOLLOWS:

8 4.1 Findings of Fact Affirmed. FOF 1 and 2, inclusive, at page 2 of the Initial Order,
9 are hereby AFFIRMED and incorporated herein.

10 4.2 Conclusions of Law Affirmed. COL 1 through 5, inclusive, at pages 2-3 of the
11 Initial Order, are hereby AFFIRMED and incorporated herein.

12 4.3 Summary Judgment. Summary Judgment is hereby AFFIRMED.

13 4.4 Denial of License. The Loan Originator License of Respondent, JESSE ERIC
14 GREEN, is hereby REVOKED.

15 4.5 Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to
16 file a Petition for Reconsideration stating the specific grounds upon which relief is requested.
17 The Petition must be filed in the Office of the Director of the Department of Financial
18 Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail
19 at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of this
20 Final Order upon Respondent. The Petition for Reconsideration shall not stay the
21 effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking
22 judicial review in this matter. A timely Petition for Reconsideration is deemed denied if,
23 within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of
24 the petition or (b) serve the parties with a written notice specifying the date by which it will
25 act on a petition.

26 4.6 Stay of Order. The Director has determined not to consider a Petition to Stay
27 the effectiveness of this order. Any such requests should be made in connection with a
28 Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

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33 ⁶ White v. State, 131 Wn.2d 1, 9, 929 P.2d 396 (1997).

34 ⁷ Folsom v. Burger King, 135 Wn.2d 658, 663, 958 P.2d 301 (1998).

1 4.7 Judicial Review. Respondent has the right to petition the superior court for
2 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the
3 requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections
4 following.

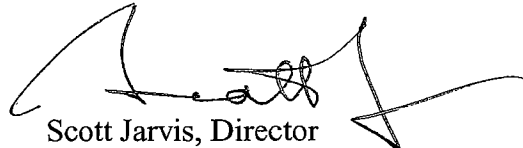
5 4.8 Service. For purposes of filing a Petition for Reconsideration or a Petition
6 for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of
7 service attached hereto.

8 4.9 Effectiveness and Enforcement of Final Order. Pursuant to the Administrative
9 Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective
10 immediately upon deposit in the United States Mail.

11 Dated at Tumwater, Washington, on this 8th day of April, 2009.


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14 WASHINGTON STATE DEPARTMENT
15 OF FINANCIAL INSTITUTIONS

16 By:

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18 Scott Jarvis, Director
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This is to certify that this FINAL DECISION & ORDER has been served upon the following parties on April 9, 2009, by depositing a copy of same in the United States mail, postage prepaid.

By: 
Susan Putzier
Executive Assistant to the Director

Jesse Eric Green
10344 Wallingford Avenue N.
Seattle, WA 98102

James R. Brusselback
Chief of Enforcement
Division of Consumer Services
Department of Financial Institutions
P.O. Box 41200
Olympia, WA 98504-1200

1 **1.3 Failure to Disclose Material Information.** Respondent Green, in his loan originator application,
2 disclosed that he had "got in trouble for shoplifting when I was 18 in 2001." Respondent Green acknowledged
3 pleading guilty to shoplifting, but failed to disclose that he had been found guilty in both cases outlined in
4 paragraph 1.2 above.

5 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
6 Respondent continues to date.

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

8 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,
9 Respondent Green fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by
10 having been convicted of a gross misdemeanor involving dishonesty or financial misconduct within seven years
11 of the filing of the his application.

12 **2.2 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
13 forth in Section I above, Respondent Green fails to meet the requirements of RCW 19.146.310(1)(g) and WAC
14 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence
15 of the community and to warrant a belief that the business will be operated honestly and fairly within the
16 purposes of the Act.

17 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

18 **3.1 Authority to Issue Temporary Order to Cease and Desist.** Pursuant to RCW 19.146.227,
19 the Director is authorized to issue a temporary order to cease and desist whenever the Director determines that
20 the public is likely to be substantially injured by delay in issuing a cease and desist order. Based on the Factual
21 Findings and Grounds for Entry of Order set forth above, Respondent Green has fraudulently obtained a loan
22 originator license for which he was not eligible to obtain. As a result, there is a substantial likelihood that any
23 loan originator activities conducted by Respondent Green will not be covered by the surety bonds posted by the
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1 mortgage brokers with which Respondent is employed, and the public is likely to be substantially injured by
2 the lack of said surety bond coverage.

3 IV. ORDER

4 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue Temporary
5 Order to Cease and Desist, and pursuant to RCW 19.146.227, the Director determines that the public is likely
6 to be substantially harmed by a delay in entering a cease and desist order. Therefore, the Director ORDERS
7 that:

8 4.1 Respondent Green shall immediately cease and desist from participating in the conduct of the
9 affairs of any mortgage broker subject to licensure by the Director, in any manner, specifically including, but not
10 limited to originating any residential mortgage loan, assisting with the origination of any residential mortgage
11 loan, and holding himself out as able to assist any person with applying for or obtaining any residential
12 mortgage loan.

13 4.2 This order shall take effect immediately and shall remain in effect unless set aside, limited, or
14 suspended in writing by an authorized court.

15 NOTICE

16 PURSUANT TO CHAPTER 19.146 RCW, YOU ARE ENTITLED TO A HEARING WITHIN 14
17 DAYS OF REQUEST TO DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF
18 YOU DESIRE A HEARING, THEN YOU MUST RETURN THE ATTACHED APPLICATION FOR
19 ADJUDICATIVE HEARING INCORPORATED HEREIN BY THIS REFERENCE. FAILURE TO
20 COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE HEARING FORM SO THAT IT IS
21 RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS OF
22 THE DATE THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A DEFAULT AND WILL
23 RESULT IN THE LOSS OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS DEFINED AS POSTING
24 IN THE U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN ADDRESS. BE ADVISED THAT
25

1 DEFAULT WILL RESULT IN THIS ORDER TO CEASE AND DESIST BECOMING PERMANENT ON THE
2 TWENTY-FIRST (21ST) DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

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4 WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED WITH THIS TEMPORARY ORDER
5 TO CEASE AND DESIST, YOU MAY APPLY TO THE SUPERIOR COURT IN THE COUNTY OF
6 YOUR PRINCIPAL PLACE OF BUSINESS FOR AN INJUNCTION SETTING ASIDE, LIMITING, OR
7 SUSPENDING THIS ORDER PENDING THE COMPLETION OF THE ADMINISTRATIVE
8 PROCEEDINGS PURSUANT TO THIS NOTICE.

9 DATED this 19th day of December, 2007.



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

JESSE ERIC GREEN,

Respondent.

NO. C-07-268-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE

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:

I. FACTUAL ALLEGATIONS

1.1 Respondent Jesse Eric Green (Respondent Green) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a loan originator on June 20, 2007, and continues to be licensed to date. Respondent Green is licensed to conduct the business of a Loan Originator for Access Mortgage Co. Inc., which is a mortgage broker licensed under the Act.

1.2 Prior Criminal Acts. On December 3, 2001, the Respondent was convicted of the gross misdemeanor Theft in the Third Degree pursuant to King County Code 9.02.50(D) and RCW 9A.56.050 in the Kent Municipal Court for the City of Kent (State of Washington).

On February 4, 2005, the Respondent was convicted of the gross misdemeanor Theft in the Third Degree, pursuant to RCW 9A.56.050 in the Aukeen Division of the King County Court of Washington.

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

1 **1.3 Failure to Disclose Material Information.** Respondent Green, in his loan originator application,
2 disclosed that he had “got in trouble for shoplifting when I was 18 in 2001.” Respondent Green acknowledged
3 pleading guilty to shoplifting, but failed to disclose that he had been found guilty in both cases outlined in
4 paragraph 1.2 above.

5 **1.4 On-Going Investigation.** The Department’s investigation into the alleged violations of the Act by
6 Respondent continues to date.

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

8 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,
9 Respondent Green fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by
10 having been convicted of a gross misdemeanor involving dishonesty or financial misconduct within seven years
11 of the filing of the his application.

12 **2.2 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
13 forth in Section I above, Respondent Green fails to meet the requirements of RCW 19.146.310(1)(g) and WAC
14 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence of
15 the community and to warrant a belief that the business will be operated honestly and fairly within the purposes
16 of the Act.

17 **III. AUTHORITY TO IMPOSE SANCTIONS**

18 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(b), the Director may revoke a license
19 for false statements or omission of material information on the application that, if known, would have allowed
20 the director to deny the application for the original license.

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

22 Respondent’s violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
23 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
24 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.

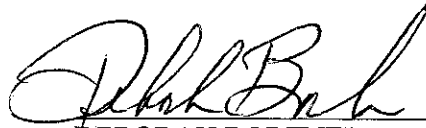
25 Therefore, it is the Director’s intention to ORDER that:

1 4.1 Respondent Jesse Eric Green's loan originator license be revoked.

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3 **V. AUTHORITY AND PROCEDURE**

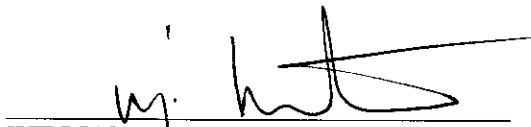
4 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License (Statement of
5 Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and
6 RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act).
7 Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
8 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

9 Dated this 18th day of December, 2007.

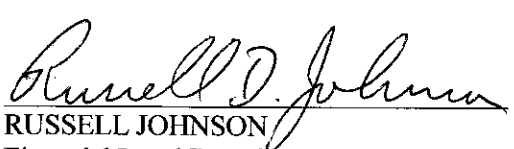
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12 DEBORAH BORTNER
13 Director
14 Division of Consumer Services
15 Department of Financial Institutions

16 Presented by:

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18 WILLIAM HALSTEAD
19 Financial Legal Examiner

20 Approved by:

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22 RUSSELL JOHNSON
23 Financial Legal Examiner Supervisor
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