

Terms Completed

ORDER SUMMARY – Case Number: C-07-386

Name(s): Aleksandr Zhomiru

Order Number: C-07-386-09-CO02

Effective Date: August 3, 2009

License Number: DFI: 39665 [NMLS: MLO-38107]
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: 25 week suspension; 23 weeks stayed for 2 years; 2 weeks served

Not Apply Until: n/a

Not Eligible Until: _____

Prohibition/Ban Until: n/a

Investigation Costs	\$480	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$2,500	Due	Paid <input checked="" 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: One compliance examination per year of stay at Respondent's expense (up to \$1,000).

RECEIVED

JUN 15 2009

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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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:

ALEKSANDR ZHOMIRU,
Loan Originator,

Respondent.

NO. C-07-386-09-CO02

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Aleksandr Zhomiru (hereinafter Respondent), Loan Originator, and finding that the issues raised in the above-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 have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-386-08-SC02 (Statement of Charges), entered December 15, 2008, (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 hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-captioned matter 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. Respondent is agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

CONSENT ORDER
C-07-386-09-CO02
Aleksandr Zhomiru

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

1 Based upon the foregoing:

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

4 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
5 before an administrative law judge, and hereby waives his right to a hearing and any and all administrative
6 and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly,
7 Respondent, by his signature below, withdraws his appeal to the Office of Administrative Hearings (OAH).

8 C. **No Admission of Liability.** It is AGREED that Respondent does not admit to any wrongdoing
9 by entry of this Consent Order.

10 D. **License Suspension.** It is AGREED that Respondent's license to conduct the business of a loan
11 originator shall be suspended for a period of twenty-five weeks. It is further AGREED that twenty-three
12 weeks of the license suspension shall be stayed for a period of two years from the date of entry of this
13 Consent Order. Respondent represents that he has served the remaining two week period of license
14 suspension from June 1, 2009, through June 14, 2009, and has completed a Declaration of Inactivity
15 stating that he did not conduct any business as a loan originator for that period of time.

16
17 If upon expiration of said two year period the stay has not been previously lifted, and the twenty-
18 three week license suspension has not been previously imposed, and if a notification to lift the stay or a
19 proceeding to lift the stay is not then pending by the Director to impose the twenty-three week license
20 suspension, this Consent Order shall be considered fully performed by Respondent and completed. If on
21 the expiration of two years from the date of entry of this Consent Order a notification to lift the stay or a
22 proceeding to lift the stay is pending by the Director to impose the twenty-three week license suspension,
23 then those proceedings shall continue according to the terms of this Consent Order.

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1 E. **Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$2,500 in the form of
2 a cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

3 F. **Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation
4 fee of \$480, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry
5 of this Consent Order. Respondent may pay both the fine and investigation fee in the form of one cashier's
6 check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

7 G. **Compliance Examinations.** It is AGREED that Respondent is subject to compliance
8 examinations during the two-year period of stayed license suspension to be conducted by the Department
9 at the Department's discretion (not to exceed one compliance examination per calendar year), at
10 Respondent's expense (not to exceed \$1,000 per compliance examination). Respondent further AGREES
11 to promptly respond and address any and all issues, if any, identified in the compliance examinations to the
12 satisfaction of the Department. If the issues identified by the Department in any compliance examination
13 result in the Department seeking to lift the stay and impose the twenty-three week license suspension,
14 Respondent AGREES to be responsible for the examination costs of the Department in excess of \$1,000.
15

16 H. **Lifting of Stay and Imposing Stayed License Suspension.** It is AGREED that:

17 1. If the Department determines that Respondent is in violation of the Act or any of
18 the terms and conditions of this Consent Order, and the Department accordingly seeks to lift the
19 stay and impose the twenty-three week license suspension, the Department first will notify
20 Respondent, in writing, of its determination.

21 2. The Department's notification will include:

- 22 a. A description of the alleged noncompliance;
- 23 b. A statement that because of the noncompliance, the Department seeks to
24 lift the stay and impose the twenty-three week license suspension;

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c. The opportunity for Respondent to contest the Department’s determination of noncompliance in an administrative hearing before an Administrative Law Judge (ALJ) of OAH; and

d. A copy of this Consent Order. The notification and hearing process provided in this Consent Order applies only to this Consent Order and is provided solely in the event Respondent chooses to contest the Department’s determination of noncompliance.

3. Respondent will be afforded ten business days from the date of receipt of the Department’s notification to request, in writing, an administrative hearing to be held before an ALJ from the OAH.

4. Respondent’s request for hearing must be sent to the Department and received by the Department within ten business days of the date of the receipt of the Department’s notice.

5. Respondent, in addition to his request for hearing, may provide a written response to include any information pertaining to the alleged noncompliance.

6. The administrative hearing shall be expedited and follow the timing and processes described in this Consent Order.

7. If Respondent does not request the hearing within the stated time, the Department immediately will impose the stayed twenty-three week license suspension and pursue whatever action it deems necessary to address the new violations of the Act.

8. If requested, the hearing will be held within fifteen business days (or as soon as the schedule of the ALJ permits) from the due date for Respondent’s request for hearing or from the date of receipt of Respondent’s timely request for hearing, whichever is sooner. The parties will accommodate the prompt scheduling of the hearing.

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9. The scope and issues of the hearing are limited solely to whether or not Respondent is in violation of the Act or any of the terms and conditions of this Consent Order.

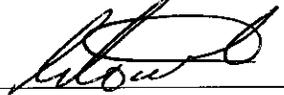
10. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party may file a Petition for Review with the Director of the Department.

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

J. Voluntarily Entered. It is AGREED that the undersigned Respondent has voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

K. Completely Read, Understood, and Agreed. It is AGREED that Respondent has read this Consent Order in its entirety and fully understands and agrees to all of the same.

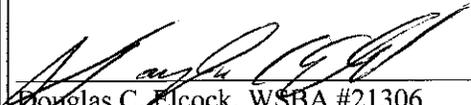
RESPONDENT:



Aleksandr Zhomiru
Loan Originator

06/09/09
Date

Approved for Entry:



Douglas C. Elcock, WSBA #21306
Attorney at Law
Attorney for Respondent

6/9/09
Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 3rd DAY OF August, 2009.



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

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

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

NO. C-07-386-08-SC02

ALEKSANDR ZHOMIRU,
Loan Originator,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO SUSPEND LICENSE, IMPOSE
FINE, AND COLLECT INVESTIGATION FEE

Respondent.

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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 19.146.235, 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 Respondent. Aleksandr Zhomiru, (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a loan originator on June 29, 2007, and has continued to be licensed to date. Respondent is licensed to conduct the business of a loan originator for Crown Point Enterprises, Inc., a licensed mortgage broker, but at all times relevant to this Statement of Charges Respondent was employed by Morgan Financial, Inc., a licensed mortgage broker.

1.2 Operating Under Unlicensed Trade Name. From at least January 2006 through December 2006, Respondent used the trade name "World Family Lending" in association with his branch of Morgan Financial, Inc. At no time was Respondent licensed by the Department to use that trade name to conduct business as a loan originator.

¹ RCW 19.146 (1994) OR (2006) OR both

1 **1.3 Prohibited Acts.**

2 A. On December 7, 2005, Respondent took a telephonic application from borrower V.G. for a
3 refinance of the borrower's primary residence on NE 97th Circle, Vancouver, Washington. The application,
4 Good Faith Estimate (GFE), and other mandatory disclosures, however, were not signed by the borrower until
5 January 31, 2006, and Respondent's loan file contains no information showing that the borrower received the
6 application or any mandatory disclosures prior to that date. The application also disclosed a rental property for
7 the borrower located on E. 17th, La Center, Washington, and reports the borrower's monthly income as \$6,950.

8 The GFE signed by the borrower on January 31, 2006, GFE did not specify any fees which would be
9 paid to Respondent or Morgan Financial by the borrower. The Final HUD-1 Settlement Statement (HUD-1),
10 however, shows that Respondent and Morgan Financial received \$895 in fees from the borrower's funds at
11 closing. Additionally, the initial GFE improperly disclosed a Yield Spread Premium of "0-3%" in an
12 unnumbered section entitled "Compensation to Broker."

13 On December 7, 2005, Respondent also took two telephonic applications from borrower V.G. for the
14 purchase of a primary residence on 100th Court, Vancouver, Washington. These applications were signed by
15 the borrower on December 10, 2005, but listed the borrower's present address as being on E. 17th, La Center,
16 Washington; not on NE 97th Circle, Vancouver. In fact, these applications did not even disclose that the
17 borrower owned property on NE 97th, Vancouver. Additionally, these applications report the borrower's
18 income to be \$7,950.

19 The December 10th GFE for the first lien mortgage for the 100th Court, Vancouver, transaction only
20 specified one fee would be paid by the borrower to Respondent and Morgan Financial – a mortgage broker fee
21 of \$415. The HUD-1 for the first lien mortgage, however, shows that Respondent and Morgan Financial
22 received \$3,148 in fees from the borrower at closing. The December 10th GFE for the second lien mortgage for
23 the 100th Court, Vancouver, transaction did not specify any fees which the borrower would have to pay to the
24 Respondent or Morgan Financial. The HUD-1 for the second lien mortgage, however, shows that Respondent
25

1 and Morgan Financial received \$930 in fees from the borrower at closing. Finally, both initial GFEs improperly
2 disclosed a Yield Spread Premium of "0-3%" in an unnumbered section entitled "Compensation to Broker."

3 **B.** On March 8, 2006, Respondent took two telephonic applications from borrower L.G. for first
4 and second lien mortgage loans to purchase a primary residence in Vancouver, Washington. The application,
5 Good Faith Estimate (GFE), and other mandatory disclosures, however, were not signed by the borrower until
6 March 20, 2006, and Respondent's loan file contains no information showing that the borrower received the
7 application or any mandatory disclosures prior to that date.

8 The March 8th GFE for the first lien mortgage transaction only specified one fee which would be paid
9 by the borrower to Respondent and Morgan Financial – a mortgage broker fee of \$415. The HUD-1 for the first
10 lien mortgage, however, shows that Respondent and Morgan Financial received \$3,128 in fees from the
11 borrower at closing. The March 8th GFE for the second lien mortgage transaction did not specify any fees
12 which the borrower would have to pay to the Respondent or Morgan Financial. The HUD-1 for the second lien
13 mortgage, however, shows that Respondent and Morgan Financial received \$451 in fees from the borrower at
14 closing. Finally, both initial GFEs improperly disclosed a Yield Spread Premium of "0-3%" in an unnumbered
15 section entitled "Compensation to Broker."

16 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
17 Respondent continues to date.

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

19 **2.1 Operating Under Unlicensed Trade Name.** Based on the Factual Allegations set forth in Section I
20 above, Respondent is in apparent violation of RCW 19.146.250 (1994) for operating under a name other than
21 the one under which the license is issued without obtaining the written consent of the Director.

22 **2.2 Requirement to Disclose Residential Mortgage Loan Fees.** Based on the Factual Allegations set
23 forth in Section I above, Respondent is in apparent violation of RCW 19.146.030 (1), (2), and (3) (1994) for
24 failing to provide borrowers with full written disclosures, containing an itemization and explanation of all fees
25 and costs that the borrowers were required to pay in connection with obtaining a residential mortgage loan, and

1 specifying those fees which inure to the benefit of the mortgage broker within three days following receipt of a
2 loan application from the borrower(s).

3 **2.3 Prohibited Fees.** Based on the Factual Allegations set forth in Section I above, Respondent is in
4 apparent violation of RCW 19.146.030(4) (1994) for charging fees inuring to the benefit of a mortgage broker
5 in excess of the fees disclosed on the initial written disclosures where the fees were reasonably foreseeable by
6 the mortgage broker at the time the initial written disclosures were provided to borrowers, and/or where the
7 mortgage broker failed to provide the borrowers, no less than three business days prior to the signing of the loan
8 closing documents, a clear written explanation of the fees and the reason for charging fees exceeding those
9 which were previously disclosed.

10 **2.4 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent is in
11 apparent violation of RCW 19.146.0201(2), (3), (6), (10), (12), and (14) (1994) for engaging in an unfair or
12 deceptive practice toward any person, obtaining property by misrepresentation, failing to make disclosures to
13 loan applicants required by RCW 19.146.030 and any other applicable state or federal law, and collecting a fee
14 prohibited by RCW 19.146.030.

15 III. AUTHORITY TO IMPOSE SANCTIONS

16 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2)(b) and (e), the Director may suspend
17 a license for false statements or omission of material information on the application that, if known, would have
18 allowed the director to deny the application for the original license and for any other violation of the Act.

19 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a), the Director may impose fines on a loan
20 originator for any violations of RCW 19.146.0201(1) through (9), (13)², or RCW 19.146.030.

21 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-550(5), the
22 Department is entitled to collect the costs of an investigation. The investigation charge will be calculated at the rate
23 of \$48 per hour that each staff person devoted to the investigation.

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² Formerly RCW 19.146.0201(12)(1994).

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

2 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
3 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
4 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221, and RCW 19.146.223.

5 Therefore, it is the Director's intention to ORDER that:

6 **4.1** Respondent Aleksandr Zhomiru's license to conduct the business of a loan originator be suspended for a
7 period of six months; and

8 **4.2** Respondent Aleksandr Zhomiru pay a fine of \$5,000;

9 **4.3** Respondent Aleksandr Zhomiru pay an investigation fee which as of the date of these charges totals \$480,
calculated at \$48 per hour for ten staff hours devoted to the investigation.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Suspend License, 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). Respondent 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 15th day of December, 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