

Terms Completed

ORDER SUMMARY – Case Number: C-07-493-07-FO01

Name(s): Slava A Dekman

Order Number: C-07-493-07-FO01

Effective Date: January 29, 2009

License Number: NMLS: 860193
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: Denial

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: December 21, 2011

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:

SLAVA DEKMAN,

Respondent.

OAH Docket No. 2008-DFI-0014

No. C-07-493-07-FO01

FINAL DECISION & ORDER GRANTING
MOTION FOR SUMMARY JUDGMENT

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 SLAVA DEKMAN 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 Deny License Application and Prohibit from Industry (hereinafter, "Statement of Charges") issued by the Division of Consumer Services (hereinafter, "Division") on or about December 17, 2007, under the authority of the Mortgage Broker Practices Act, Ch. 19.146 RCW (hereinafter, "MBPA").

1.0 Procedural History. The Respondent, SLAVA DEKMAN (hereinafter, "Respondent") timely requested an Administrative Hearing to contest the Statement of Charges (hereinafter, "Application for Hearing"), on January 2, 2008, and this matter was assigned to the Office of Administrative Hearings (hereinafter, "OAH"), which designated Administrative Law Judge Carolyn L. Pinkett (hereinafter, "Administrative Law Judge") to hear the case. On March 20, 2008, the Division made a Motion for Summary Judgment (hereinafter, "Summary Judgment Motion"), by and through its counsel, Assistant Attorney General, Chad C. Standifer (hereinafter, "Division Counsel"). Respondent, by and through his attorney of record, John

1 Long (hereinafter, "Respondent's Counsel"), filed on April 10, 2008, the Department's Reply
2 to Motion for Summary Judgment (hereinafter, "Respondent's Reply"). Oral argument on the
3 Summary Judgment Motion and Respondent's Reply was heard by telephone on May 15,
4 2008. Then, after consideration of the entire OAH record, including the License Application,
5 Statement of Charges, Application for Hearing, Summary Judgment Motion, and
6 Respondent's Reply, the Administrative Law Judge issued the Initial Order on June 23, 2008,
7 containing "proposed" findings of fact (hereinafter, "FOF") and conclusions of law
8 (hereinafter, "COL").
9

10 Thereafter, Respondent's Counsel filed on behalf of Respondent a Petition for Review,
11 which was received by the Director by FAX transmission on Monday, July 14, 2008, which
12 the Director has deemed to be in a manner in conformity with WAC 10-08-110(1)(b)
13 (hereinafter, "Respondent's Petition for Review"). Also, on Monday, July 14, 2008, the
14 Division filed its own Petition for Review by hand delivery (hereinafter, "Division's Petition
15 for Review"). On July 24, 2008, Division Counsel filed with the Director a Reply to
16 Respondent's Petition for Review of Initial Order (hereinafter, "Division's Reply to
17 Respondent's Petition for Review"). And on July 24, 2008, Respondent's Counsel filed with
18 the Director a Reply to Petition for Review (hereinafter, "Respondent's Reply to Division's
19 Petition for Review").
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21 The Director subsequently received and has now considered the entire OAH Record.
22 This Final Decision and Order are based upon a consideration of the entire OAH Record and
23 all documents received by way of Petition for Review before the Director, including, without
24 limitation, the following:

- 25 1. The License Application;
- 26 2. The Statement of Charges;
- 27 3. Application for Hearing;
- 28 4. Summary Judgment Motion;
- 29 5. Declaration of Fatima Batic in support of Summary Judgment Motion, including
30 all supporting exhibits (hereinafter, "Batic Declaration");
- 31 6. Respondent's Reply;
- 32 7. Declaration of Slava Dekman (hereinafter, "Dekman Declaration");
- 33 8. Initial Order;
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- 1 9. Respondent's Petition for Review;
- 2 10. Division's Reply to Respondent's Petition for Review;
- 3 11. Division's Petition for Review; and
- 4 12. Respondent's Reply to Division's Petition for Review.

5 2.0 Summary of the Case. This is a case in which the Division has sought to ban
6 Respondent from participation in the mortgage brokerage industry in Washington State until
7 December 21, 2013, for failure to disclose on his License Application the Division's Consent
8 Order No. C-02-373-05-CO03, dated March 7, 2005, in which Respondent agreed to
9 prohibition from the escrow industry in Washington State for a period of five (5) years
10 (hereinafter, "Consent Order").¹ At issue upon petition for review by both Respondent and
11 the Division are ultimately the following four questions:

13 2.1 Prior License Revocation. Did Respondent have a license under the MBPA or
14 a "similar state statute" revoked within five (5) years of his License Application, pursuant to
15 RCW 19.146.210(c)?

16 2.2 "Financial Service-Related Activity". Is escrow business a "financial service-
17 related activity" within the meaning of "similar state statute" under RCW 19.146.210(c)?

18 2.3 Failure to Disclose Prior License Revocation. Has Respondent committed
19 conduct enumerated in RCW 19.146.220(5)(a), which is described in RCW 19.146.0201(8)?

20 2.4 Authority to Ban from Industry. Does the Division have the authority to ban
21 Respondent from participation in the mortgage brokerage industry in Washington State until
22 December 21, 2013, rather than merely denying his License Application, pursuant to RCW
23 19.146.220(5)?

24 3.0 Director's Considerations.

25 3.1 Standards for Summary Judgment in Administrative Actions. The Department
26 has adopted the Model Rules of Procedure, Chapter 10-08 WAC, except to the extent of any
27 conflict with the Department's Rules of Procedure.² WAC 10-08-135 sets forth the standards
28 to be followed by the Department and the Administrative Law Judge, as its agent, when
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32 ¹ See Batie Declaration, Exhibit C, at p. 2, Paragraph F.

33 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
34 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
model rules it means the department of financial institutions."

1 considering the Summary Judgment Motion, Batic Declaration, Respondent's Reply, and
2 Dekman Declaration, and declares that "[a] motion for summary judgment may be granted
3 and an order issued [only] if the written record shows that there is no genuine issue as to any
4 material fact and that the moving party is entitled to judgment as a matter of law." In
5 evaluating the application of this standard, the Director may rely on applicable law from
6 sources other than WAC 10-08-135 itself and must be respectful of the constitutional rights of
7 respondents.³ To that end, the Director is required to weigh on review all pleadings, evidence
8 and argument in a light most favorable to the non-moving party.⁴ If there is any inference of a
9 triable issue of fact, then summary judgment is inappropriate.⁵ Litigants are entitled to a
10 dispositive hearing on all issues of fact and law.⁶ Summary judgment may be granted if
11 reasonable minds could reach only one conclusion based upon the facts in evidence, and
12 neither the non-moving party, Administrative Law Judge or the Director may rely upon
13 speculation or argumentative assertions that unresolved factual issues remain to be tried.⁷
14 These principles apply equally to the Administrative Law Judge and to the Director evaluating
15 the Initial Order.⁸

17 3.2 Prior License Revocation. The Director has considered the Record on Review and
18 the arguments of the parties with respect to the issue of whether Respondent had no duty to
19 disclose the Consent Order, even though Respondent was a principal of International Escrow
20 and subject to a specific prohibition from participation in the affairs of a licensed escrow
21 agent. The Director concurs with the Administrative Law Judge. When asked whether any
22 state regulatory agency (1) had ever found Respondent to have been involved in the violation
23 of a financial services-related regulation, (2) had ever entered an order against Respondent in
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27 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
28 modify additional requirements imposed by statute, including the Administrative Procedure Act."

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

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

31 ⁶ *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
32 (2000).

33 ⁷ *White v. State*, 131 Wn.2d 1, 9, 929 P.2d 396 (1997).

34 ⁸ *Folsom v. Burger King*, 135 Wn.2d 658, 663, 958 P.2d 301 (1998).

1 connection with a financial services-related activity, (3) had ever revoked or disciplined
2 Respondent, or (4) otherwise prevented Respondent from associating with a financial
3 services-related business, the Respondent answered “no.” These answers were false, and they
4 violate RCW 19.146.300(1) and (2). Pursuant to RCW 19.146.310(2), the Department is
5 required to deny the Respondent’s License Application.

6 3.3 “Financial Services-Related Activity”. With regard to Subsection 3.2 above,
7 the Director is of the decided view that escrow business is a “financial services-related
8 activity.” Typically, we must look to a recognized dictionary’s definition of a particular term
9 at issue unless the Legislature or the Division (by way of rulemaking) has provided a specific
10 definition.⁹ The Legislature has provided the Department with a statutory definition of
11 “escrow” (in derogation of the common law) set forth in RCW 18.44.011(4) of the Escrow
12 Agent Registration Act, a licensing act also regulated and administered by the Division. Both
13 the dictionary definitions cited by the Administrative Law Judge in her Initial Order and the
14 statutory definition of “escrow” set forth at RCW 18.44.011(4) lead to only one conclusion:
15 “Escrow” business is a “financial services-related activity.” Accordingly, the Director’s views
16 as expressed in Subsection 3.2 above are reinforced.

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18 3.4 Failure to Disclose Prior License Revocation. In light of the Director’s views
19 expressed in Subsections 3.2 and 3.3 above, there is no genuine issue of material fact that
20 Respondent committed conduct, enumerated in RCW 19.146.220(5)(a), which is described in
21 RCW 19.146.0201(8). The sole question, then, is whether the consequence of committing
22 such conduct applies only to licensees or also to license *applicants*.

23
24 3.5 Discretion to Impose Industry Ban. RCW 19.146.220(5) declares in pertinent
25 part, as follows:

- 26 (5) The director may issue orders removing from office or
27 prohibiting from participation in the conduct of the affairs of a
28 licensed mortgage broker, or both, any officer, principal,
29 employee, or loan originator of any licensed mortgage broker *or*
30 *any person subject to licensing under this chapter* for:
31 (a) *Any violation of 19.146.0201 (1) through (9) or (13),*
32 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or
33 19.146.265;

34 ⁹ *Western Telepage, Inc. v. City of Tacoma*, 140 Wash. 2d 599, 609-10, 998 P.2d 884, 890 (2000) (citing *C.J.C. v. Corp. of Catholic Bishop*,
138 Wash. 2d 699, 709, 985 P.2d 262, 267 (1999)).

1 (b) False statements or omission of material information on the
2 application that, if known, would have allowed the director to
3 deny the application for the original license;

4 (c) Conviction of a gross misdemeanor involving dishonesty or
5 financial misconduct or a felony after obtaining a license; or

6 (d) Failure to comply with any directive or order of the
7 director.

8 [Emphasis added.]

9 RCW 19.146.0201(8) declares that it is a violation of the MBPA for a loan originator,
10 mortgage broker required to be licensed under the MBPA, or a mortgage broker otherwise
11 exempt from licensing under RCW 19.146.020(1)(e), (g), or (4) to –

12 “. . . [n]egligently make any false statement or knowingly and
13 willfully make any omission of material fact in connection with
14 any reports filed by a mortgage broker or in connection with any
15 investigation conducted by the department; . . .”

16 The Administrative Law Judge was of the view, consistent with the arguments of
17 Respondent’s Counsel, that the authority conferred upon the Department in RCW
18 19.146.220(5) is limited entirely to *licensees*. The Director could not disagree more with
19 Respondent’s Counsel and the Administrative Law Judge. The Director is of the decided view
20 that the correct statutory interpretation is that the conduct prohibited by RCW 19.146.0201(8),
21 read in the light of RCW 19.146.220(5), applies to “any person subject to licensing under [the
22 MBPA]” – which includes *applicants* for a Loan Originator License. In the first instance,
23 RCW 19.146.220(5) is the provision on which we must be focused – *not* RCW
24 19.146.0201(8). By itself, the relevant language of RCW 19.146.220(5) – “or any person
25 subject to licensing under [the MBPA]” – is plain, clear and unambiguous and, therefore, not
26 subject to statutory interpretation. Washington courts will not construe a plain and
27 unambiguous statute – that is, they will not resort to canons of construction or legislative
28 history to analyze the meaning of a clear and unambiguous statute.¹⁰ Because the Washington
29 courts will not do so, neither can the Director. The Director therefore concludes that, by itself,
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33 ¹⁰ This is often described as the *plain meaning rule*. A “court will interpret words in the statute according to their usual or plain meaning as
34 understood by the general public.” *Black’s Law Dictionary* 796 (abr. 6th ed. 1991). See, e.g., *Davis v. Dep’t of Licensing*, 137 Wash. 2d 957,
964, 977 P.2d 554, 556 (1999). See also *State v. Enstone*, 137 Wash. 2d 675, 680, 974 P.2d 828, 830 (1999); *State v. Chapman*, 140 Wash. 2d
436, 998 P.2d 282 (2000); *Hendrickson v. State*, 140 Wash. 2d 686, 2 P.3d 473 (2000).

1 a Loan Originator License Applicant, such as Respondent, is a “person subject to licensing
2 under [the MBPA]” within the plain meaning of RCW 19.146.220(5).

3 Respondent argues, however, that RCW 19.146.220(5) must be read with reference to
4 the entire MBPA and, more particularly, RCW 19.146.0201(8). In this regard, Respondent is
5 relying upon the general textual canon that each statutory provision should be read by
6 reference to the whole act.¹¹ While the Director does not disagree with this general canon of
7 statutory construction, the Director remains of the decided view that RCW 19.146.0201(8)
8 does not supersede or control an essential understanding of RCW 19.146.220(5). Rather,
9 RCW 19.146.0201(8) is enumerated in RCW 19.146.220(5)(a) so as to include it within the
10 kinds of conduct which confer upon the Director the authority and discretion to impose upon
11 mortgage brokers, loan originators, and also *applicants* for mortgage broker and loan
12 originator licenses a ban from participation in the mortgage brokerage industry. One of the
13 obvious purposes of this enumeration was to describe with precision specific types of conduct
14 upon which both licensees *and* applicants could be debarred from the industry for a period of
15 time. The most efficient way for the Legislature to do this was to enumerate certain
16 prohibited conduct set forth in RCW 19.146.0201 – including the conduct described in
17 subsection (8) thereof.¹² The meaning of words may be indicated or controlled by those with
18 which they are associated.¹³ A term or phrase contained in a statutory provision always takes
19 its meaning from the context in which it is specifically employed.¹⁴ The Director must avoid
20 applying RCW 19.146.0201(8) in a way that would render the relevant clause in RCW
21 19.146.220(5) superfluous.¹⁵ The words “or any person subject to licensing under this
22 chapter” as set forth in RCW 19.146.220(5), must also be read with reference to the entire
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28 ¹¹ *Washington State Republican Party v. Washington State Pub. Disclosure Comm'n*, 141 Wash. 2d 245, 280-81, 4 P.3d 808, 827-28 (2000);
29 *Davis v. Dep't of Licensing*, 137 Wash. 2d 957, 970-71, 977 P.2d 554, 559-60 (1999); *City of Seattle v. State*, 136 Wash. 2d 693, 698, 965
P.2d 619, 621 (1998); *State v. Talley*, 122 Wash. 2d 192, 213, 858 P.2d 217, 228-29 (1993).

30 ¹² The prohibitions set forth in RCW 19.146.0201 also apply to persons exempt from licensing under RCW 19.146.0201(1)(e), (g), or (4).

31 ¹³ *State v. Jackson*, 137 Wash. 2d 712, 729, 976 P.2d 1229, 1237 (1999) (citing *Ball v. Stokley Foods, Inc.*, 37 Wash. 2d 79, 87-88, 221 P.2d
32 832 (1950)).

33 ¹⁴ *City of Mercer Island v. Kaltenbach*, 60 Wash. 2d 105, 109, 371 P.2d 1009, 1012 (1962).

34 ¹⁵ *City of Bellevue v. East Bellevue Cmty. Council*, 138 Wash. 2d 937, 946-47, 983 P.2d 602, 607 (1999). See also *Davis*, 137 Wash. 2d at 969,
977 P.2d at 558-59; *City of Seattle v. Dep't of Labor & Indus.*, 136 Wash. 2d 693, 701, 965 P.2d 619, 623 (1998).

1 MBPA, including the intent of the Legislature as expressed in their findings at RCW
2 19.146.005, as follows:

3 “The legislature finds and declares that the brokering of
4 residential real estate loans substantially affects the public
5 interest, requiring that all actions in mortgage brokering be
6 actuated by good faith, and that mortgage brokers, designated
7 brokers, loan originators, **and other persons subject to this
8 chapter abstain from deception, and practice honesty and equity
9 in all matters relating to their profession.** The practices of
10 mortgage brokers and loan originators have had significant impact
11 on the citizens of the state and the banking and real estate
12 industries. **It is the intent of the legislature to establish a state
13 system of licensure** in addition to rules of practice and conduct of
14 mortgage brokers and loan originators **to promote honesty and
15 fair dealing with citizens and to preserve public confidence in
16 the lending and real estate community.”**

17 [Emphasis added.]

18 Clearly, the Legislature intends that the provisions of the Act, including RCW
19 19.146.220(5) apply not just to licensees but also to *applicants*, thereby conferring upon the
20 Department the ability to exclude certain license applicants from the mortgage broker industry
21 in the interest of protecting the public.

22 The Director therefore concludes that, pursuant to RCW 19.146.220(5), it is within the
23 discretion of the Department to prohibit *unlicensed* individuals from the mortgage broker
24 industry for conduct enumerated in subsection (a) thereof which is described in RCW
25 19.146.0201(8) and other enumerated provisions. It is squarely within the Department’s
26 statutory authority to order that Respondent be prohibited from the mortgage broker industry
27 pursuant to RCW 19.146.220(5)(a). Respondent committed impermissible conduct described
28 in RCW 19.146.0201(8) that is enumerated in RCW 19.146.220(5)(a), by submitting false
29 statements and omitting material information on the License Application. It is therefore a
30 proper exercise of the Director’s discretion to prohibit Respondent from the mortgage broker
31 industry in Washington State through December 21, 2013.

32 3.6 Appropriateness of Summary Judgment. Because the Administrative Law Judge
33 concluded contrary to the views of the Director as set forth in Subsection 3.5 above, the
34 Administrative Law Judge did not consider if there was a triable issue of fact as to whether
Respondent acted “negligently” or “willfully” in submitting false statements or omitting

1 material information on the License Application. In this regard, however, after evaluating the
2 entire Record on Review, the Director finds that, while reasonable minds may differ as to
3 whether Respondent's conduct was "willful," there is no genuine issue of material fact that
4 Respondent was at least "negligent" in making false statements on his License Application.
5 The Director may not rely upon speculation or argumentative assertions that unresolved
6 factual issues remain to be tried. Based upon the facts in evidence, reasonable minds can
7 reach only one conclusion: Respondent was *at least* "negligent" in making false statements
8 on his License Application.
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10 It is incontrovertible that Respondent knew or should have known that the Consent
11 Order applied to him.¹⁶ The only question is whether Respondent's self-serving statement in
12 the Dekman Declaration – that he did not know that the Consent Order related to a "financial
13 services-related business"¹⁷ – gives rise to a genuine issue of material fact, or whether
14 Respondent, regardless of his subjective state of mind, is precluded as a matter of law from
15 raising such an inference. In this regard, the Director notes with particularity that Respondent
16 and all persons similarly situated are subject to the Department's enforcement authority under
17 RCW 19.146.220(5). Included within that concept is the Department's statutory interpretation
18 of RCW 19.146.220(5) and RCW 19.146.0201(8), as set forth in Subsection 3.5 above.
19 Respondent knew or should have known the Consent Order applied to him. Respondent had a
20 statutory duty, as a condition of receiving a Loan Originator License, to disclose the Consent
21 Order on his License Application. Respondent failed to perform that duty. Respondent's
22 breach of duty was at the very least "negligent" as a matter of law.
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24 3.7 Failure to Demonstrate Proper Character and Fitness. In Paragraph 2.4 of the
25 Statement of Charges, the Division alleges that the Respondent has failed to meet the
26 requirements of RCW 19.146.310(1)(g) and WAC 208-660-350(2)(a) by failing to
27 demonstrate character and general fitness such as to command the confidence of the
28 community and to warrant a belief that the business will be operated honestly and fairly within
29 the purposes of the MBPA. In this regard, the Director concludes, as a matter of law, that the
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33 ¹⁶ See again, Consent Order, Batie Declaration, Exhibit C, at p. 2, Paragraph F. See also signature of Respondent set forth in the Consent Order
{Batie Declaration, Exhibit C}, at p. 4.]

34 ¹⁷ See Dekman Declaration, Paragraphs 15 and 16, at pp. 2-3.

1 conduct of failing to disclose the Consent Order also constitutes a failure to meet the
2 requirements of RCW 19.146.310(1)(g) and WAC 208-660-350(2)(a).

3 Therefore, for the reasons set forth above in Subsections 3.1 through 3.7, inclusive, the
4 Department is entitled to summary judgment as a matter of law on all issues, including the
5 permissibility of an “industry ban.”

6 3.8 Duration of Industry Ban. The sole remaining issue is whether the ban sought
7 by the Division is appropriate under the circumstances. The scope and duration of the
8 industry ban¹⁸ sought by the Division in its Statement of Charges is permissible,¹⁹ but it is also
9 subject to the Director’s discretion when making a Final Decision and Order in this matter.
10 The Division seeks to ban the Respondent from participation in the affairs of a mortgage
11 broker subject to licensure by the Director, in any manner, until December 21, 2013. The
12 duration of Respondent’s prohibition from participation in the escrow industry, which is
13 contained in the Consent Order, is up through and including March 11, 2010, which is also
14 controlling as to the *minimum* possible prohibition for Respondent for a loan originator license
15 under the MBPA. In matters that have come before the Director, the Department has
16 frequently imposed “industry bans” of ten (10) years in administrative cases under the MBPA
17 for “knowing” and “willful” omissions of material fact in connection with loan originator
18 license applications. The Director cannot say as a matter of law that Respondent was any
19 more than “negligent” in his conduct. The Statement of Charges seeks to impose an “industry
20 ban” of seven (7) years.

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23 Though permissible, is an “industry ban” appropriate in this case? If so, what should
24 be the duration of the “industry ban”?

25 The Director notes, based upon uncontroverted representations of fact, that
26 Respondent was a loan originator in Washington State from 1994 until 1998, and from 2004
27 through 2006, after which all persons who desired to be or remain loan originators for
28 mortgage brokers in Washington State were required to be licensed under the MBPA. The
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32 ¹⁸ In addition to a ban from participating in the affairs of a licensed mortgage broker, an “industry ban” may also include any future conduct
33 for a period of time as an “independent contractor” of an exempt mortgage broker under RCW 19.146.020(1)(b), (c), (e) and (g). WAC 208-
34 660-008(9) requires a loan originator license for any “independent contractor” loan officer of an exempt mortgage broker under RCW
19.146.020(1)(b), (c), (e) and (g).

¹⁹ RCW 19.146.220(5)(a).

1 Director also notes, based upon uncontroverted representations of fact, that Respondent never
2 had a complaint against him for conduct as a loan originator. The Director has reviewed the
3 underlying allegations that gave rise to the Consent Order and notes that the alleged conduct
4 of Respondent, if any, appears on the surface to have been more in the nature of negligent
5 supervision of the designated escrow officer in question at a time when Respondent was an
6 “absentee” commercial fisherman and the unsuccessful escrow business was winding down.
7 Moreover, the Consent Order was not an admission of guilt by Respondent concerning those
8 allegations. Nothing in the Record on Review suggests that Respondent has committed an act
9 of moral turpitude.
10

11 However, Respondent’s *negligent* conduct in falsely making statements on his License
12 Application does demonstrate a lack of requisite character and fitness. Moreover, Respondent
13 is precluded under RCW 19.146.210(1)(c) from obtaining a Loan Originator License,
14 regardless of any inclination by the Director, until March 12, 2010. The question is whether
15 the Director should, based upon all of the circumstances, impose an “industry ban” of greater
16 duration for Respondent negligently making false statements on his License Application. In
17 this regard, the Director is of the view that the Legislature, in its express findings in RCW
18 19.146.005, has sought to confer upon the new license classification of loan originator a high
19 standard of integrity with no appearance of deception or dishonesty. While perhaps only
20 negligent, Respondent made false statements on his License Application that fall short of the
21 standard of integrity that the Department, in the interest of protecting the public, expects of its
22 licensees. While a seven-year “industry ban” appears to the Director to be inappropriate under
23 the circumstances, the Director does find a five-year prohibition to be thoroughly appropriate.
24 Therefore, consistent with the language of the Final Order set forth in Subsection 4.3 below,
25 the Director finds that Respondent should be prohibited from participating in the affairs of a
26 mortgage broker subject to licensure in Washington State until December 21, 2011.
27

28 4.0 Final Order. The Director reaffirms FOF 1 through 4, inclusive, at pages 1-3 of the
29 Initial Order, and incorporates herein additional findings of fact as set forth in Section 3.0
30 above. The Director incorporates herein the conclusions of law made in Section 3.0 above,
31 and in this regard, the Director (1) re-affirms COL 1 through 14, inclusive, at pages 4-10 of
32 the Initial Order, consistent, however, with the Director’s modified and additional conclusions
33 of law as articulated in Section 3.0 above. The Director specifically *rejects* COL 15, at pages
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1 10-11 of the Initial Order, and specifically incorporates herein and substitutes in place of COL
2 15 of Initial Order the conclusions of law made in Subsections 3.5 and 3.6 above.

3 IT IS HEREBY ORDERED AS FOLLOWS:

4 4.1 Summary Judgment. The Division's Motion for Summary Judgment is
5 GRANTED consistent with this Final Decision and Order.

6 4.2 Denial of License. The application of Respondent, SLAVA DEKMAN, for a
7 Loan Originator License with the Department of Financial Institutions is DENIED.

8 4.3 Prohibition. Respondent SLAVA DEKMAN is further PROHIBITED until
9 December 21, 2011, from participation, in any manner, in the conduct of the affairs of any
10 mortgage broker or loan originator subject to licensure by the Department. Nothing in this
11 Final Decision and Order shall be construed to prospectively confer upon the Respondent,
12 SLAVA DEKMAN, qualification for or entitlement to a grant of a mortgage broker or loan
13 originator license from the Department on or after December 21, 2011.

14 4.4 Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to
15 file a Petition for Reconsideration stating the specific grounds upon which relief is requested.
16 The Petition must be filed in the Office of the Director of the Department of Financial
17 Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail
18 at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of this
19 Final Order upon Respondent. The Petition for Reconsideration shall not stay the
20 effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking
21 judicial review in this matter. A timely Petition for Reconsideration is deemed denied if,
22 within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of
23 the petition or (b) serve the parties with a written notice specifying the date by which it will
24 act on a petition.

25 4.5 Stay of Order. The Director has determined not to consider a Petition to Stay
26 the effectiveness of this order. Any such requests should be made in connection with a
27 Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

28 4.6 Judicial Review. Respondent has the right to petition the superior court for
29 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the
30 requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections
31 following.
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1 4.7 Service. For purposes of filing a Petition for Reconsideration or a Petition
2 for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of
3 service attached hereto.

4 4.8 Effectiveness and Enforcement of Final Order. Pursuant to the Administrative
5 Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective
6 immediately upon deposit in the United States Mail.

7 Dated at Tumwater, Washington, on this 29th day of January, 2009.

9 WASHINGTON STATE DEPARTMENT
10 OF FINANCIAL INSTITUTIONS

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12 By:

13 [Redacted Signature] Scott Jarvis, Director



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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:

NO. C-07-493-07-SC01

SLAVA DEKMAN,

Respondent.

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

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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:

I. FACTUAL ALLEGATIONS

1.1 Respondent Slava Dekman (Respondent Dekman) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under FCI Capital Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 21, 2006.

1.2 Prior Administrative Action. On March 7, 2005, Respondent Dekman and the Department entered into Consent Order No. C-02-373-05-CO03. In that Consent Order, Respondent Dekman agreed to the revocation of his Escrow Agent License and agreed to be prohibited from the escrow industry in this State for a period of five years.

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

1 **1.3 Responses to Application Questions.** The “Regulatory Action Disclosure” section of the loan
2 originator license application consists of nine questions, and includes the following instruction:

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

4 Respondent Dekman answered “no” to the following questions on the “Regulatory Action Disclosure” section
5 of his loan originator license application:

- 6 • 4 – Has a State or federal regulatory agency or foreign financial authority ever: Entered an
7 order against you in connection with a financial services related activity?
- 8 • 5 - Has a State or federal regulatory agency or foreign financial authority ever: Denied,
9 suspended, or revoked your registration or license, disciplined you, or otherwise by order,
10 prevented you from associating with a financial services-related business or restricted your
11 activities?
- 12 • 6 - Has a State or federal regulatory agency or foreign financial authority ever: Barred you
13 from association with an entity regulated by such commission, authority, agency or officer, or
14 from engaging in a financial services-related business?

15 Respondent Dekman was obligated by statute to answer questions on the loan originator license application
16 truthfully and to provide the Department with complete details of all events or proceedings.

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

18 **2.1 Requirement of No Prior License Suspension or Revocation.** Based on the Factual Allegations set
19 forth in Section I above, Respondent Dekman fails to meet the requirements of RCW 19.146.310(1)(c) and
20 WAC 208-660-350(2)(b) by having a license issued under this chapter or any similar state statute suspended or
21 revoked within five years of the filing of the present application.

22 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
23 Dekman is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making
24 any false statement or willfully making any omission of material fact in connection with any application or any
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1 information filed by a licensee in connection with any application, examination or investigation conducted by
2 the Department.

3 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
4 forth in Section I above, Respondent Dekman fails to meet the requirements of RCW 19.146.300(1) and (2) and
5 RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form
6 prescribed by the Director.

7 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
8 forth in Section I above, Respondent Dekman fails to meet the requirements of RCW 19.146.310(1)(g) and
9 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
10 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
11 within the purposes of the Act.

12 **III. AUTHORITY TO IMPOSE SANCTIONS**

13 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
14 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
15 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
16 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
17 of the denial.

18 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
19 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
20 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
21 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

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

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

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

3 **4.1** Respondent Slava Dekman's application for a loan originator license be denied.

4 **4.2** Respondent Slava Dekman be prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, until December 21, 2013.

5 **V. AUTHORITY AND PROCEDURE**

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

12 Dated this 7th day of December, 2007.



15 DEBORAH BORTNER
16 Director
17 Division of Consumer Services
18 Department of Financial Institutions

19 Presented by:



20 EDWARD JURSEK
21 Enforcement Attorney

22 Approved by:



23 JAMES BRUSSELBACK
24 Enforcement Chief

