

TERMS COMPLETE

FINAL ORDER SUMMARY – Case Number: C-07-499

Name(s) Heath Allan Pierce

Order Number C-07-499-08-FO01

Effective Date June 17, 2008

License Number DFI: 21285

License Effect Application Denied

Not Apply until October 4, 2014

Prohibition/Ban until October 4, 2014

\$	Due	Paid	Date
		Y N	

\$	Due	Paid	Date
		Y N	

\$	Due	Paid	Date
		Y N	

Other

Special Instructions

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4 **STATE OF WASHINGTON**
5 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
6 **DIVISION OF CONSUMER SERVICES**

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

10 HEATH ALLEN PIERCE,

11 Respondent.

NO. C-07-499-08-FO01

FINAL ORDER

12 **I. DIRECTOR'S CONSIDERATION**

13 A. Default. This matter has come before the Director of the Department of
14 Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.440(2). On
15 December 3, 2007, the Director, through Consumer Services Division Director Deborah Bortner,
16 entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License
17 Application and Prohibit from Industry (Statement of Charges). A copy of the Statement of Charges
18 is attached and incorporated into this order by this reference. The Statement of Charges was
19 accompanied by a cover letter dated December 4, 2007, a Notice of Opportunity to Defend and
20 Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served
21 the Statement of Charges, cover letter dated December 4, 2007, Notice of Opportunity to Defend and
22 Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on
23 December 5, 2007, by first class mail and Federal Express overnight delivery.
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1 On December 27, 2007, Respondent filed an Application for Adjudicative Hearing. On
2 December 31, 2007, the Department made a request to the Office of Administrative Hearings (OAH)
3 to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of
4 Charges. On January 28, 2008, ALJ Mary Ellen Goodwin issued a Notice of Prehearing Conference
5 by Telephone scheduling a prehearing conference on Tuesday, February 26, 2008, at 10:00 a.m.

6 On February 26, 2008, Respondent and a representative for the Department attended the
7 telephonic prehearing conference. At that time, the Department gave notice of its intent to file a
8 Motion for Summary Judgment. On March 4, 2008, ALJ Goodwin issued a Prehearing Case
9 Management Order and Notice of Hearing scheduling a telephonic hearing on the Department's
10 Motion for Summary Judgment on April 29, 2008, at 10:00 a.m. That Order contained the following
11 instruction to the parties: "The participants shall appear by telephone, by calling (locally) (360)753-
12 7328, or (long distance, toll-free) (800)843-7712, on the date and 10 minutes before the time stated
13 above, to advise of the telephone number at which each participant may then be reached." That Order
14 also noted "If you fail to appear or participate in the motion hearing or any other scheduled state of
15 these proceedings, you may lose your right to a hearing as described in RCW 34.05.440."

16 On April 29, 2008, the Motion for Summary Judgment hearing was convened by ALJ
17 Goodwin at 10:00 a.m., but Respondent failed to appear. The Department moved for an order of
18 default based on Respondent's failure to appear. On May 1, 2008, ALJ Goodwin issued an Initial
19 Order Holding the Respondent in Default and Granting Department's Motion for Summary Judgment
20 (Order of Default) affirming the Statement of Charges. On May 1, 2008, OAH sent the Order of
21 Default and Initial Order to the address in Respondent's Applications for Adjudicative Hearing.
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1 Pursuant to RCW 34.05.440(3), Respondent had seven (7) days from the date of service of the
2 Order of Default and Initial Order to file a written motion with OAH requesting that the Order of
3 Default and Initial Order be vacated, and stating the grounds relied upon. Respondent did not make a
4 request to vacate during the statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-211,
5 Respondent had twenty (20) days from the date of service of the Order of Default and Initial Order to
6 file a Petition for Review of the Order of Default and Initial Order with the Director. Respondent did
7 not file a Petition for Review during the statutory period.

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

- 11 1. Statement of Charges, cover letter dated December 4, 2007, and Notice of
12 Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 13 2. Application for Adjudicative Hearing;
- 14 3. Request to OAH for Assignment of Administrative Law Judge;
- 15 4. Notice of Prehearing Conference by Telephone dated February 26, 2008, with
16 documentation of service;
- 17 5. Prehearing Case Management Order and Notice of Hearing dated March 4, 2008, with
18 documentation of service;
- 19 6. Order Holding the Respondent in Default and Granting Department's Motion for
20 Summary Judgment dated May 1, 2008, with documentation of service.

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

23 II. FINAL ORDER

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

1 A. IT IS HEREBY ORDERED, That:

- 2 1. Respondent Heath Allen Pierce's application for a loan originator license is denied;
3 and
4 2. Respondent Heath Allen Pierce is banned from participation in the conduct of the
5 affairs of any mortgage broker subject to licensure by the Director, in any manner,
 through October 4, 2014.

6 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
7 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
8 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
9 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
10 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
11 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
12 Reconsideration a prerequisite for seeking judicial review in this matter.

13 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
14 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
15 notice specifying the date by which it will act on a petition.
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17 C. Stay of Order. The Director's designee has determined not to consider a Petition
18 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
19 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

20 D. Judicial Review. Respondent has the right to petition the superior court for judicial
21 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
22 a Petition for Judicial Review, see RCW 34.05.510 and sections following.
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1 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
2 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
3 attached hereto.
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5 DATED this 17th day of June 2008.
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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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[REDACTED SIGNATURE]

SCOTT JARVIS
DIRECTOR

**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:

HEATH ALLEN PIERCE,

Respondent.

NO. C-07-499-07-SC01

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

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 heath Allen Pierce (Respondent Pierce) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under 1st hand Mortgage, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about October 4, 2007.

1.2 Responses to Application Questions. The "Criminal Disclosure" section of the loan originator license application consists of eight questions, and includes the following instruction:

"If the answer to any of the following is "YES", provide complete details of all events or proceedings"
Respondent Pierce answered "no" to the following question on the "Criminal Disclosure" section of his loan originator license application:

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

- 6-Have you ever charged with a misdemeanor listed in 5?

The misdemeanors listed in question 5 included "misdemeanor[s] involving: financial services or a financial services-related business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses."

Respondent Pierce, however, had been charged in the Municipal Court of Tacoma, Washington, on September 5, 2007, with the crime of [REDACTED] violation of Tacoma Municipal Code. Respondent Pierce was obligated by statute to answer questions on the loan originator license application truthfully and to provide the Department with complete details of all events or proceedings.

II. GROUNDS FOR ENTRY OF ORDER

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

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

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

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

7 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
8 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
9 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
10 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

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 Heath Allen Pierce's application for a loan originator license be denied.

17 **4.2** Respondent Heath Allen Pierce be prohibited from participation in the conduct of the affairs of any
18 mortgage broker subject to licensure by the Director, in any manner, through October 4, 2014.

19 **V. AUTHORITY AND PROCEDURE**

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

1 Dated this 3rd day of December, 2007.

2 [REDACTED]
3
4 DEBORAH BORTNER
5 Director
6 Division of Consumer Services
7 Department of Financial Institutions

8 Presented by:

9 [REDACTED]
10 STEVEN C. SHERMAN
11 Financial Legal Examiner
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13 Approved by:

14 [REDACTED]
15 FATIMA BATIE
16 Financial Legal Examiner Supervisor
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