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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:

DMI, INC. dba DIRECT MORTGAGE; KARL R.
AGUILERA, President, Designated Broker, and
Owner; and AUDREY P. GRIDLER, Vice-President,
and Owner,

Respondents.

NO. C-07-505-08-FO01

FINAL ORDER
DMI, INC. dba DIRECT MORTGAGE and
KARL R. AGUILERA

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of
Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.440(2). On
February 5, 2008, the Director, through Consumer Services Division Director Deborah Bortner,
entered a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Collect
Annual Assessments, Impose Fine, Prohibit from Industry, and Collect Investigation Fee (Statement
of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this
reference. The Statement of Charges was accompanied by a cover letter dated February 5, 2008, a
Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for
Adjudicative Hearing for Respondents. The Department served the Statement of Charges, cover letter
dated February 5, 2008, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
Applications for Adjudicative Hearing for Respondents on Respondents on February 5, 2008, by First-
Class mail and Federal Express overnight delivery.

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1 On February 26, 2008, Respondent Karl Aguilera (Respondent Aguilera) filed an Application
2 for Adjudicative Hearing on behalf of himself and Respondent DMI, Inc. On April 3, 2008, the
3 Department received a Waiver of Right to Commence Adjudicative Proceeding Within 90 Days from
4 Respondent Aguilera agreeing to delay commencement of hearing until no later than July 2, 2008. On
5 June 13, 2008, the Department made a request to the Office of Administrative Hearings (OAH) to
6 assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of
7 Charges. On July 7, 2008, OAH mailed a Notice of Pre-Hearing Conference assigning ALJ William
8 C. Dodge (ALJ Dodge) to preside over a prehearing conference scheduled for Monday, July 21, 2008,
9 at 1:30 p.m. That Notice contained the following instruction to the parties: **"To register your
10 appearance you must call the Office of Administrative Hearing ten (10) minutes before the
11 scheduled hearing time."** That Notice also noted "[a] party who fails to attend or participate in a
12 hearing or other stage of the adjudicative proceeding, including a pre-hearing conference, may be held
13 in default."
14

15 On July 21, 2008, the pre-hearing conference was convened by ALJ Dodge at 1:30 p.m.
16 Respondent Aguilera and Respondent DMI failed to appear or participate as scheduled. The
17 Department moved for an Order of Default based on Respondent Aguilera and Respondent DMI's
18 failure to appear. On July 22, 2008, ALJ Dodge issued an Order of Default affirming the Statement of
19 Charges. On July 22, 2008, ALJ Dodge sent the Order of Default to the address in Respondent
20 Aguilera's Application for Adjudicative Hearing.
21

22 Pursuant to RCW 34.05.440(3), Respondent Aguilera and Respondent DMI had seven (7) days
23 from the date of service of the Order of Default to file a written motion with OAH requesting that the
24 Order of Default be vacated, and stating the grounds relied upon. Respondent Aguilera and
25

1 Respondent DMI did not make a request to vacate during the statutory period. Pursuant to RCW
2 34.05.464 and WAC 10-08-211, Respondent Aguilera and Respondent DMI had twenty (20) days
3 from the date of service of the Order of Default and Initial Order to file a Petition for Review of the
4 Order of Default with the Director. Respondent Aguilera and Respondent DMI did not file a Petition
5 for Review during the statutory period.

6 B. Record Presented. The record presented to the Director his review and for entry of a
7 final decision included the following:
8

- 9 1. Statement of Charges, cover letter dated February 5, 2008, and Notice of Opportunity
10 to Defend and Opportunity for Hearing, with documentation of service;
- 11 2. Applications for Adjudicative Hearing for Respondent Aguilera and Respondent
12 DMI;
- 13 3. Request to OAH for Assignment of Administrative Law Judge;
- 14 4. Notice of Prehearing Conference dated July 7, 2008, with documentation of service;
- 15 5. Order of Default dated July 22, 2008, with documentation of service.

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

18 II. FINAL ORDER

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

21 A. IT IS HEREBY ORDERED, That:

- 22 1. Respondent DMI, Inc. dba Direct Mortgage's license to conduct the business of a
23 Mortgage Broker is revoked; and
- 24 2. Respondent DMI, Inc. dba Direct Mortgage and Respondent Aguilera jointly and
25 severally pay the delinquent main office Annual Assessments due through June 30,
2007, totaling \$352; and

3. Respondent DMI, Inc. dba Direct Mortgage and Respondent Aguilera jointly and severally pay the delinquent branch office Annual Assessments due through March 31, 2007, totaling \$1,014.86; and
4. Respondent DMI, Inc. dba Direct Mortgage and Respondent Aguilera jointly and severally pay a fine of \$8,250; and
5. Respondent DMI, Inc. dba Direct Mortgage is banned from participation in the conduct of the affairs of any mortgage broker to licensure by the Director, in any manner, for a period of five (5) years; and
6. Respondent Aguilera is banned from participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years; and
7. Respondent DMI, Inc. dba Direct Mortgage and Respondent Aguilera jointly and severally pay an investigation fee of \$806.

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

A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

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

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

5 E. Non-compliance with Order. If you do not comply with the terms of this order, the
6 Department may seek its enforcement by the Office of Attorney General to include the collection of the
7 fines, fees and restitution imposed herein.

8 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
9 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
10 attached hereto.
11

12 DATED this 17th day of March, 2009.



13 STATE OF WASHINGTON
14 DEPARTMENT OF FINANCIAL INSTITUTIONS

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17 SCOTT JARVIS
18 DIRECTOR
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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:

DMI, INC. dba DIRECT MORTGAGE;
KARL R. AGUILERA, President, Owner, and
Designated Broker; and AUDREY P. GRIDLER,
Vice-President and Owner,

Respondents.

NO. C-07-505-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, COLLECT
ANNUAL ASSESSMENTS, IMPOSE FINE,
PROHIBIT FROM INDUSTRY, AND COLLECT
INVESTIGATION FEE

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 Respondents.

A. **DMI, Inc. dba Direct Mortgage (DMI)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about March 1, 2000, and has continued to be licensed to date. Respondent DMI initially was licensed to conduct the business of a mortgage broker at the following locations:

617 Midland Blvd., Nampa, ID 83651 (main office)
5371 Franklin Rd., Boise, ID 83705 (branch office)

¹ RCW 19.146 (1994).

1 On or about February 6, 2003, the Department received a request to change the branch office location
2 from 5371 Franklin Rd., Boise, ID to 1010 South Allante Place, Suite 110, Boise, ID 83709.

3 On or about December 5, 2005, the Department received a request to change the main office location
4 from 617 Midland Blvd., Nampa, ID to 1003 South Allante Place, Boise, ID 83709.

5 B. **Karl R. Aguilera (Aguilera)** is President, Designated Broker, and 50 percent Owner of
6 Respondent DMI. Respondent Aguilera is listed as the Designated Broker, President, and Owner of
7 Respondent DMI in the application. Respondent Aguilera was named Designated Broker of Respondent DMI
8 on or about March 1, 2000, and has continued as Designated Broker to date.

9 C. **Audrey P. Gridler (Gridler)** is Vice-President and 50 percent Owner of Respondent DMI.

10 **1.2 Failure to Pay Annual Assessment.** An annual assessment fee for each license is due to the
11 Department no later than the last business day of June for the year then ended. To date, the Department has not
12 received the following annual assessment due from Respondents, totaling \$352:

13 Payment of the annual assessment of \$352 for the year ended June 2007 was due to the Department
14 no later than the last business day of June 2007.

15 **1.3 Failure to Pay Branch Annual Assessments.** An annual assessment fee for each branch office
16 certificate is due to the Department no later than the last business day of March for the year then ended. To
17 date, the Department has not received the following annual assessments due from Respondents, totaling
18 \$1,014.86:

19 A. Payment of the branch annual assessment of \$484 for the year ended March 2007 was due to the
20 Department no later than the last business day of March 2007.

21 B. Payment of the branch annual assessment of \$530.86 for the year ended March 2006 was due to
22 the Department no later than the last business day of March 2006.

23 **1.4 Failure to Maintain Bond.** On November 28, 2006, the Department received notice from Indemnity
24 Insurance Company of North America that Respondent DMI's surety bond would be cancelled, effective
25 December 26, 2006. To date, Respondents have failed to notify the Department of the cancellation of the surety
bond and have failed to provide the required surety bond or an approved alternative.

1 **1.5 Failure to Respond to Directive.** On December 14, 2006, the Department served a directive on
2 Respondents by certified mail. The directive required that Respondents reinstate or replace the surety bond
3 within 10 days prior to the date of cancellation. Respondents failed to comply with this directive.

4 **1.6 Failure to Notify Department of Significant Developments.** As stated in paragraph 1.4, to date,
5 Respondents have not notified the Department of the cancellation of Respondent DMI's surety bond.

6 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
7 Respondents continues to date.

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

9 **2.1 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I
10 above, Respondents are in apparent violation of RCW 19.146.205(4)(a) and WAC 208-660-080(1) for failing to
11 file and maintain a surety bond or approved alternative with the Department.

12 **2.2 Requirement to Pay Annual Assessments.** Based on the Factual Allegations set forth in Section I
13 above, Respondents are in apparent violation of RCW 19.146.228(1), WAC 208-660-060(3) and WAC 208-
14 660-061 for failing to pay to the Director an annual assessment fee no later than the last business day of the
15 month in which the anniversary date of the issuance of the mortgage broker's license occurs.

16 **2.3 Failure to Comply with Directive.** Based on the Factual Allegations set for in Section I above,
17 Respondents are in apparent violation of RCW 19.146.235 for failing to comply with a directive issued by the
18 Department.

19 **2.4 Requirement to Notify Department of Significant Developments.** Based on the Factual Allegations
20 set forth in Section I above, Respondents are in apparent violation of WAC 208-660-150(1)(e) for failing to
21 notify the Director in writing within thirty days after receipt of notification of cancellation of the licensee's
22 surety bond.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(b)(ii) and (iii), and WAC 208-660-
3 160, the Director may revoke a license for failure to pay a fee required by the Director or maintain the required
4 bond or failure to comply with any directive or order of the Director.

5 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(ii) and WAC 208-660-165, the Director
6 may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act
7 for failure to comply with a directive or order of the Director.

8 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(iv), the Director may
9 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
10 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
11 or any person subject to licensing under the Act for failure to comply with a directive or order of the Director.

12 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520 and
13 WAC 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other
14 person subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing
15 to cover the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight
16 dollars (\$48) per hour that each staff person devoted to the investigation.²

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

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

22 **4.1** Respondent DMI, Inc.'s license to conduct the business of a mortgage broker be revoked; and

23 **4.2** Respondents DMI, Inc., Audrey P. Gridler, and Karl R. Aguilera jointly and severally pay the cumulative
24 delinquent main office Annual Assessments due through June 30, 2007, totaling \$352, as calculated in
25 paragraph 1.2.; and

² RCW 19.146 (2006).

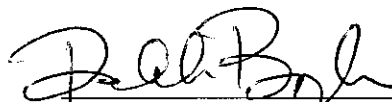
- 1 **4.3** Respondents DMI, Inc., Audrey P. Gridler, and Karl R. Aguilera jointly and severally pay the cumulative
2 delinquent branch office Annual Assessments due through March 31, 2007 totaling \$1,014.86, as
 calculated in paragraph 1.3; and
- 3 **4.4** Respondents DMI, Inc., Audrey P. Gridler, and Karl R. Aguilera jointly and severally pay a fine of \$8,250;
4 and
- 5 **4.5** Respondent DMI Inc. be prohibited from participation in the conduct of the affairs of any mortgage broker
 subject to licensure by the Director, in any manner, for a period of five (5) years; and
- 6 **4.6** Respondents Karl R. Aguilera and Audrey P. Gridler be prohibited from participation in the conduct of the
7 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)
 years; and
- 8 **4.7** Respondents DMI, Inc., Audrey P. Gridler, and Karl R. Aguilera jointly and severally pay an investigation
9 fee of at least \$806 which is the amount of the investigation to date calculated at \$48 per hour of the
 investigation.
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V. AUTHORITY AND PROCEDURE

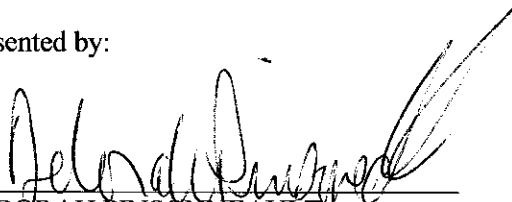
This Statement of Charges and Notice of Intention to Enter an Order To Revoke License, Collect Annual Assessments, Impose Fine, Prohibit From Industry, And Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 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 5th day of February, 2008.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



DEBORAH PINSONNEAULT
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief