

## Terms Completed

### ORDER SUMMARY – Case Number: C-07-523

**Name(s):** Daniel James Mangialardi  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Order Number:** C-07-523-07-FO01  
\_\_\_\_\_

**Effective Date:** March 5, 2008  
\_\_\_\_\_

**License Number:** DFI: 44893  
\_\_\_\_\_

**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  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:** \_\_\_\_\_

<b>Investigation Costs</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_



State of Washington

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

**BRIEF ADJUDICATIVE PROCEEDING**

IN THE MATTER OF INVESTIGATING the  
Loan Originator License Application under the  
Washington Mortgage Broker Practices Act  
(Ch. 19.146 RCW) by:

DANIEL JAMES MANGIALARDI,

Respondent.

No. C-07-523-07-SC01

DCS – BAP – 2007-004 JMV

**FINAL DECISION AND ORDER**

THIS MATTER having come before Scott Jarvis, Director for the Department of Financial Institutions (“Department”), sitting in his capacity as Presiding Officer (“Presiding Officer”) in relation to review of the Initial Decision and Order, which denied a Loan Originator License under the Washington Mortgage Broker Practices Act, Chapter 19.146 RCW (“Act”), upon application by DANIEL JAMES MANGIALARDI, the Respondent (“Respondent”);

NOW THEREFORE, the Presiding Officer issues the following Final Decision and Order:

**1.0 CONSIDERATION**

1.1 The Presiding Officer has reviewed the record on review, including the Initial Decision and Order under the Brief Adjudicative Proceeding, which was issued on February 12, 2008.

1.2 Respondent did not submit a Petition for Review of the Initial Decision and Order.

1.3 More than twenty (20) days has expired since issuance of an Initial Decision and Order. It appears from the Certificate of Service that Respondent was duly served as of February 12, 2008.

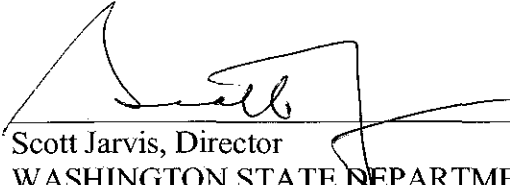
1.4 The Presiding Officer agrees with and concurs in the Findings of Fact and Conclusions of Law made in the Initial Decision and Order in the Brief Adjudicative Proceeding below. All of these Findings of Fact and Conclusions of Law are hereby adopted as if fully set forth herein.

2.0 FINAL DECISION AND ORDER

For all of the reasons set forth above, IT IS HEREBY ORDERED THAT:

The application of Respondent DANIEL JAMES MANGIALARDI for a loan originator license with the Washington State Department of Financial Institutions is denied.

Dated and mailed on March 5, 2008, at Tumwater, Washington.



\_\_\_\_\_  
Scott Jarvis, Director  
WASHINGTON STATE DEPARTMENT OF  
FINANCIAL INSTITUTIONS  
P.O. Box 41200  
Olympia, Washington 98504-1200

FURTHER APPEAL RIGHTS

**Address for filing the Petition for Review:**

Scott Jarvis, Director  
Washington State Department of Financial Institutions  
P.O. Box 41200  
Olympia, Washington 98504-1200

In accordance with RCW 34.05.470 and WAC 10-08-215, any ***Petition for Reconsideration*** of such ***Final Decision and Order*** must be filed with the Director within ten (10) days of the service of the ***Final Decision and Order***. **NOTE: *Petitions for Reconsideration* do not stay the effectiveness of the *Final Decision and Order*.**

***Judicial Review*** of this ***Final Decision and Order*** is available to a party according to the provisions set out in the Washington Administrative Procedures Act, at RCW 34.05.570.



State of Washington

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

**BRIEF ADJUDICATIVE PROCEEDING**

IN THE MATTER OF INVESTIGATING the  
Loan Originator License Application under the  
Washington Mortgage Broker Practices Act  
(Ch. 19.146 RCW) by:

DANIEL JAMES MANGIALARDI,

Respondent.

No. C-07-523-07-SC01

DCS – BAP – 2007-004 JMV

INITIAL DECISION AND ORDER

THIS MATTER having come before Joseph M. Vincent, General Counsel for the Department of Financial Institutions (“Department”), sitting in his capacity as Presiding Officer (“Presiding Officer”) for Brief Adjudicative Proceedings (“BAP”) for the Division of Consumer Services (“Division”), in relation to review of the denial of a Loan Originator License under the Washington Mortgage Broker Practices Act, Chapter 19.146 RCW (“Act”), upon application by DANIEL JAMES MANGIALARDI, the Respondent (“Respondent”);

NOW THEREFORE, the Presiding Officer issues the following Findings of Fact, Conclusions of Law, and Initial Decision and Order:

**1.0 FINDINGS OF FACT**

The following facts are undisputed as between the Division and the Respondent:

- 1.1 Respondent made an online application to the Division for a Loan Originator License (“License”) under the Act on or about July 6, 2007.
- 1.2 Respondent pleaded guilty on October 23, 2002, in Orange County Superior Court, State of California, to two felony counts: (1) DUI Causing Death or Injury to Another, pursuant to California Vehicle Code §23153a; and (2) DUI Causing Death or Injury to Another, pursuant to California Vehicle Code §23153b. Count One included a Great Bodily Injury enhancement

provision pursuant to California Penal Code §12022.7(a), which Respondent admitted to on October 23, 2002, as well.

1.3 On December 17, 2007, the Division issued against Respondent a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application ("Statement of Charges") and also issued to Respondent a Notice of Opportunity to Defend and Opportunity for Brief Adjudicative Proceeding ("BAP Notice").

1.4 On December 17, 2007, the Statement of Charges and BAP Notice were served upon Respondent and upon the Designated Broker.

1.5 On or about December 19, 2007, the Division received from Respondent a Request for Brief Adjudicative Proceeding ("BAP Request").

1.6 In the BAP Request, Respondent indicated: "I WILL NOT be represented by an attorney."

1.7 In the BAP Request, Respondent did not initial the box indicating whether Respondent desired to request an interpreter or not.

1.8 In the BAP Request, Respondent did not initial the box indicating whether Respondent would file additional documents.

1.9 Nonetheless, on January 2, 2008, the Presiding Officer issued an initial scheduling letter to Respondent ("Scheduling Letter"), which granted Respondent until Wednesday, January 16, 2008, to submit to the Presiding Officer additional materials on his behalf.

1.10 To date, the Presiding Officer and the Department have received no additional materials from Respondent.

## 2.0 CONCLUSIONS OF LAW

Based upon the Findings of Fact above, the Presiding Officer must conclude, as follows:

2.1 The Act, at RCW 19.146.210, sets forth the requirements for issuance or denial of a mortgage broker or loan originator license as mandated by the Washington State Legislature. In pertinent part, subsection (1) of RCW 19.146.210 declares that –

“ . . . [t]he director shall issue and deliver a mortgage broker license to an applicant if, after investigation, the director makes the following findings:

....  
(d) Neither the applicant, any of its principals, or the designated broker have been *convicted of a* gross misdemeanor involving dishonesty or financial misconduct or a *felony within seven years of the filing of the present application*; . . . .”

[Emphasis added.]

2.2 The Division’s rulemaking with respect to the Act reflects the mandate of the Washington State Legislature and is even more specific, declaring at subsection (2) of WAC 208-660-350, as follows:

**In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?**

....  
(c) **Criminal history.** You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within seven years of the filing of the present application.

[Original emphasis.]

2.3 As stated above, the Act, at RCW 19.146.210(1)(d) is clear. The Division has no discretion in this matter where, as here, the intent of the Legislature is so clear. Respondent pleaded guilty within seven (7) years of his application to a crime punishable as a felony. The Division, therefore, had no discretion but to deny Respondent’s application for a loan originator license. The Presiding Officer has no discretion in this matter either and, after thorough review of the relevant facts and law, is obliged to reach the same conclusion as the Division. *See* RCW 19.146.310(2).

2.4 The Presiding Officer has additional authority to make an initial decision and order pursuant to RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.

2.5 This matter, as set forth in the Statement of Charges, is properly at issue before the Presiding Officer and ripe for consideration and entry of an Initial Decision and Order.

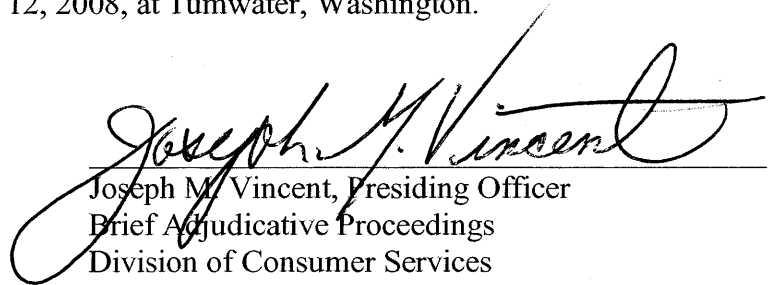
2.6 There is no triable issue of material fact as between the Division and Respondent, and an Initial Decision and Order may be entered as a matter of law.

3.0 INITIAL DECISION AND ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS HEREBY ORDERED THAT:

The application of Respondent DANIEL JAMES MANGIALARDI for a loan originator license with the Division of Consumer Services of the Washington State Department of Financial Institutions is denied.

Dated and mailed on February 12, 2008, at Tumwater, Washington.

A handwritten signature in black ink, reading "Joseph M. Vincent", is written over a horizontal line.

Joseph M. Vincent, Presiding Officer  
Brief Adjudicative Proceedings  
Division of Consumer Services  
WASHINGTON STATE DEPARTMENT OF  
FINANCIAL INSTITUTIONS  
P.O. Box 41200  
Olympia, Washington 98504-1200  
Phone: (360) 902-0516  
E-Fax: (360) 704-7036



### FURTHER APPEAL RIGHTS

Under the Washington Administrative Procedures Act, Chapter 34.05 RCW, and WAC 10-08-211, any party to an adjudicative proceeding may file a ***Petition for Review*** of this Initial Decision and Order. Any ***Petition for Review*** shall be filed with the Director of the Department of Financial Institutions within twenty (20) days of service of the Initial Decision and Order. **The deadline to file a Petition for Review is March 3, 2007.**

#### **Address for filing the Petition for Review:**

Scott Jarvis, Director  
Washington State Department of Financial Institutions  
P.O. Box 41200  
Olympia, Washington 98504-1200

A copy of any such ***Petition for Review*** must also be served upon the Division of Consumer Services, Washington State Department of Financial Institutions, P.O. Box 41200, Olympia, Washington 98504-1200, at the time the ***Petition for Review*** is filed with the Director.

A ***Petition for Review*** shall specify the portions of the ***Initial Decision and Order*** to which exception is taken and shall refer to the evidence of record which is relied upon to support the ***Petition for Review***. Any party may file a reply to a ***Petition for Review***. Replies must be filed with the Director within ten (10) days of the date of the service of the ***Petition for Review***, and copies of the reply must be served upon all other parties or their representatives at the time the reply is filed with the Director.

At the time for filing a ***Petition for Review*** has elapsed, the Director of the Washington State Department of Financial Institutions will issue a ***Final Decision and Order*** in this matter. In accordance with RCW 34.05.470 and WAC 10-08-215, any ***Petition for Reconsideration*** of such ***Final Decision and Order*** must be filed with the Director within ten (10) days of the service of the ***Final Decision and Order***. **NOTE: *Petitions for Reconsideration* do not stay the effectiveness of the *Final Decision and Order*.**

***Judicial Review*** of the ***Final Decision and Order*** is available to a party according to the provisions set out in the Washington Administrative Procedures Act, at RCW 34.05.570.

CERTIFICATE OF SERVICE

I, Chandra Wexler, certify that I personally delivered or mailed a copy of the Initial Decision and Order to parties named below at their respective addresses, postage pre-paid, on the date stated hereinabove.

Chandra Wexler

Print Name: Chandra Wexler

***Mailed to the following:***

Daniel James Mangialardi  
20607 39<sup>th</sup> Avenue SE  
Bothell, Washington 98012

Patrick Joseph Storm Davidson, Esq.  
4405 7<sup>th</sup> Avenue, Suite 100  
Lacey, Washington 98503-1055

James R. Brusselback  
Enforcement Chief  
Department of Financial Institutions  
Consumer Services Division  
P.O. Box 41200  
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Fatima Batie  
Financial Legal Examiner Supervisor  
Department of Financial Institutions  
Consumer Services Division  
P.O. Box 41200  
Olympia, Washington 98504-1200

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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:

DANIEL JAMES MANGIALARDI,  
  
Respondent.

NO. C-07-523-07-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO DENY LICENSE APPLICATION

**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)<sup>1</sup>. 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 Daniel James Mangialardi (Respondent Mangialardi)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Abacus Mortgage, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about July 6, 2007.

**1.2 Prior Criminal Acts.** On or about June 19, 2002, Respondent Mangialardi was charged under California State, Orange County Superior Court case number 02CF1217 with one count of DUI Causing Death or Injury to Another, a felony, pursuant to California Vehicle Code § 23153a and one count of DUI Causing Death or Injury to Another, felony, pursuant to California Vehicle Code § 23153b. Count one included a Great Bodily Injury enhancement pursuant to 12022.7(a) of the California Penal Code. Respondent Mangialardi pleaded guilty to both counts and admitted to the enhancement on or about October 23, 2002.

<sup>1</sup> RCW 19.146 (Amended 2006; Effective January 1, 2007)

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

2 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,  
3 Respondent Mangialardi fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-  
4 350(2)(c) by having been convicted of a felony within seven years of the filing of the present application.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

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

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 Mangialardi's application for a loan originator license be denied.

17 **V. AUTHORITY AND PROCEDURE**

18 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application  
19 (Statement of Charges) is issued pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW  
20 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative  
21 Procedure Act). Respondent may make a written request for a Brief Adjudicative Proceeding as set forth in the  
22 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF ADJUDICATIVE  
23 PROCEEDING accompanying this Statement of Charges.  
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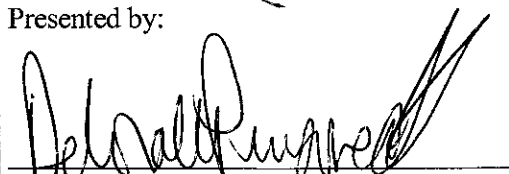
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1 Dated this 17<sup>th</sup> day of December 2007.


2  
3 

4 DEBORAH BORTNER  
5 Director  
6 Division of Consumer Services  
7 Department of Financial Institutions

8 Presented by:

9   
10 DEBORAH PINSONNEAULT  
11 Financial Legal Examiner

12 Approved by:

13   
14 FATIMA BATIE  
15 Financial Legal Examiner Supervisor

