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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-07-555-08-FO01

FINAL ORDER

GARRETT JOHN SYTSMA, JR., aka
GARY SYTSMA, and aka
GARRETT SYTSMA,

Respondent.

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I. DIRECTOR'S CONSIDERATION

A. Procedural History: 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(1). On December 20, 2007, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intent to Enter an Order to Deny License Application and Prohibit from Industry (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 December 21, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served the Statement of Charges, cover letter dated December 21, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on December 26, 2007, by Federal Express overnight delivery.

On December 27, 2007, Respondent filed the Application for Adjudicative Hearing. On December 29, 2007, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On January 24, 2008, ALJ Richard J. Roberts (ALJ Roberts) issued a Notice of Pre-Hearing Conference scheduling a pre-hearing conference for Tuesday, February 12, 2008, at 9:00 a.m.

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1 On February 12, 2008, Respondent Garrett John Sytsma and Assistant Attorney General Chad Corwyn
2 Standifer participated in a telephonic prehearing conference. On February 12, 2008, ALJ Roberts issued a Pre-
3 Hearing Conference Order scheduling a hearing on June 17, 2008.

4 On May 29, 2008, Respondent Sytsma filed a Notice of Withdrawal of Application for Adjudicative
5 Hearing with OAH. On June 12, 2008, ALJ Roberts issued an Order of Dismissal dismissing the matter. OAH
6 sent the Order of Dismissal to all parties.

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

- 9 1. Statement of Charges, cover letter dated December 21, 2007, and Notice of Opportunity to
10 Defend and Opportunity for Hearing, with documentation of service;
- 11 2. Completed Application for Adjudicative Hearing;
- 12 3. Request to OAH for Assignment of Administrative Law Judge;
- 13 4. Notice of Pre-Hearing Conference with documentation of service;
- 14 5. Pre-Hearing Conference Order dated February 12, 2008, with documentation of service; and
- 15 6. Order of Dismissal dated June 12, 2008, with documentation of service.

16 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the Director hereby adopts the
17 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 otherwise fully
20 advised, NOW, THEREFORE:

21 A. IT IS HEREBY ORDERED that:

- 22 1. Respondent Garrett John Sytsma, Jr.'s application for a loan originator license is denied; and
- 23 2. Respondent Garrett John Sytsma, Jr. is prohibited from participation in the conduct of the affairs of any
mortgage broker subject to licensure by the Director, in any manner, through December 28, 2013.

24 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for
25 Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the

1 Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater,
2 Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of
3 service of the Final Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness of
4 this Order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter.

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

8 C. Stay of Order. The Director has determined not to consider a Petition to Stay the effectiveness of this
9 order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter
10 34.05 RCW and RCW 34.05.550.

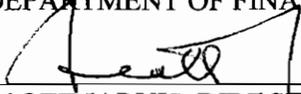
11 D. Judicial Review. Respondent has the right to petition the superior court for judicial review of this agency
12 action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review,
13 see RCW 34.05.510 and sections following.

14 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service is
15 effective upon deposit of this Final Order in the U.S. mail, declaration of service attached hereto.

16 DATED this 16th day of December, 2008.



17 STATE OF WASHINGTON
18 DEPARTMENT OF FINANCIAL INSTITUTIONS

19 
20 SCOTT JARVIS, DIRECTOR
21 DEPARTMENT OF FINANCIAL INSTITUTIONS

1 On or about January 3, 2006, Deschutes County Circuit Court Judge Stephen P. Forte entered a Judgment of
2 Conviction finding him guilty of that offense and dismissing the Theft of Services charge. Respondent
3 Sytsma disclosed the felony charge and conviction on the "Criminal Disclosure" section of the on-line loan
4 originator license application.

5 **1.3 Response to Criminal Disclosure.** The "Criminal Disclosure" section of the loan originator license
6 application consists of eight questions, and instructs applicants to provide complete details of all events or
7 proceedings when the answer to specific questions is "Yes." Respondent Sytsma's response to Question 2:

8 *Have you ever been charged with a felony?*

9 Yes. Writing a bad check, it was dropped when the DA realized it was a mistake.

10 Count 1 of the indictment charged Respondent Sytsma with theft of services valued at more than \$750, a
11 Class C felony. According to the police report, Respondent Sytsma had applied for a mortgage loan and
12 agreed to pay 1% of the loan amount as an origination fee. When he got the loan, Respondent Sytsma gave
13 the broker a check for \$8,400. The check was drawn on an account that did not have sufficient funds. The
14 broker demanded and Respondent Sytsma deposited a second check in the broker's account. The second
15 check was dishonored. Respondent Sytsma subsequently refused to pay.

16 **1.4 Respondent Sytsma's response to Question 5:**

17 *Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a*
18 *domestic, foreign, or military court to a misdemeanor involving: financial services or a*
19 *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?

20 Yes. Writing that bad check, I covered it, but had to plea no contest. Basic [sic] when I wrote
21 the check I put a Bank of America check in the printer instead of Columbia River Bank,
instead of them calling me as they should have they just turned it in.

22 Count 2 of the indictment charged Respondent Sytsma with negotiating a bad check, a Class A misdemeanor.
23 According to the police report, Respondent Sytsma wrote two bad checks, and never "covered" the debt. The
24 Bank of America check, number 0006, appeared to be written on a new or temporary account. The check had
25 no printing on the face to identify the account holder, though it was signed by Respondent Sytsma.

1 **1.5 Prior Regulatory Actions: Oregon Cease and Desist.** On or about August 29, 2002, the Director of
2 the Oregon Department of Consumer and Business Services (Oregon Director) issued Respondent Sytsma a
3 Notice Order, case number O-02-0031, proposing to revoke the mortgage banker/broker license of All
4 Seasons, a brokerage owned and operated by Respondent Sytsma. On or about December 5, 2003, the
5 Oregon Director accepted a settlement with Respondent Sytsma and All Seasons. Captioned "Order to Cease
6 and Desist, Order Assessing Civil Penalties, Order of Suspension from Mortgage Industry, and Consent to
7 Entry of Orders" (Cease and Desist Order), the Oregon Director entered Findings of Fact, among them that:

- 8 • On or about July 1, 2000, Respondent Sytsma became sole owner/controlling person of
9 All Seasons, an Oregon licensed mortgage banker/broker;
- 10 • On or about June 27, 2002, Respondent Sytsma, acting on behalf of All Seasons, applied to the
11 Oregon Director to add offices and loan originators to the license. The application listed "Gary
12 Sytsma" as the branch manager and as contact person with the title "registered agent." The
13 application did not identify "Gary Sytsma" as a pseudonym for Respondent Sytsma, and did not
14 disclose that Respondent Sytsma had transferred control of All Seasons to a person named Garrett
15 Sytsma; and
- 16 • In June 2002, Respondent Sytsma applied for a residential mortgage loan using the name
17 and social security number of Garrett Sytsma. In support of the application, Respondent
18 Sytsma represented that he had not filed bankruptcy or had civil judgments entered
19 against him, both of which were untrue.

20 The Oregon Director entered Conclusions of Law concerning the Findings cited above, including that:

- 21 • Respondent Sytsma violated ORS 59.930(2) by submitting the license amendment application for
22 All Seasons which omitted to state material facts necessary to make the statements made, in light
23 of the circumstances under which they were made, not misleading;
- 24 • Respondent Sytsma violated ORS 59.971(1) by engaging in a dishonest, fraudulent or illegal
25 practice by submitting a loan application intentionally listing a false social security number. The
conduct was done with the intent to deceive the broker regarding the existence of the bankruptcy
and other derogatory information on Respondent Sytsma's credit report; and
- By providing the social security number and financial information of Garrett Sytsma instead of
his own, Respondent Sytsma violated ORS 59.930(3) by intentionally engaging in an act that
operated or would operate as a fraud or deceit upon a person.

The Oregon Director ordered that Respondent Sytsma cease and desist from:

- Engaging in any act, practice or course of business that would operate as a fraud or deceit upon
and person; and
- Engaging in any act or conduct that would violate the Oregon Mortgage Lender Law,
ORS 59.840 to 59.980, or the administrative rules adopted thereunder.

1 The Oregon Director assessed a \$50,000 civil penalty, jointly and severally, against Respondent Sytsma
2 and All Seasons. \$30,000 of the penalty was suspended based on future compliance with the Cease and
3 Desist Order. Respondent Sytsma signed the Cease and Desist Order on November 12, 2003, and, without
4 admitting or denying the Oregon Director's Findings of Fact and Conclusions of Law, consented to a number
5 of conditions, including a five (5) year suspension of his mortgage banker/broker license.

6 **1.6 Prior Regulatory Actions: Oregon Revocation and Bar.** On or about April 29, 2004, the Oregon
7 Director entered a second administrative order against Respondent Sytsma and All Seasons, case number
8 M-04-0004. Captioned "Order to Revoke Mortgage Banker/Broker License of All Seasons Mortgage
9 Services, Inc., Order to Bar Garrett John Sytsma from Loan Originator Activity, Order to Impose Civil
10 Penalties, and Consent to Entry of Orders" (Order to Revoke and Bar), the Oregon Director entered Findings
11 of Fact, among them that:

- 12 • Respondent Sytsma is a loan originator for All Seasons, which he owns and controls;
- 13 • Respondent Sytsma had failed to comply with the terms of his suspension, in that he was
14 providing direct oversight to All Seasons and was actively originating loans; and
- 15 • Respondent Sytsma had failed to make payments towards the civil penalty.

16 The Oregon Director concluded that Respondent Sytsma had failed to comply with an Order of the
17 Oregon Director, and ordered that the mortgage banker/broker licenses of Respondent Sytsma and All
18 Seasons be revoked; that Respondent Sytsma be barred from the activities of a loan originator; and assessed a
19 \$50,000 civil penalty, jointly and severally, against Respondent Sytsma and All Seasons. Respondent Sytsma
20 signed the Order to Revoke and Bar on April 29, 2004, and, admitted the violations laid out in the Findings of
21 fact and Conclusions of Law, and consented to the entry of the Order to Revoke and Bar.

22 **1.7 Response to Regulatory Action Disclosure.** The "Regulatory Action Disclosure" section of the loan
23 originator license application consists of nine questions, and instructs applicants to provide complete details
24 of all events or proceedings when the answer to specific questions is "Yes."

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1 Respondent Sytsma answered "No" to question 1:

2 *Has any State or federal regulatory agency or foreign financial regulatory agency ever found*
3 *you to have made a false statement or omission or been dishonest, unfair, or unethical?*

4 Respondent Sytsma answered "Yes" to question 2:

5 *Has any State or federal regulatory agency or foreign financial regulatory agency ever found*
6 *you to have been involved in a violation of a financial services-related regulation(s) or*
statute(s)?

7 By way of explanation to his "Yes" answer, Respondent Sytsma noted "See #5."

8 Respondent Sytsma answered "No" to questions 3 and 4:

9 *Has any State or federal regulatory agency or foreign financial regulatory agency ever found*
10 *you to have been a cause of financial services-related business having its authorization to do*
business denied, suspended, revoked, or restricted?

11 *Has any State or federal regulatory agency or foreign financial regulatory agency ever*
12 *entered an order against you in connection with a financial services-related activity?*

13 Respondent Sytsma answered "Yes" to question 5:

14 *Has any State or federal regulatory agency or foreign financial regulatory agency ever*
15 *denied, suspended, or revoked your registration or license, disciplined you, or otherwise by*
16 *order, prevented you from associating with a financial services-related business or restricted*
your activities?

17 By way of explanation to his "Yes" answer, Respondent Sytsma noted:

18 The State of Oregon[.] In March of 2002 I submitted a loan application for myself to
19 Commonwealth in Bend Oregon to get credit to "take out" a \$810,000 construction loan I had
20 with Bank of the Cascades, in doing so I had no intention of taking out this mortgage but do
21 [sic] to the fact I put information down that was not correct, I did not know it was wrong at
22 the time do [sic] to the fact of my short time in the industry, in July of 2002 I did do my
23 "permanent" mortgage with Indy Mac which was fine. I litigated with the State for almost
two years, I finally offered to them to sell out the Mortgage company and my two John L.
Scott franchises that I had and move back to Washington. If you have any question please fell
[sic] free to contact me or the Bill Hansen with the State please call me, 1-509-737-1402,
Bills [sic] number is 1-503-947-7045 office, 1-503-313-1585 cell. I am in good standing with
the State now.

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

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 Sytsma fails to meet the requirements of RCW 19.146.310(1)(d) and WAC 208-660-350(2)(c) by
4 having been convicted of a gross misdemeanor involving dishonesty or financial misconduct within seven
5 years of filing his application.

6 **2.2 Requirement of No Prior License Suspension or Revocation.** Based on the Factual Allegations set
7 forth in Section I above, Respondent Sytsma fails to meet the requirements of RCW 19.146.310(1)(c) and
8 WAC 208-660-350(2)(b) by having a license issued under this chapter or any similar state statute suspended or
9 revoked within five years of the filing of the present application.

10 **2.3 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
11 Sytsma is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making
12 any false statement or willfully making any omission of material fact in connection with any application or
13 any information filed by a licensee in connection with any application, examination or investigation
14 conducted by the Department.

15 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
16 forth in Section I above, Respondent Sytsma fails to meet the requirements of RCW 19.146.310(1)(g) and
17 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
18 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
19 within the purposes of the Act.

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21 **III. AUTHORITY TO IMPOSE SANCTIONS**

22 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
23 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7),
24 the Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been
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1 met by the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the
2 application of the denial.

3 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
4 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
5 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
6 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

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8 **IV. NOTICE OF INTENT TO ENTER ORDER**

9 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
10 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a
11 basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and
12 RCW 19.146.310. Therefore, it is the Director's intent to ORDER that:

13 **4.1** Respondent Garrett John Sytsma, Jr.'s application for a loan originator license be denied.

14 **4.2** Respondent Garrett John Sytsma, Jr. be prohibited from participation in the conduct of the affairs of any
15 mortgage broker subject to licensure by the Director, in any manner, through December 28, 2013.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intent to Enter an Order to Deny License Application and Prohibit from Industry (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 20th day of December 2007.

Deborah Bortner
DEBORAH BORTNER
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

Anthony W. Carter
ANTHONY W. CARTER
Enforcement Attorney



Approved by:

Fatima Batie
FATIMA BATIE
Financial Legal Examiner Supervisor