

**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:

NO. C-08-115-09-CO01

FLEET HOME MORTGAGE dba FLEET HOME  
LOANS, and MICHAEL NORMAN BURNS,  
President, Owner and Designated Broker, and  
PETER ALEXANDER WHITNEY, Loan  
Originator,

CONSENT ORDER FOR  
FLEET HOME MORTGAGE and  
MICHAEL NORMAN BURNS

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Fleet Home Mortgage dba Fleet Home Loans (hereinafter Respondent Fleet), and Michael Norman Burns, President, Owner, and Designated Broker (hereinafter Respondent Burn), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

**AGREEMENT AND ORDER**

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-08-115-08-SC01 (Statement of Charges), entered December 4, 2008, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

CONSENT ORDER  
C-08-115-09-CO01  
FLEET HOME MORTGAGE dba FLEET HOME  
LOANS, and MICHAEL NORMAN BURNS

1

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200  
(360) 902-8703

1 Based upon the foregoing:

2 A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the  
3 activities discussed herein.

4 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing  
5 before an administrative law judge, and that they hereby waive their right to a hearing and any and all  
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.  
7 Accordingly, Respondents agree to withdraw their appeal and to inform the Office of Administrative Hearings in  
8 writing of their withdrawal.

9 C. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$4,000, in the form of a  
10 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

11 D. **Restitution.** It is AGREED that prior to the entry of this Consent Order, Respondents paid restitution  
12 to the consumers identified in the attached Restitution Schedule. Such payments were made in the form of a  
13 check and were sent to borrowers' last known address via the United States mail. Respondents included a letter  
14 with each check notifying the borrower that the check was a refund and that the borrower had 30 days to cash  
15 the check or the refund amount would be provided to the State Department of Revenue as unclaimed property.  
16 Respondents provided the Department with a signed affidavit attesting to mailing the checks, and a copy of the  
17 checks mailed (each with the accompanying explanatory cover letter). All checks that were not returned as  
18 undeliverable, but were not cashed within 30 days of mailing, were immediately turned over to the State  
19 Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property. A list of such  
20 checks was provided to the Department. Further, Respondents notified the Department of all checks that were  
21 returned as undeliverable, and the Department attempted to locate a current address. Upon notification by the  
22 Department that no new address was available, Respondents immediately sent the refund amounts to the State  
23 Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property. As noted  
24  
25

1 above, pursuant to the attached Restitution Schedule, Respondents provided refunds to the consumers  
2 referenced in paragraph 1.9 of the Statement of Charges.

3 **E. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee  
4 of \$748.80, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this  
5 Consent Order.

6 **F. Declaration of Financial Condition and Confession of Judgment.** It is AGREED that Respondent  
7 Burns has provided the Department with a Declaration comprehensively describing his and Respondent Fleet's  
8 current financial condition and representing their current inability to pay the fine and investigation fees and  
9 obligations agreed to in Paragraphs C and E of this Consent Order. It is further AGREED that, based on this  
10 Declaration, the Department has accepted a Confession of Judgment from Respondent Burns and Respondent  
11 Fleet for the obligations agreed to in Paragraph C and E of this Consent Order. A copy of this Confession of  
12 Judgment is attached and incorporated into this Consent Order by this reference. Consistent with Chapter 4.60 of  
13 the Revised Code of Washington, the Department may immediately seek entry of the judgment. Respondent  
14 Burns and Respondent Fleet shall, upon the Department's request, fully and promptly cooperate with the  
15 Department in its efforts to get the judgment entered by the superior court.

16 **G. Confession of Judgment.** It is AGREED that Respondents have entered into a Confession of  
17 Judgment for a fine of \$4,000 (paragraph C above), and an investigation fee of \$748.80 (paragraph E above).

18 **H. Complete Cooperation with the Department and the Office of the Attorney General.** It is  
19 AGREED that Respondent Burns shall cooperate fully, truthfully and completely with the Department and the  
20 Office of Attorney General and provide any and all information known to him relating in any manner to Peter  
21 Alexander Whitney conducting or engaging in the business of a loan originator while working at Fleet Home  
22 Mortgage dba Fleet Home Loans. It is further AGREED that Respondent Burns shall provide any and all  
23 documents, writings, materials, objects or evidence of any kind in his possession or under his care, custody, or  
24 control that he is authorized to possess, obtain, or distribute relating directly or indirectly to all areas of inquiry  
25

1 and investigation. A failure to cooperate fully, truthfully and completely is a breach of this Consent Order. It is  
2 further AGREED that Respondent Burns shall testify fully, truthfully and completely at any proceeding related  
3 to the Department's investigation and enforcement actions related to this matter, including, but not limited to  
4 Peter Alexander Whitney.

5 I. **Authority to Execute Order.** It is AGREED that the undersigned Respondents have represented and  
6 warranted that they have the full power and right to execute this Consent Order on behalf of the parties  
7 represented.

8 J. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide  
9 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the  
10 event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in  
11 pursuing such action, including but not limited to, attorney fees.

12 K. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into  
13 this Consent Order, which is effective when signed by the Director's designee.


14 L. **Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this  
15 Consent Order in its entirety and fully understand and agree to all of the same.

16  
17 **RESPONDENTS:**

18 FLEET HOME MORTGAGE dba FLEET HOME LOANS,  
19 and MICHAEL NORMAN BURNS

20   
MICHAEL NORMAN BURNS  
President and Owner

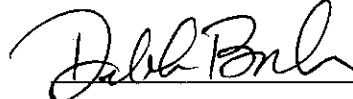
8/5/09  
Date

21   
22 MICHAEL NORMAN BURNS  
23 Individually

8/5/09  
Date

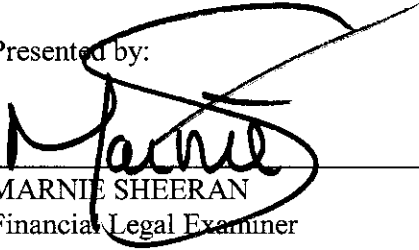
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THIS ORDER ENTERED THIS 30<sup>th</sup> DAY OF September, 2008.



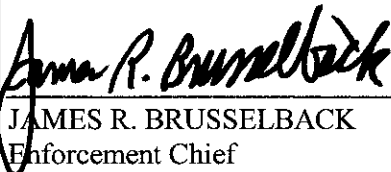
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:



MARNIE SHEERAN  
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK  
Enforcement Chief



## Restitution Schedule- Burns

Name	Loan Number	Refund Amount
A.C.	1107050901	\$1,664.17
J.C	0000685222	\$1,100.50
S.C.	0203394572 and 0203402102	\$1,046.50
M.R.	4700009962	\$674.99
G.G.	40882168 and 6400027118	\$2,080.03
K.H.	3014611002	\$587.75
C.Y.	40885949	\$1,248.10
<b>TOTAL=</b>		<b>\$8,402.04</b>

**STATE OF WASHINGTON  
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IN THE MATTER OF DETERMINING  
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FLEET HOME MORTGAGE dba FLEET HOME  
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President, Owner and Designated Broker, and  
PETER ALEXANDER WHITNEY, Loan  
Originator,

Respondents.

NO. C-08-115-08-SC01

STATEMENT OF CHARGES and NOTICE OF  
INTENTION TO ENTER AN ORDER TO DENY  
LOAN ORIGINATOR LICENSE APPLICATION,  
REVOKE OR SUSPEND MORTGAGE BROKER  
LICENSE, PROHIBIT FROM INDUSTRY, IMPOSE  
FINE, ORDER RESTITUTION, 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)<sup>1</sup>. After having conducted an investigation pursuant to RCW 19.146.210 and 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. Fleet Home Mortgage dba Fleet Home Loans (Respondent Fleet) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on July 13, 2004, and has continued to be licensed to date. Respondent Fleet is licensed to conduct the business of a mortgage broker at one location in Seattle, Washington.

<sup>1</sup> RCW 19.146 (2007)

1 B. Michael Norman Burns (Respondent Burns) is the Designated Broker, President, and Owner of  
2 Respondent Fleet.

3 C. Peter Alexander Whitney (Respondent Whitney) acted as a loan originator for Respondent Fleet  
4 from at least April 2007 to February 2008.

5 **1.2 Loan Originator Application.** Respondent Whitney submitted an application to the Department of  
6 Financial Institutions of the State of Washington, Division of Consumer Services (Department) for a loan  
7 originator license under Fleet Home Mortgage, a mortgage broker licensed under the Act. The on-line  
8 application was received by the Department on November 8, 2007. On or about January 10, 2008, the  
9 Department notified Respondent Whitney that his application was incomplete and his application was rejected.  
10 On or about February 21, 2008, Respondent Whitney submitted the missing application information and  
11 materials, and the Department re-opened his application request.

12 **1.3 Prior Criminal Acts.** On or about September 29, 2005, Respondent Whitney was charged under King  
13 County Superior Court Cause No. 05-1-11568-4-SEA with one count of Assault in the Second Degree, a felony,  
14 pursuant to RCW 9A.36.021(1)(a), and one count of Assault in the Fourth degree, a gross misdemeanor,  
15 pursuant to RCW 9A.36.041. On or about January 10, 2006, the charge of Assault in the Second Degree was  
16 amended to Assault in the Third Degree, a felony, pursuant to RCW 9A.36.031(1)(f).

17 **1.4** On or about February 21, 2006 Respondent Whitney was convicted under King County Superior Court  
18 Cause No. 05-1-11568-4-SEA of Assault in the Third Degree, a felony, pursuant to RCW 9A.36.031(1)(f). As  
19 part of the plea agreement, the charge of Assault in the Fourth Degree was dismissed.

20 **1.5** According to Appendix B (Criminal History) of Judgment and Sentence for King County Superior  
21 Court Cause No. 05-1-11568-4-SEA, Respondent Whitney was convicted of, among other crimes, the following  
22 other felony offenses:

23 A. On or about October 25, 1991, Respondent Whitney was convicted in Snohomish County Superior  
24 Court Cause No. 911002619 of Robbery in the First Degree, a felony, pursuant to RCW 9A.56.200.

25

1 B. On or about September 30, 1991, King County Superior Court Cause No.911020783, Respondent  
2 Whitney was convicted of three (3) counts of Robbery in the First Degree, a felony, pursuant to RCW  
3 9A.56.200.

4 C. On or about June 19, 1990, Respondent Whitney was convicted of Assault in the Second Degree, a  
5 felony, pursuant to RCW 9A.36.021(1)(a).

6 1.6 On or about July 3, 2002, Respondent Whitney was charged in King County District Court Cause No.  
7 Y20168833 with one count of Theft Third Degree, a gross misdemeanor, pursuant to RCW 9A.56.050. On or  
8 about January 29, 2003, this charged was dismissed without findings.

9 1.7 **Application for Licensure-Responses to Application Questions.** The "Criminal Disclosure" section  
10 of the loan originator license application consists of eight questions, and includes the following instruction:

11 "If the answer to any of the following is "YES", provide complete details of all events or proceedings."  
12 Respondent answered "yes" to the following questions on the "Criminal Disclosure" section of his loan  
13 originator license application:

- 14 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a  
15 domestic, foreign, or military court to any felony?
- 16 • 2-Have you ever been charged with a felony?

17 However, Respondent only listed the felony conviction listed in paragraph 1.4 above.

18 Respondent answered "no" to question No. 6, which was not truthful. Respondent was obligated by statute to  
19 answer questions on the loan originator license application truthfully and to provide the Department with  
20 complete details of all events or proceedings.

21 1.8 **Unlicensed Activity.** Respondent Whitney is known to have conducted the business of a loan  
22 originator at Respondent Fleet's office located at 1721 33<sup>rd</sup> Avenue, Seattle, WA 98122 from at least April 2007  
23 through February 2008. To date, the Department has not issued a license to Respondent Whitney to conduct the  
24 business of a loan originator from any location.

1 **1.9** Between April 1, 2007 and November 9, 2007, Respondent Whitney assisted at least ten (10) borrowers  
2 in applying to obtain or obtaining residential mortgage loans on property located in the State of Washington  
3 from Respondent Fleet's office.

4 **1.10 Prohibited Acts.** Between June 15, 2007 and July 31, 2007, Respondents submitted three loan  
5 applications for two 'primary residences' for Borrower S.F. to two different lenders. The income listed in at  
6 least two of the applications was inflated, and Borrower S.F. was purchasing the properties for investment  
7 purposes.

8 **1.11 Failure to Respond to Directives.** On October 26, 2007, the Department served a directive on  
9 Respondent Whitney by Federal Express overnight mail. The directive was sent to 7919 Cyrus Place,  
10 Edmonds, WA<sup>1</sup> and was signed for by Respondent Whitney. Respondent Whitney was directed to respond  
11 within fifteen days of the date of the directive. On or about November 27, 2007, the Department sent a  
12 subpoena to Respondent Whitney by Federal Express overnight mail to the same address as the October 26,  
13 2007 directive. On December 6, 2007, the subpoena was returned as "customer not available or business  
14 closed". On February 11, 2008, the Department served a subpoena by Federal Express overnight delivery on  
15 Respondent Whitney at Respondent Fleet's last known address<sup>2</sup>. On or about February 20, 2008 Respondent  
16 Whitney contacted a Department Representative acknowledging he had received the Department's directive.  
17 Mr. Whitney was instructed to respond immediately. To date, the Department has not received any response  
18 from Respondent Whitney.

19 **1.12 Failure to Timely Respond to Directives.** On March 18, 2008, the Department sent a directive to  
20 Respondent Fleet and Respondent Whitney to the attention of "designated broker" at Respondent Fleet's last  
21 known address via first class mail. This directive was not returned. The directives required Respondents to  
22 provide a list of all residential mortgage loans made by Respondent Whitney between September 2005 and the  
23

24 <sup>1</sup> Respondent Whitney submitted this address as his current residential address on his loan originator application.

25 <sup>2</sup> The subpoena was signed for by R. Gaston on February 12, 2008. On April 11, 2008, R. Gaston also signed for a  
subpoena served on Fleet Mortgage and Peter Whitney addressed to the attention of Respondent Burns at Respondent  
Fleet's last known address. On April 22, 2008, Respondent Burns provided a list of loans that Respondent Whitney  
originated while working for Respondent Fleet in 2007. (See paragraph 1.12)

1 present. Respondents were directed to respond within fifteen days following the date of the directive. On or  
2 about April 10, 2008 the Department served a subpoena on Respondent Fleet and Respondent Whitney to the  
3 attention of Respondent Burns by Federal Express overnight mail requiring compliance with the Department's  
4 previous directive within ten days of the date of the subpoena. On or about April 15, 2008, Respondent Burns  
5 submitted a letter regarding Respondent Whitney's employment with Respondent Fleet. No list of loans was  
6 attached. On or about April 22, 2008, Respondent Burns submitted a list of loans purportedly originated by  
7 Respondent Whitney in 2007.

8 **1.13 Failure to Disclose Loan Originators License Number on Applications.** During an on-site  
9 examination in or around November 2007, the Department determined that Respondents did not disclose the  
10 loan originator's license number on any of their residential mortgage applications.

11 **1.14 Failure to Properly Disclose Yield Spread Premium.** In at least twenty (20) loans, Respondents did  
12 not properly disclose the Yield Spread Premium (YSP) to consumers or did not disclose the YSP as a dollar  
13 amount or dollar range or did not disclose the YSP in the 800 section of the Good Faith Estimate (GFE).

14 **1.15 Use of Line 801 of the HUD 1/1A Settlement Statement for Mortgage Broker Fees.** In at least ten  
15 (10) loans, Respondents used line 801 of the GFE or HUD 1/1A Settlement Statement to record mortgage  
16 broker fees.

17 **1.16 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
18 Respondents continues to date.

## 21 II. GROUNDS FOR ENTRY OF ORDER

22 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,  
23 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or  
24 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential  
25

1 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a  
2 person in obtaining or applying to obtain a residential mortgage loan.

3 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-006, "Loan  
4 Originator" means a natural person who (a) takes a residential mortgage loan application for a mortgage broker,  
5 or (b) offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in  
6 expectation of direct or indirect compensation or gain. "Loan Originator" also includes a person who holds  
7 themselves out to the public as able to perform any of these activities.

8 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(2), a "Borrower" is defined as any person who  
9 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information  
10 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself  
11 or herself, regardless of whether the person actually obtains such a loan.

12 **2.4 Requirement to Obtain or Maintain Loan Originator License.** Based on the Factual Allegations set  
13 forth in Section I above, Respondent Whitney is in apparent violation of RCW 19.146.0201(2) and (3), RCW  
14 19.146.200(1), and WAC 208-660-350(3) for engaging in the business of a loan originator without first  
15 obtaining and maintaining a license under the Act.

16 **2.5 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I above,  
17 Respondent Whitney fails to meet the requirements of RCW 19.146.310(1)(d) and (g) and WAC 208-660-  
18 350(2)(a) and (c) by having been convicted of a felony within seven years of the filing of the present  
19 application.

20 **2.6 Requirement to Comply with Chapter or Rules.** Based on the Factual Allegations set forth in  
21 Section I above, Respondent Whitney is in apparent violation of RCW 19.146.310(f) and WAC 208-660-  
22 500(3)(i) for negligently making any false statement or willfully making any omission of material fact in  
23 connection with any application or any information filed by a licensee in connection with any application,  
24 examination or investigation conducted by the department.

25

1 **2.7 Requirement to Provide Information on License Application.** Based on the Factual Allegations set  
2 forth in Section I above, Respondent Whitney fails to meet the requirements of RCW 19.146.300(1) and (2) and  
3 RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form  
4 prescribed by the Director.

5 **2.8 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set  
6 forth in Section I above, Respondent Whitney fails to meet the requirements of RCW 19.146.310(1)(g) and  
7 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the  
8 confidence of the community and to warrant a belief that the business will be operated honestly and fairly  
9 within the purposes of the Act.

10 **2.9 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC 208-660-  
11 155(3), a licensed mortgage broker is liable for any conduct violating the Act by the designated broker or loan  
12 originator employed or engaged by the licensed mortgage broker. Pursuant to RCW 19.146.200(4)(a) and (b), a  
13 designated broker or principal of a licensed mortgage broker is liable for an employee's violations of the act if  
14 the designated broker or principal directs or instructs the conduct or with knowledge of the specific conduct  
15 approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry should have known  
16 of the conduct at the time when its consequences can be avoided or mitigated and fails to take reasonable  
17 remedial action.

18 **2.10 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in  
19 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (13) and (15) for directly or indirectly employing a  
20 scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or  
21 deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to make  
22 disclosures to loan applicants as required by RCW 19.146.030 and any other applicable state or federal law,  
23 making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or  
24 other financing terms or conditions for a residential mortgage loan, collecting, charging, attempting to collect or  
25

1 charge or using any fee prohibited by RCW 19.146.030, failing to comply with any provision of RCW  
2 19.146.030 through 19.146.080 or any rule adopted under those sections.

3 **2.11 Requirement to Timely and Completely Comply with Department Directives.** Based on the Factual  
4 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.235 for failure to  
5 comply with the Director's investigatory authority by failure to timely or fully and completely comply with the  
6 Department's Directives.

7 **2.12 Requirement to Disclose Loan Originator License Number on Applications.** Based on the Factual  
8 Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-660-350(26) and  
9 (27) for failing to include loan originator license numbers on loan applications.

10 **2.13 Requirement to Properly Disclose YSP.** Based on the Factual Allegations set forth in Section I  
11 above, Respondents are in apparent violation of RCW 19.146.030(1) or (4), RCW 19.146.0201(6) and (11),  
12 Regulation X, 24 C.F.R. Section 3500.7 (1996) and Regulation X, 24 C.F.R. Section 3500, Appendix B (1996),  
13 and WAC 208-660-430(4), for failing to properly disclose a YSP or for failing to disclose the YSP as a dollar  
14 amount or dollar range or for failing to disclose the YSP in the 800 section of the GFE.

15 **2.14 Use of Line 801 to Disclose Mortgage Broker Fees:** Based on the Factual Allegations set forth in  
16 Section I above, Respondents are in apparent violation of RCW 19.146.0201(6) and (11), WAC 208-660-430(4)  
17 and (12) (effective 1/1/2007)<sup>1</sup>, and Regulation X, 24 C.F.R Section 3500 and Appendix A (1996) for using line  
18 801 of the GFE or HUD 1/1A Settlement Statement to record mortgage broker fees.

### 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), the  
24 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by  
25

<sup>1</sup> WAC 208-660-430(12) was recodified as WAC 208-660-430(13) effective 3/24/2008

1 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application  
2 of the denial.

3 **3.2 Authority to Revoke or Suspend License.** Pursuant to RCW 19.146.220(2)(b),(d), and (e), the  
4 Director may revoke or suspend a license for false statements or omission of material information on the  
5 application that, if known, would have allowed the director to deny the application for the original license,  
6 failure to comply with any directive or order of the Director, or any violation of chapter 19.146 RCW.

7 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a),(b) and (d), the Director  
8 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a  
9 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage  
10 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or  
11 (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,  
12 false statements or omission of material information on the application that, if known, would have allowed the  
13 Director to deny the application for the original license, or failure to comply with a directive or order of the  
14 Director.

15 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(b),(d) and (e) and RCW 19.146.220(3) (a)  
16 and (b), the Director may impose fines on a licensee, employee or loan originator of the licensee, or other  
17 person subject to the Act for any violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030  
18 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), RCW 19.146.265, failure to comply with a  
19 directive or order of the Director or any violation of Chapter 19.146 RCW..

20 **3.5 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(b),(d) and (e), the Director may issue  
21 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution.

22 **3.6 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(5),  
23 upon completion of any investigation of the books and records of a licensee or other person subject to the Act,  
24 the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the  
25

1 investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per hour that  
2 each staff person devoted to the investigation.

#### 3 IV. NOTICE OF INTENTION TO ENTER ORDER

4 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
5 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis  
6 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223.

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

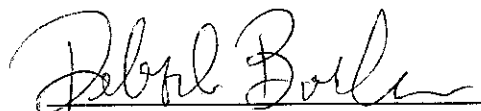
- 8
- 9 **4.1** Respondent Peter Alexander Whitney's application for a license to conduct the business of a loan  
originator be denied; and
- 10 **4.2** Respondent Fleet Home Mortgage's license to conduct the business of a mortgage broker be revoked or  
suspended; and
- 11 **4.3** Respondent Michael Norman Burns' license to conduct the business of a loan originator and designated  
12 broker be revoked or suspended; and
- 13 **4.4** Respondent Peter Alexander Whitney 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 ten (10) years; and
- 14 **4.5** Respondent Fleet Home Mortgage, Respondent Michael Norman Burns, and Respondent Peter Alexander  
15 Whitney jointly and severally pay a fine, which as of the date of these charges totals \$30,000; and
- 16 **4.6** Respondent Fleet Home Mortgage, Respondent Michael Norman Burns, and Respondent Peter Alexander  
17 Whitney jointly and severally refund all fees that inured to Respondents' benefit to the borrowers listed in  
paragraphs 1.9 and 1.14 ; and
- 18 **4.7** Respondent Fleet, Respondent Burns, and Respondent Whitney jointly and severally pay an investigation  
19 fee in the amount of \$3,552 calculated at \$48 per hour for the seventy four (74) staff hours, as of the date of  
this Statement of Charges, devoted to the investigation; and
- 20 **4.8** Respondents maintain records in compliance with the Act and provide the Department with the location of  
21 the books, records and other information relating to Respondent Fleet Home Mortgage's mortgage broker  
business, and the name, address and telephone number of the individual responsible for maintenance of  
22 such records in compliance with the Act.

#### 23 V. AUTHORITY AND PROCEDURE

24 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221,  
25 RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The  
Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the

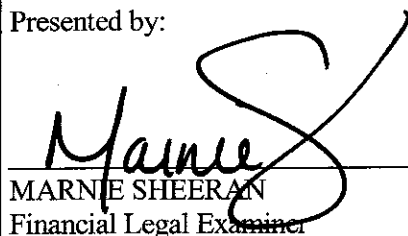
1 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
2 Statement of Charges.

3  
4 Dated this 4<sup>th</sup> day of December, 2008.

5  
6 

7 DEBORAH BORTNER  
8 Director  
9 Division of Consumer Services  
10 Department of Financial Institutions

11 Presented by:

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13  
14 MARNE SHEERAN  
15 Financial Legal Examiner



16 Approved by:

17   
18  
19 JAMES R. BRUSSELBACK  
20 Enforcement Chief  
21  
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23  
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