

# TERMS COMPLETE

## CONSENT ORDER SUMMARY - Case Number: C-08-165

**Name(s)** A+ Mortgage, Inc.  
Gregory J. Nick

**Order Number** C-08-165-10-CO01

**Effective Date** March 29, 2010

**License Number** DFI: 18769 NMLS ID: 6803 (A+ Mortgage)  
DFI: 21312 NMLS ID: 6824 (Gregory)

**License Effect** Department accepts voluntary surrender

**Not Apply until** March 29, 2015

**Prohibition/Ban until** March 29, 2015

<b>Investigation Costs</b>	\$5,500	Due :	Paid Y	Date: 3/25/2010
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<b>Assessment(s)</b>	\$n/a	Due	Paid Y N	Date
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<b>Monetary Penalty</b>	\$125,000	Due :	Paid Y	Date: 3/25/2010
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**Other** Restitution of \$44,100.43 paid

**Special Instructions** \_\_\_\_\_

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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:

NO. C-08-165-10-CO01

A+ MORTGAGE, INC., and  
GREGORY J. NICK,  
President, Owner, and Designated Broker,

CONSENT ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and A+ Mortgage, Inc. (hereinafter Respondent A+), and Gregory J. Nick, President, Owner, and Designated Broker (hereinafter Respondent Nick), and finding that the issues raised in the above-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 the 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 Amended Statement of Charges No. C-08-165-07-SC02 (Amended Statement of Charges), entered September 19, 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 Amended

1 Statement of Charges. Respondents are agreeing not to contest the Amended Statement of Charges in  
2 consideration of the terms of this Consent Order.

3 Based upon the foregoing:

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

6 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a  
7 hearing before an administrative law judge, and that they hereby waive their right to a hearing and any and all  
8 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

9 Accordingly, Respondents, by their signatures below, hereby withdraw their appeal of the Amended  
10 Statement of Charges.

11 C. **No Admission of Liability.** It is AGREED that the parties intend this Consent Order to fully  
12 resolve the Amended Statement of Charges and agree that (i) Respondents neither admit nor deny the  
13 allegations in the Amended Statement of Charges and (ii) that none of the facts alleged in this matter will  
14 be used as a basis for denial of any application submitted by Respondent Nick for a Loan Originator  
15 license.

16 D. **License Surrender.** It is AGREED that the Department will accept the voluntary surrender of  
17 Respondents' mortgage broker license.

18 E. **Agreement Not to Apply.** It is AGREED that Respondents will not apply with the Department  
19 for a license to conduct business as a mortgage broker or consumer loan company, under any name or on  
20 behalf of any person or entity, for a period of five years following the entry of this Consent Order. This  
21 agreement will not preclude Respondent Nick from applying for a Loan Originator license under the  
22 Mortgage Broker Practices Act or the Consumer Loan Act.  
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1           **F. Prohibitions.**

2           **1. Prohibition against Respondent A+.** It is AGREED that Respondent A+ is prohibited  
3 from participating in the conduct of the affairs of any mortgage broker or consumer loan company licensed  
4 by the Department or subject to licensure or regulation by the Department under RCW 19.146 et seq. or  
5 RCW 31.04 et seq. for five years following the date of entry of this Consent Order, in any capacity.

6           **2. Prohibition against Respondent Nick under the Mortgage Broker Practices Act.** It is  
7 AGREED that Respondent Nick is prohibited from participating in the conduct of the affairs of any  
8 mortgage broker licensed by the Department or subject to licensure or regulation by the Department under  
9 RCW 19.146 et seq., including, but not limited to: (a) any financial capacity whether active or passive, or (b)  
10 as an officer, director, principal, designated broker, or employee other than a loan originator, or (c) any  
11 management, control, oversight or maintenance of any trust account(s) in any way related to any residential  
12 mortgage transaction, or (d) receiving, disbursing, managing, or controlling in any way, consumer trust funds  
13 in any way related to any residential mortgage transaction, for a period of five years following the entry of  
14 this Consent Order. It is further AGREED that Respondent Nick may work as a loan originator under the  
15 Mortgage Broker Practices Act provided that he meets the applicable licensing requirements and applies  
16 for and is issued a Loan Originator license by the Department.

17           **3. Prohibition against Respondent Nick under the Consumer Loan Act.** It is AGREED  
18 that Respondent Nick is prohibited from possessing an ownership interest in any consumer loan company  
19 licensed by the Department or subject to licensure or regulation by the Department under RCW 31.04 et  
20 seq. in excess of 20 percent for a period of five years following the entry of this Consent Order. It is  
21 further AGREED that Respondent Nick may hold a managerial position for such consumer loan company,  
22 but Respondent Nick is prohibited from exercising direct or indirect control over loan originators, or  
23 having any supervisory responsibilities with respect to loan originators, or exercising authority or  
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1 responsibility for management of compliance for such consumer loan company for five years following the  
2 entry of this Consent Order. It is further AGREED that Respondent Nick may work as a loan originator  
3 under the Consumer Loan Act provided that he meets all of the licensing requirements and applies for and  
4 is issued a Loan Originator license by the Department.

5       **G. Fine.** It is AGREED that Respondents will pay to the Department a fine of \$125,000 in the form  
6 of a cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

7       **H. Restitution.** It is AGREED that Respondents will pay restitution totaling \$44,100.43 to those  
8 borrowers and in those amounts more specifically set forth in Appendix A. Prior to the entry of this  
9 Consent Order, the total restitution amount will be deposited into the trust account of an escrow company  
10 licensed by the Department, with which Respondents have no current or previous business, personal, or  
11 financial interests, for distribution to the specified borrowers. Respondents will also provide the  
12 Department with the identity of the escrow company and will provide proof to the Department that the  
13 funds have been deposited, both prior to the entry of this Consent Order. Such proof will include a copy of  
14 a cashier's check in the amount of \$44,100.43 made payable to the escrow company's trust account and a  
15 representation from the Designated Escrow Officer that the funds have been deposited. Following deposit  
16 of said funds into the escrow company's trust account, Respondents will not be permitted to receive any  
17 portion of the \$44,100.43. Respondents will instruct the escrow company to mail restitution checks to the  
18 specified borrowers within 15 days of entry of this Consent Order. In the event that a borrower cannot be  
19 found or restitution checks are not cashed within 60 days of issuance, Respondents will instruct the escrow  
20 company to submit the relevant funds to the Department of Revenue as unclaimed property within 120  
21 days of entry of this Consent Order. Respondents will bear the cost of all related expenses such as escrow  
22 company fees, costs of mailing, and stopping payment on outstanding checks that are not returned or  
23 cashed separately from the funds deposited into the escrow company's trust account. Within 130 days of  
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1 entry of this Consent Order, Respondents will provide the Department with proof of all payments in the  
2 form of copies of the front and back of cancelled restitution checks and any checks to the Department of  
3 Revenue, and a copy of any unclaimed property forms submitted to the Department of Revenue.

4 **I. Investigation Fee.** It is AGREED that Respondents will pay to the Department an investigation  
5 fee of \$5,500 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry  
6 of this Consent Order. Respondents may pay both the fine and the investigation fee in the form of a single  
7 cashier's checks made payable to the "Washington State Treasurer."

8 **J. Records Retention.** It is AGREED that Respondents will maintain records in compliance with  
9 the Mortgage Broker Practices Act and provide the Department with the location of the books, records,  
10 and other information relating to A+ Mortgage, Inc.'s mortgage broker business, and the name, address  
11 and telephone number of the individual responsible for maintenance of such records in compliance with  
12 the Act.

13 **K. Authority to Execute Order.** It is AGREED that the undersigned Respondents have represented  
14 and warranted that they have the full power and right to execute this Consent Order on behalf of the parties  
15 represented.

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

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

22 **N. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this  
23 Consent Order in its entirety and fully understand and agree to all of the same.  
24

1 **RESPONDENTS:**

2 **A+ Mortgage, Inc.**

3 By: [Redacted]

4 Gregory J. Nick  
5 President, Owner, and Designated Broker

3/4/10  
Date

6 [Redacted]

7 Gregory J. Nick  
8 Individually

3/4/10  
Date

9 [Redacted]

10 John L. Bley, WSBA No. 15230  
11 Attorney at Law  
12 Attorney for Respondents

3/4/10  
Date

13 **DO NOT WRITE BELOW THIS LINE**

14 THIS ORDER ENTERED THIS 29<sup>th</sup> DAY OF March, 2010.



15 [Redacted]

16 DEBORAH BORTNER  
17 Director  
18 Division of Consumer Services  
19 Department of Financial Institutions

20 Presented by:

21 [Redacted]

22 STEVEN C. SHERMAN  
23 Financial Legal Examiner

24 Approved by:

25 [Redacted]

JAMES R. BRUSSELBACK  
Enforcement Chief

**RESTITUTION**

	<b>Borrower</b>	<b>Loan Number<sup>1</sup></b>	<b>Amount</b>
3	R.W.		525.00
	K.W.		525.00
4	A.S.		500.00
5	T.S.		615.00
6	W.S.		895.00
6	C.S.		813.00
7	S.S.		650.00
8	J.S.		525.00
8	Y.S.		495.00
9	M.R.		500.00
10	V.M.		586.03
	F.M.		525.00
11	M.M.		541.02
12	A.N.		813.00
	O.P.G.		732.00
13	J.P.		541.50
14	J.L.		1,095.00
	J.L.		1,388.00
15	C.L.		519.05
16	M.K.		513.00
	J.J.		995.00
17	M.G.		2,825.00
18	J.G.		1,090.00
	C.G.		531.75
19	B.G.		451.50
20	M.G.		1,138.00
	C.G.		703.00
21	J.H.		1,476.02
22	M.H.		595.00

<sup>1</sup> Loan numbers were obtained from the Final HUD-1 and are listed for the sole purpose of identifying the borrower.

A-1

1	E.H.		572.57
2	A.H.		595.00
3	J.H.		495.00
4	L.H.		1,006.50
5	C.H.		895.00
6	S.H.		495.00
7	M.H.		250.00
8	A.C.		645.00
9	S.D.		600.00
10	R.A.		595.00
11	H.A.		695.00
12	J.A.		695.00
13	M.C.		1,250.00
14	L.K.		595.00
15	J.K.		1,479.49
16	K.L.		6,370.00
17	S.E.		3,765.00
18	<b>TOTAL</b>		<b>\$44,100.43</b>

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**STATE OF WASHINGTON  
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IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of  
Washington by:

A+ MORTGAGE, INC., and  
GREGORY J. NICK,  
President, Owner, and Designated Broker,

Respondents.

NO. C-08-165-08-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO REVOKE 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 19.146.235, 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. **A+ Mortgage, Inc., (Respondent A+)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on March 2, 1997, and has continued to be licensed to date. Respondent A+ is licensed to conduct the business of a mortgage broker at forty-five locations.

<sup>1</sup> RCW 19.146 (1994) OR (2006) OR both

1           **B. Gregory J. Nick (Respondent Nick)** is President, Owner, and Designated Broker of  
2 Respondent A+. Respondent Nick was named Designated Broker of Respondent A+ on March 2,  
3 1997, and has continued as Designated Broker to date.

4           **1.2 Examination.** Beginning on or about November 12, 2007, the Department conducted an  
5 examination of the Respondents' business practices. The Department's examiners reviewed 186  
6 residential mortgage loan files for the period of August 1, 2005, to September 30, 2007.

7           **1.3 Prohibited Acts.**

8           **A. Stated Income Falsification.** In four of the loans reviewed, a borrower's income on a  
9 loan application was falsely inflated and the application was submitted to a lender.  
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11           **B. Occupancy Falsification.** In one of the loans reviewed, a borrower's application to  
12 purchase a primary residence was submitted to a lender at the same time as the borrower's application  
13 to refinance a different primary residence was submitted to a different lender.

14           **C. Document Falsification.** In at least three loan files, the file contains an application,  
15 Good Faith Estimate, and Truth-in-Lending disclosure which bear what appears to be the borrower's  
16 signature, but which the borrower did not sign or authorize any other person to sign.

17           **D. Collecting Unlawful Fees.** In six of the loans reviewed, Respondents collected a  
18 higher mortgage broker fee at closing than was disclosed on the most recent Good Faith Estimate  
19 disclosure without providing a subsequent disclosure or a written explanation for the increased fee. In  
20 one of the loans reviewed, Respondents disclosed a Yield Spread Premium of \$9,040 on the Good  
21 Faith Estimate, but collected that amount from the borrower's funds at closing.

22           **E. Collecting Unearned Fees.** In one of the loans reviewed, the Respondents charged the  
23 borrower for rate discount points when the Respondents were not the lender and had no authority to  
24 discount the interest rate. In two of the loans reviewed, Respondents charged the borrower an  
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1 underwriting fee when the Respondents were not going to be the lender and had no basis for  
2 underwriting the loan.

3 **F. Failure to Properly Disclose Yield Spread Premium.** In twenty-five of the files  
4 reviewed, Respondents did not disclose, did not timely disclose, or did not accurately disclose the  
5 Yield Spread Premium.

6 **G. Failure to Provide Notice to the Home Loan Applicant Disclosure.** In five of the  
7 loans reviewed, Respondents did not provide borrowers with a copy of the Notice to the Home Loan  
8 Applicant required by the Fair Credit Reporting Act.

9 **H. Failure to Notify Borrowers of Adverse Action.** In six of the loans reviewed,  
10 Respondents failed to notify the borrower within thirty days that a loan application had been denied.

11 **1.4 Conversion of Borrower Funds for Payment of Third-Party Providers Held in Trust.**

12 Between August 31, 2005, and September 30, 2007, Respondents issued at least 146 checks payable to  
13 employees from Respondents' trust account.

14 **1.5 Failure to Comply with Rate Lock Disclosure Requirements.** In thirty-three of the loans  
15 reviewed, Respondents did not provide the borrower with an initial rate lock disclosure, did not  
16 provide a rate lock disclosure after a rate had been locked, or provided a rate lock disclosure which  
17 was incomplete.

18 **1.6 Failure to Provide Accurate Truth-In-Lending Disclosures.** In thirty-five of the loans  
19 reviewed, Respondents provided a Truth-in-Lending disclosure which stated an incorrect payment  
20 stream, did not disclose that the loan carried an adjustable rate by checking the variable rate box, or  
21 did not have the entire bottom portion of the Truth-in-Lending disclosure completed.  
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1 **1.7 Failure to Timely Provide Good Faith Estimate and Truth-In-Lending Disclosures.** In ten  
2 of the loans reviewed, Respondents did not provide Good Faith Estimate and Truth-in-Lending  
3 disclosures within three business days of receiving an application from a borrower.

4 **1.8 Failure to Properly Complete Good Faith Estimate Disclosures.** In twenty-eight of the  
5 loans reviewed, Respondents listed mortgage broker fees on line 801 or 802 of the Good Faith  
6 Estimate disclosure.

7 **1.9 Failure to Disclose a Subsequent Rate Increase.** In three of the loans reviewed, Respondents  
8 did not provide a subsequent disclosure identifying an interest rate increase.

9 **1.10 Failure to Provide Variable Rate Loan Program Disclosures or CHARM Book.** In sixty-  
10 four of the loans reviewed, Respondents did not provide a loan program disclosure identifying the  
11 terms of a variable rate mortgage or did not provide the Consumer Handbook on Adjustable Rate  
12 Mortgage (CHARM book).

13 **1.11 Failure to Disclose Fees Inuring to the Benefit of the Mortgage Broker.** In forty-nine of  
14 the loans reviewed, Respondents did not disclose within three business days of receiving a borrower's  
15 application all fees which inured to the benefit of the mortgage broker.

16 **1.12 Failure to Include Loan Originator License Number on Applications.** In forty-six of the  
17 approximately 134 loans reviewed from 2007, Respondents did not disclose the Loan Originator's  
18 license number on the borrower's application.

19 **1.13 Failure to Ensure that Loan Originators are Licensed.** In one of the loans reviewed,  
20 Imelda Aguilar Bonilla, an unlicensed loan originator, originated the loan for Respondents.

21 **1.14 Failure to Disclose Trade Name on Loan Documents.** In nine of the loans reviewed,  
22 Respondents did not include its trade name on loan documents.

1 **1.15 Failure to Provide Trust Account Disclosures.** In three of the loans reviewed, Respondents  
2 did not provide the borrower with a trust account disclosure.

3 **1.16 Failure to Retain Invoice for Payment of Third Party Services.** In three of the loans  
4 reviewed, Respondents paid for third-party services without retaining an invoice for the services.

5 **1.17 Complaints.** Between September 1, 2006, and April 30, 2008, the Department received  
6 borrower complaints which included the following:

7       **A. 20797** - On or about May 12, 2006, borrowers R.B. and S.B. applied with Respondents  
8 to refinance their primary residence.<sup>1</sup> The borrowers met with Respondents' loan originator at an  
9 unlicensed office in Vancouver, Washington, on May 18, 2006, and were provided with an initial  
10 Good Faith Estimate and Truth-in-Lending disclosure. The entire bottom section of the Truth-in-  
11 Lending disclosure signed on May 18, 2006, was not completed. On May 19, 2006, the loan  
12 originator mailed the borrowers a corrected Truth-in-Lending disclosure, but the variable rate box was  
13 not checked even though the anticipated loan program contained a variable rate feature. Respondents'  
14 loan originator provided additional Truth-in-Lending disclosures on or about June 1, 2006, and June  
15 18, 2006, to document changes in the loan terms, but on both occasions did not check the variable rate  
16 box even though the anticipated loan program contained a variable rate feature.

17  
18       **B. 20909** – Between May 1, 2006, and August 24, 2006, Respondents' loan originators  
19 assisted at least sixty-nine borrowers with some aspect of obtaining a residential mortgage loan from  
20 an unlicensed location in Vancouver, Washington.

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22       **C. 23859** – On or about April 12, 2007, borrowers J.K. and S.K. applied with  
23 Respondents' loan originator Ronald Cox to obtain a residential mortgage loan for the purchase of a  
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25 <sup>1</sup> The borrowers had provided sufficient financial information for Respondents to purchase the borrowers' credit report. Pursuant to the Department's Interpretive Letter 98-02MB, which was in effect at the time, pulling a borrower's credit report for a refinance loan constituted an application.

1 primary residence. On or about April 17, 2007, the Department notified Respondent and Mr. Cox by  
2 letter that the Department had denied Mr. Cox's loan originator license application and that any further  
3 business Mr. Cox conducted as a loan originator associated with Respondent would be a violation of  
4 the Act. In spite of this, Mr. Cox continued to assist the borrower with obtaining the residential  
5 mortgage loan through closing, and Respondent received a mortgage broker fee and a processing fee  
6 for the loan.

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8 Additionally, the borrower was not provided with mandatory disclosures within three business  
9 days of the borrower's April 12, 2007, application. On May 25, 2007, Mr. Cox emailed a Truth-in-  
10 Lending disclosure, Good Faith Estimate, and Application to the borrower with instructions to date the  
11 documents for April 13, 2007. The application had the name "Wes McMillan" pre-printed on it as the  
12 loan originator. On May 29, 2007, Mr. Cox emailed another application to the borrower with  
13 instructions to date the document for April 13, 2007. This application had the name "Melissa Engle"  
14 pre-printed on it as the loan originator.

15 **D. 26263** – On or about March 6, 2007, borrower J.D. applied with Respondents' loan  
16 originator James Cunningham to obtain a residential mortgage loan for the purchase of a primary  
17 residence. Mr. Cunningham continued to assist the borrower through the closing of the loan. At all  
18 times relevant to the loan, however, Mr. Cunningham had not applied with the Department for a loan  
19 originator license, had not been issued a loan originator license, and was not authorized to assist the  
20 borrower with the loan.

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22 Additionally, the initial Good Faith Estimate provided to the borrower on March 6, 2007, did  
23 not specify which fees inured to the Respondents' benefit. The initial Good Faith Estimate also listed  
24 the fees intended for the Respondents on line 801 as a "Loan Origination Fee." The initial Truth-in-  
25 Lending disclosure was also incomplete and did not have the entire lower portion completed.

1 On or about May 12, 2008, the Department sent Respondents a Directive requiring  
2 Respondents to provide the entire loan file for borrower J.D.'s loan. The documents provided by  
3 Respondents, however, did not include two applications, two Good Faith Estimates, and two Truth-in-  
4 Lending disclosures signed by the borrower on April 4, 2007.

5 **1.18 On-Going Investigation.** The Department's investigation into the alleged violations of the  
6 Act by Respondents continues to date.

## 7 **II. GROUNDS FOR ENTRY OF ORDER**

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9 **2.1 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents  
10 are in apparent violation of RCW 19.146.0201 (2), (3), (6), (7), (11), and (13) for engaging in an  
11 unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation,  
12 failing to make disclosures required by federal law, making, in any manner, any false or deceptive  
13 statement or representation with regard to the rates, points, or other financing terms or conditions for a  
14 residential mortgage loan, failing to comply with the Truth-in-Lending Act, 15 U.S.C. § 1601,  
15 Regulation Z, 12 C.F.R. § 226, the Real Estate Settlement Procedures Act, 12 U.S.C. §2601,  
16 Regulation X, 24 C.F.R. §3500, and the Equal Credit Opportunity Act, 15 U.S.C. §1691, and  
17 Regulation B, 12 C.F.R. §202.9(a)(1), and collecting a fee prohibited by RCW 19.146.030.

18 **2.2 Requirement to Hold Borrower Funds for Payment of Third-Party Providers in Trust.**  
19 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of  
20 RCW 19.146.0201(2), RCW 19.146.050, and WAC 208-660-410(22)(b), and (24)(b) for making  
21 payments to employees from the trust account.

22  
23 **2.3 Requirement to Comply with Rate Lock Disclosure Requirements.** Based on the Factual  
24 Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
25 19.146.0201(2), (6), and (15), RCW 19.146.030(2)(c), WAC 208-660-430(1), (3), and (5), and WAC

1 208-660-500(3)(b) and (w) for failure to disclose, where applicable, the cost, terms, duration, and  
2 conditions of a lock-in agreement, whether a lock-in agreement has been entered, or whether the lock-  
3 in agreement is guaranteed by the mortgage broker or lender, and if a lock-in agreement has not been  
4 entered, disclosure in a form acceptable to the Director that the disclosed interest rate and terms are  
5 subject to change.

6 **2.4 Requirement to Provide Accurate Truth-In-Lending Disclosures.** Based on the Factual  
7 Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
8 19.146.0201(2), (6), (11), and (15), RCW 19.146.030(2), WAC 208-660-430(1) and (3), and WAC  
9 208-660-500(3)(b), (s), and (w) for failing to provide accurate Truth-in-Lending disclosures.

10 **2.5 Requirement to Timely Provide Good Faith Estimate and Truth-In-Lending Disclosures.**  
11 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of  
12 RCW 19.146.0201(2), (6), (11), and (15), RCW 19.146.030(1) and (2), WAC 208-660-430(1) and (2),  
13 and WAC 208-660-500(3)(b), (s), and (w) for failing to provide Truth-in-Lending and Good Faith  
14 Estimate disclosures within three business days of receiving an application from a borrower.  
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16 **2.6 Requirement to Properly Complete Good Faith Estimate Disclosures.** Based on the  
17 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
18 19.146.0201(2), (6), (11), (13), and (15), RCW 19.146.030(1), WAC 208-660-430(1) and (2), and  
19 WAC 208-660-500(3)(b), (s), and (w) for failing to provide accurate Good Faith Estimate disclosures.  
20

21 **2.7 Requirement to Disclose a Subsequent Rate Increase.** Based on the Factual Allegations set  
22 forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (7), WAC  
23 208-660-430(18)(a), and WAC 208-660-500(3)(b) for failing to disclose a subsequent rate increase.

24 **2.8 Requirement to Provide Variable Rate Loan Program Disclosures or CHARM Book.**

25 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of

1 RCW 19.146.0201(2), (6), (11), and (15), RCW 19.146.030(2)(a), WAC 208-660-430(1) and (3), and  
2 WAC 208-660-500(3)(b), (s), and (w) for failing to provide adjustable rate loan program disclosures.

3 **2.9 Requirement to Disclose Fees Inuring to the Benefit of the Mortgage Broker.** Based on  
4 the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
5 19.146.0201(2), (6), (13), and (15), RCW 19.146.030(1), WAC 208-660-430(1) and (2), and WAC  
6 208-660-500(3)(b) and (w) for failing to disclose all fees which inure to the benefit of the mortgage  
7 broker within three business days of receiving a borrower's application.

8  
9 **2.10 Requirement to Include Loan Originator License Number on Applications.** Based on the  
10 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
11 19.146.0201(2) and (3), WAC 208-660-350(26), and WAC 208-660-500(3)(b) for failing to ensure  
12 that loan originator's license numbers are included on loan applications.

13 **2.11 Requirement to Ensure that Loan Originators are Licensed.** Based on the Factual  
14 Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
15 19.146.0201(2) and (3), RCW 19.146.200(1), WAC 208-660-155(9), and WAC 208-660-500(3)(b)  
16 and (c) for utilizing the services of unlicensed loan originators to assist borrowers with applying for or  
17 obtaining residential mortgage loans.

18 **2.12 Requirement to Disclose Trade Name on Loan Documents.** Based on the Factual  
19 Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
20 19.146.0201(2), WAC 208-660-180(9), and WAC 208-660-500(3)(b) for failing to properly disclose a  
21 trade name on loan documents.

22  
23 **2.13 Requirement to Provide Trust Account Disclosures.** Based on the Factual Allegations set  
24 forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2), (6), (13), and  
25

1 (15), RCW 19.146.030(2)(f), WAC 208-660-430(1) and (3), and WAC 208-660-500(3)(b) and (n) for  
2 failing to provide trust account disclosures.

3 **2.14 Requirement to Retain Invoice for Payment of Third Party Services.** Based on the Factual  
4 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060 for  
5 failing to retain invoices for payment of third party services.

6 **2.15 Requirement to Obtain and Maintain Branch Office License.** Based on the Factual  
7 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.265  
8 and WAC 208-660-070 (1994) for conducting the business of a mortgage broker from an unlicensed  
9 branch location.

10 **2.16 Requirement to Maintain Accurate and Current Books and Records.** Based on the Factual  
11 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060(2)  
12 and WAC 208-660-450(d) for failing to make accurate and current books and records readily available  
13 to the Department until at least twenty-five months have elapsed following the effective period to  
14 which the books and records relate.

### 16 III. AUTHORITY TO IMPOSE SANCTIONS

17 **3.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC  
18 208-660-155(3), a licensed mortgage broker is liable for any conduct violating the Act by the  
19 designated broker or a loan originator employed or engaged by the licensed mortgage broker.

20 Pursuant to RCW 19.146.200(4)(a) and (b), a designated broker or principal of a licensed mortgage  
21 broker is liable for an employee's violations of the Act committed after January 1, 2007, if the  
22 designated broker or principal directs or instructs the conduct, or with knowledge of the specific  
23 conduct approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry  
24

1 should have known of the conduct at a time when its consequences can be avoided or mitigated and  
2 fails to take reasonable remedial action.

3 **3.2 Authority to Revoke License.** Pursuant to former RCW 19.146.220(2)(b)(i), (ii), (iii) and  
4 (iv), and former WAC 208-660-160, the Director may revoke a license for any violation of RCW  
5 19.146.050, RCW 19.146.0201(1) through (9), RCW 10.146.200, or RCW 19.146.265. Pursuant to  
6 RCW 19.146.220(2)(e), the Director may revoke a license for any violation of the Act committed on  
7 or after January 1, 2007.

8 **3.3 Authority to Prohibit from the Industry.** Pursuant to former RCW 19.146.220(2)(e)(i), (ii),  
9 (iii), and (iv), the Director may issue orders removing from office or prohibiting from participation in  
10 the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or  
11 loan originator of any licensed mortgage broker or any person subject to licensing under the Act for  
12 any violation of RCW 19.146.0201(1) through (9), RCW 19.146.030 through RCW 19.146.080, RCW  
13 19.146.200, or RCW 19.146.265. Pursuant to RCW 19.146.220(5), the Director may issue orders  
14 removing from office or prohibiting from participation in the conduct of the affairs of a licensed  
15 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage  
16 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1)  
17 through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, or RCW  
18 19.146.265 committed on or after January 1, 2007.

19 **3.4 Authority to Impose Fine.** Pursuant to former RCW 19.146.220(2)(c)(i) and (ii) and former  
20 WAC 208-660-165, the Director may impose fines on a licensee, employee or loan originator of the  
21 licensee, or other person subject to the Act for any violations of RCW 19.146.0201(1) through (9) or  
22 (12), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW  
23 19.146.265, or failure to comply with a directive or order of the Director. Pursuant to RCW  
24  
25

1 19.146.220(2)(e), the Director may impose a fine for any violation of the Act committed on or after  
2 January 1, 2007.

3 **3.5 Authority to Order Restitution.** Pursuant to former RCW 19.146.220(d)(ii), the Director may  
4 issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay  
5 restitution to an injured borrower. Pursuant to RCW 19.146.220(e), the Director may issue orders  
6 directing a licensee or other person subject to the Act to pay restitution for any violation of the Act  
7 committed on or after January 1, 2007.

8 **3.6 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-  
9 550, the Department may collect the costs of investigation. The investigation charge will be calculated at  
10 the rate of forty-eight dollars per hour that each staff person devoted to the investigation.  
11

#### 12 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

- 17 **4.1** Respondent A+ Mortgage, Inc.'s license to conduct the business of a mortgage broker be  
18 revoked; and
- 19 **4.2** Respondent Gregory J. Nick be prohibited from participation in the conduct of the affairs of any  
20 mortgage broker subject to licensure by the Director, in any manner, for a period of five years;  
and
- 21 **4.3** Respondents A+ Mortgage, Inc., and Gregory J. Nick jointly and severally pay a fine which as of  
22 the date of these charges totals \$250,000; and
- 23 **4.4** Respondents A+ Mortgage, Inc., and Gregory J. Nick jointly and severally pay restitution which  
24 as of the date of these charges totals \$150,301.95 to the borrowers specifically set forth in the  
attached Restitution Schedule; and
- 25

1 4.5 Respondents A+ Mortgage, Inc., and Gregory J. Nick jointly and severally pay an investigation  
2 fee which as of the date of these charges totals \$3,360 calculated at \$48 per hour for the seventy  
staff hours devoted to the investigation to date; and

3 4.6 Respondents maintain records in compliance with the Act and provide the Department with the  
4 location of the books, records and other information relating to Respondent A+ Mortgage, Inc.'s  
5 mortgage broker business, and the name, address and telephone number of the individual  
responsible for maintenance of such records in compliance with the Act.

6 **V. AUTHORITY AND PROCEDURE**

7 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License,  
8 Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of  
9 Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW  
10 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The  
11 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in  
12 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING  
13 accompanying this Statement of Charges.

14 Dated this 11<sup>th</sup> day of July, 2008.

[Redacted Signature]

DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

18 Presented by:

19 [Redacted Signature]

20 STEVEN C. SHERMAN  
21 Financial Legal Examiner

22 Approved by:

23 [Redacted Signature]

24 JAMES R. BRUSSELBACK  
25 Enforcement Chief

