

# Terms Completed

## ORDER SUMMARY – Case Number: C-08-172

**Name(s):** David Richard McDowell

**Order Number:** C-08-172-08-CO03

**Effective Date:** October 8, 2008

**License Number:** DFI: 47326 [NMLS: 135539]

**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)

**License Effect:** None  
If applicable, you must specifically note the ending dates of terms.

**Not Apply Until:** n/a

**Not Eligible Until:** \_\_\_\_\_

**Prohibition/Ban Until:** n/a

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

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

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OCT 08 2008

ENFORCEMENT UNIT  
DIVISION OF CONSUMER SERVICES  
DEPT OF FINANCIAL INSTITUTIONS

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-08-172-08-CO03

MCDOWELL MORTGAGE, INC, and  
RICHARD ESTEL MCDOWELL, President,  
Owner and Designated Broker, and  
DAVID RICHARD MCDOWELL, Owner,

CONSENT ORDER

DAVID RICHARD MCDOWELL

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Director, Division of Consumer Services, and David Richard McDowell. (herein after Respondent David McDowell), 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 Respondent David McDowell have agreed upon a basis for resolution of the matters alleged in Statement of Charges (Statement of Charges) No. C-08-172-08-SC01 (copy attached hereto). The parties intend this Consent Order to fully resolve the Statement of Charges and agree that Respondent does not admit to any wrongdoing by its entry. It is agreed that Respondent represents that Respondent's choice not to pursue litigation of this matter is due to personal reasons and is not intended to imply any admission of any allegations alleged in the Statement of Charges. Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent David McDowell hereby agrees to the Department's entry of this

1 Consent Order and further agrees that the issues raised in the above captioned matter may be economically and  
2 efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the  
3 Statement of Charges. Respondent David McDowell is agreeing not to contest the Statement of Charges in  
4 consideration of the terms of this Consent Order.

5 Based upon the foregoing:

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

8 B. **Waiver of Hearing.** It is AGREED that Respondent David McDowell has been informed of the right  
9 to a hearing before an administrative law judge, and he hereby waives his right to a hearing and any and all  
10 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

11 C. **Compliance with the Law.** It is AGREED that Respondent shall comply with the Mortgage Broker  
12 Practices Act and the rules adopted there under.

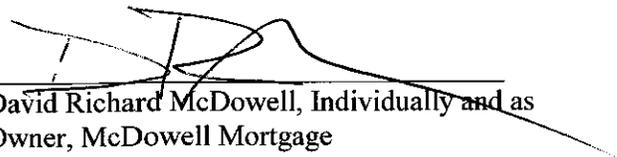
13 D. **Non-Compliance with Order.** It is AGREED that Respondent David McDowell understands that  
14 failure to abide by the terms and conditions of this Consent Order may result in further legal action by the  
15 Director. In the event of such legal action, Respondent David McDowell may be responsible to reimburse the  
16 Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

17 E. **Voluntarily Entered.** It is AGREED that Respondent David McDowell has voluntarily entered into  
18 this Consent Order, which is effective when signed by the Director's designee.

19 F. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent David McDowell has  
20 read this Consent Order in its entirety and fully understands and agrees to all of the same.

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1 **RESPONDENT:**  
2 **David Richard McDowell**

3   
4 David Richard McDowell, Individually and as  
5 Owner, McDowell Mortgage

10/2/08  
Date

6 **DO NOT WRITE BELOW THIS LINE**

7  
8 THIS ORDER ENTERED THIS 8<sup>th</sup> DAY OF October, 2008.



  
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

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

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

NO. C-08-172-08-SC01

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MCDOWELL MORTGAGE, INC, and  
RICHARD ESTEL MCDOWELL, President,  
Owner and Designated Broker, and DAVID  
RICHARD MCDOWELL, Owner,

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STATEMENT OF CHARGES AND  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO SUSPEND LICENSE , IMPOSE FINE,  
AND COLLECT INVESTIGATION FEE

Respondents.

**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 the 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. **McDowell Mortgage, Inc., (Respondent McDowell Mortgage).** Respondent McDowell Mortgage submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct business as a mortgage broker at the following location: 4620 110<sup>th</sup> Ave NE, Kirkland, WA 98033. The Department received the application on or about November 21, 2007. Respondent McDowell Mortgage was licensed by the Department to conduct business as a mortgage broker on January 1, 2008 and continues to be licensed to date.

B. **Richard Estell McDowell (Respondent Richard McDowell).** Respondent Richard McDowell is the President, Owner and Designated Broker of Respondent McDowell Mortgage. Respondent Richard

<sup>1</sup> RCW 19.146 (As Amended Through 2006)

1 McDowell was named Designated Broker of Respondent McDowell Mortgage on January 1, 2008, and  
2 continues as Designated Broker to date. On January 1, 2008 Respondent Richard McDowell was licensed to  
3 conduct the business of a loan originator under Respondent McDowell Mortgage and continues to be licensed to  
4 date.

5 C. **David Richard McDowell (Respondent David McDowell).** Respondent David McDowell is  
6 the Vice President and Owner of Respondent McDowell Mortgage.

7 **1.2 Criminal History.** On or about November 9, 2003, Respondent David McDowell was charged in the  
8 King County District Court in Bellevue with one count of Theft in the Third Degree, a Gross Misdemeanor. The  
9 King County District Court in Bellevue dismissed the criminal complaint filed against Respondent David  
10 McDowell on or about September 2, 2004.

11 **1.3 Responses to Application Questions.**

12 The "Criminal Disclosure" section of the Mortgage Broker license application Form MU1 consists of  
13 four questions, and includes the following instruction: "If the answer to any of the following is "YES",  
14 provide complete details of all events or proceedings in an attachment, including as applicable; name and  
15 location of court, docket or case number, and status and summary of event or proceeding; copies of applicable  
16 charge(s), order(s), and/or consent agreement(s)."

17 Respondents answered "no" to the following question on the "Criminal Disclosure" section of the  
18 Mortgage Broker license application Form MU1:

- 19 • 8(B)(2) – In the past ten years has the applicant or a control affiliate been charged with a  
20 misdemeanor specified in 8(B)(1)?

21 The "Criminal Disclosure" section of the Mortgage Broker license application Form MU2 consists of  
22 eight questions, and includes the following instruction: "If the answer to any of the following is "YES",  
23 provide complete details of all events or proceedings in an attachment..."

24 Respondent David McDowell answered "no" to the following question on the "Criminal Disclosure"  
25 section of the Mortgage Broker license application Form MU2:

1 • 8F(2)-Have you ever been charged with a misdemeanor specified in 8(F)(1)?  
2 Respondents were obligated by statute to answer questions on the mortgage broker license application truthfully  
3 and to provide the Department with complete details of all events or proceedings.

4 **1.4 Incomplete or Inaccurate Application.** Respondents did not provide an accurate and complete  
5 written license application in the form prescribed by the Director.

6 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
7 Respondents continues to date.

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

9 **2.1 Requirement to Provide Information on License Application.** Based on the Factual Allegations set  
10 forth in Section I above, Respondents McDowell Mortgage, Inc., Richard McDowell, and David McDowell  
11 have failed to meet the requirements of RCW 19.146.205(1), RCW 19.146.210(1), WAC 208-660-030(1) and  
12 WAC 208-660-040 by failing to provide an accurate and complete written license application in the form  
13 prescribed by the Director.

14 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in  
15 apparent violation of RCW 19.146.0201(8) for negligently making a false statement or knowingly and willfully  
16 making an omission of material fact in connection with any reports filed by a mortgage broker or in connection  
17 with an investigation conducted by the Department.

18 **III. AUTHORITY TO IMPOSE SANCTIONS**

19 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2)(b), and WAC 208-660-163, the  
20 Director may suspend a license for false statements or any violation of RCW 19.146.050, RCW 19.146.060(3),  
21 RCW 19.146.0201(1) through (9) or (12), RCW 19.146.205(4), or RCW 19.146.265.

22 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the  
23 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to  
24 the Act for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW  
25

1 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or failure to comply with a directive  
2 or order of the Director.

3 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and  
4 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person  
5 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover  
6 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per  
7 hour that each staff person devoted to the investigation.

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

9 Respondents' 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 basis  
11 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223.

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

- 13 **4.1** Respondent McDowell Mortgage Inc.'s license to conduct the business of a mortgage broker be  
14 suspended for a period of thirty (30) days; and
- 15 **4.2** Respondent Richard McDowell's loan originator license to conduct the business of a loan originator be  
16 suspended for a period of thirty (30) days; and
- 17 **4.3** Respondents jointly and severally pay a fine in the amount of \$2,250; and
- 18 **4.4** Respondents jointly and severally pay an investigation fee in the amount of \$552 calculated at \$48 per hour  
19 for the eleven and one half staff hours devoted to the investigation.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Suspend License, Impose Fine,  
3 and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,  
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05  
5 RCW (The Administrative Procedure Act). Respondents may make a written request for hearings as set forth in  
6 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
7 Statement of Charges.

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9 Dated this 5<sup>th</sup> day of September, 2008.



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DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

FATIMA BATIE  
Financial Legal Examiner Supervisor

Approved by:

JAMES R. BRUSSELBACK  
Enforcement Chief