

TERMS COMPLETE

CONSENT ORDER SUMMARY - Case Number: C-08-185

Name(s) Homepoint Mortgage Inc.
Veeny Van

Order Number C-08-185-09-CO01

Effective Date February 12, 2010

License Number DFI: 24753

License Effect

Not Apply until February 12, 2015

Prohibition/Ban until February 12, 2015

Investigation Costs	\$720	Due	Paid Y	Date: 2/11/2010
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Assessment(s)	\$	Due	Paid Y N	Date
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Monetary Penalty	\$2,250	Due	Paid Y	Date: 2/11/2010
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Other \$3,220 Restitution paid

Special Instructions

RECEIVED
RESPONDENT

FEB 05 2010

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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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-08-185-09-CO01

HOMEPOINT MORTGAGE INC. AND VEENY
VAN, Sole 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 Homepoint Mortgage Inc. (hereinafter Respondent Homepoint), and Veeny Van, Owner and Designated Broker (hereinafter Respondent Van), 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 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-08-185-08-SC01 (Statement of Charges), entered December 17, 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. Respondents are agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

CONSENT ORDER
C-08-185-09-CO01
HOMEPOINT MORTGAGE INC. AND VEENY VAN

1

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

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

3 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
4 before an administrative law judge, and that they hereby waive their right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
6 Accordingly, by signing below, the Respondents withdraw their appeals in the above-captioned matter.

7 C. **Stipulated Finding.** It is AGREED that the parties stipulate to the following facts regarding the
8 allegations as outlined in paragraph 1.11 of the Statement of Charges.

9 It was not disclosed to borrowers [REDACTED] that
10 Yield Spread Premiums were or would be received by Respondent Homepoint and Respondent
11 Van with respect to those borrowers. The total amount received by Respondent Homepoint and
12 Respondent Van, with respect to those borrowers, was \$18,551.26. Respondent Veeny Van
13 originated all of the loans with the exception of the [REDACTED] loan.

14 D. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$2,250, in the form of a
15 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

16 E. **Prohibition from Industry (Respondent Homepoint).** It is AGREED that Respondent Homepoint is
17 prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by the
18 Director, in any manner, for a period of 5 years from the entry of this Consent Order.

19 F. **Agreement Not To Apply (Respondent Van).** It is AGREED that Respondent Van will not apply for
20 a mortgage broker or consumer loan license issued by the Department pursuant to the Act for a period of 5 years
21 from the entry of this Consent Order. It is further AGREED that should Respondent Van apply for a license with
22 the Department after the 5 year period, she will be required to comply with all licensing requirements in effect at the
23 time of application. It is also AGREED that nothing in this agreement, or in the facts giving rise to, or underlying,
24 the Statement of Charges, will be considered by the Department in the assessment of any future application by the
25 Respondent for a loan originator license in the state of Washington in the event Respondent wishes to pursue such
application.

1 **G. Loan Originator License.** It is AGREED that Respondent Van may not apply for a loan originator
2 license until March 1, 2010. If Respondent Van is issued a loan originator license, under no circumstances may she
3 conduct the business of a "loan originator", as defined in RCW 19.146.010 (10) until July 1, 2010.

4 **H. Restitution.** It is AGREED and ORDERED that Respondents shall pay \$3,220.00 in restitution to 6
5 consumers. If restitution cannot be made to any particular consumer, Respondents shall take the necessary steps to
6 escheat such funds to the State of Washington as unclaimed property in the name of the consumer. Within 120 days
7 of the entry of this Consent Order, Respondents shall provide the Department with an affidavit signed by
8 Respondent Veeny Van attesting to the payment of restitution and providing written proof that the entire restitution
9 amount has either been received by consumers or escheated to the state. The "written proof" at a minimum must
10 consist of copies of the front and back of cancelled checks.

11 **I. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee of
12 \$720, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
13 Consent Order.

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

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

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

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

24 //
25 //

1 **RESPONDENTS:**

2 **Homepoint Mortgage Inc. and Veeny Van**

3 By:

4 [Redacted Signature]

2/2/2010
Date

5 Veeny Van, Owner and Designated Broker
of Homepoint Mortgage Inc.

6 [Redacted Signature]

2/2/2010
Date

7 [Redacted Signature]

2/4/10
Date

8 David Lenci, WSBA No. 7688
9 Attorney at Law
Attorney for Respondents

10 **DO NOT WRITE BELOW THIS LINE**

11 THIS ORDER ENTERED THIS 12th DAY OF February, 2010.

12 [Redacted Signature]

13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
Department of Financial Institutions

16 Presented by:

17 [Redacted Signature]

18 WILLIAM HALSTEAD
19 Financial Legal Examiner

20 Approved by:

21 [Redacted Signature]

22 JAMES R. BRUSSELBACK
23 Enforcement Chief



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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:

**HOMEPOINT MORTGAGE INC. AND VEENY
VAN, Sole Owner and Designated Broker,**

Respondents.

NO. C-08-185-08-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE OR SUSPEND LICENSES,
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)¹. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as 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. Homepoint Mortgage Inc. (Homepoint) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on July 24, 2003, and has continued to be licensed to date. Respondent Homepoint is licensed to conduct the business of a mortgage broker at 1225 S. Weller St., Suite 430 Seattle, Washington 98114.

B. Veeny Van (Van) is the Designated Broker for Respondent Homepoint. Respondent Van was named Designated Broker of Respondent Homepoint on July 24, 2003. On November 15, 2006, Respondent Van was issued a loan originator license which is effective through December 31, 2008.

¹ RCW 19.146 (1994) unless otherwise noted

1 **1.2 Examination.** On February 29, 2008, the Department conducted an examination of the records of
2 Respondent Homepoint. The Department's examination covered a time frame from January 1, 2006, through
3 February 29, 2008, and included the review of approximately 8 loan files. As a result of the examination, the
4 Department discovered violations of the Act as outlined below.

5 **1.3 Failure to Properly Display Loan Originator/Mortgage Broker License Numbers on Applications.**
6 Respondents did not include the loan originator license and mortgage broker numbers on 7 residential mortgage
7 loan applications, 6 of which were originated by Respondent Van.

8 **1.4 Failure to Specify Fees Benefiting the Broker.** Respondents did not specify which fees on the Good
9 Faith Estimate (GFE) inured to the benefit of the mortgage broker. Seven borrowers received GFEs from
10 Respondent Homepoint that did not specify processing fees that would benefit Respondent Homepoint. The
11 processing fees totaled \$3,220. Respondent Van originated 6 of the 7 loans mentioned above.

12 **1.5 Failing to Properly Maintain Records.** Respondents did not provide the Department, during the
13 examination, a GFE and Truth In Lending (TIL) disclosure for one borrower who applied for a loan with the
14 Respondents on or about January 20, 2007.

15 **1.6 Failure to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust.** In
16 connection with five residential mortgage loans, the Respondents received credit report fees from escrow that
17 Respondents did not deposit into its trust account. Respondents subsequently paid the service provider from its
18 general account rather than its trust account.

19 **1.7 Failure to Provide Borrowers with Complete and Accurate Disclosures.** Respondents did not
20 provide accurate TIL disclosures on 7 loans (6 borrowers), by not including fees and costs associated with a
21 finance charge as part of the Annual Percentage Rate (APR) and by leaving the lower portion of the TIL blank
22 (not checking prepayment penalty box, late charge, demand feature and assumption). In addition, 4 of the 7
23 loans did not disclose the loan as a variable rate loan as the variable rate feature box had not been checked.
24 Respondent Van originated 6 of the 7 loans mentioned above.

25

1 **1.8 Failure to Provide Disclosures of New Loan Terms.** Respondents did not disclose a change in loan
2 terms to one borrower, when the interest rate was increased from 6.50 percent to 6.875 percent.

3 **1.9 Failure to Provide Borrowers the Variable Rate Mortgage Program Disclosure.** Respondents did
4 not provide the Variable Rate Mortgage Program Disclosure to 3 borrowers (4 loans) within 3-days of applying
5 for a residential mortgage loan.

6 **1.10 Failure to Properly Disclose Mortgage Broker Fees on Good Faith Estimate.** Respondents did not
7 properly disclose the mortgage broker fee on lines 808-811 of the GFE, but rather disclosed the fee on line 801
8 of the GFE. This improper disclosure occurred on 6 loans, 5 of which were originated by Respondent Van,
9 with fees totaling \$13,963.10.

10 **1.11 Failure to Disclose Yield Spread Premiums in the Good Faith Estimate.** Respondents did not
11 disclose the Yield Spread Premium (YSP) on GFEs to 4 borrowers (5 loans) which resulted in fees of
12 \$18,551.26. Respondent Van originated 4 of the 5 loans mentioned above.

13 **1.12 Prohibited Acts.** Respondents employed a scheme to mislead or defraud lenders. Respondents
14 presented two loans to two separate lenders simultaneously in an effort to have both loans approved without the
15 lenders knowing of the other outstanding loan. In addition, the applications for both loans were submitted to
16 the lenders as owner occupied and in the name of a third person other than the actual borrower in an effort to
17 obtain a more favorable interest rate and down payment amount.

18 **1.13 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
19 Respondents continues to date.

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

21 **2.1 Requirement to Display Loan Originator's/Mortgage Broker's License Number.** Based on the
22 Factual Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-660-
23 350(26) and (27) for failing to disclose the loan originator's license and mortgage broker's license when taking
24 a residential mortgage loan application.

25

1 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
2 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (11) (2006), (12), (13) (2006) and (15) (2006) for
3 directly or indirectly employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any
4 person, engaging in an unfair or deceptive practice toward any person, obtaining property by fraud or
5 misrepresentation, failing to make disclosures to loan applicants and noninstitutional investors as required by
6 RCW 19.146.030 and any other applicable state or federal law, making, in any manner, any false or deceptive
7 statement or representation with regard to the rates, points, or other financing terms or conditions for a
8 residential mortgage loan or engaging in bait and switch advertising, collecting, charging, attempting to collect
9 or charge or using or proposing any agreement purporting to collect or charge any fee prohibited by RCW
10 19.146.030 or RCW 19.146.070, and failing to comply with any provision of RCW 146.030 through 19.146.080
11 or any rule adopted under those sections.

12 **2.3 Requirement to Disclose Residential Mortgage Loan Fees.** Based on the Factual Allegations set
13 forth in Section I above, Respondents are in apparent violation of RCW 19.146.030(1) and (2), and Regulation
14 Z, 12 CFR, Section 226.18(f)(2)(i), (g), (i), (k), (l), and (m) for failing to provide borrowers with full written
15 disclosures, containing an itemization and explanation of all fees and costs that the borrowers were required to
16 pay in connection with obtaining a residential mortgage loan, within three days following receipt of a loan
17 application or any moneys from the borrowers.

18 **2.4 Prohibited Fees.** Based on the Factual Allegations set forth in Section I above, Respondents are in
19 apparent violation of RCW 19.146.030(4) for charging fees inuring to the benefit of a mortgage broker in
20 excess of the fees disclosed on the initial written disclosures where the fees were reasonably foreseeable by the
21 mortgage broker at the time the initial written disclosures were provided to borrowers, and/or where the
22 mortgage broker failed to provide the borrowers, no less than three business days prior to the signing of the loan
23 closing documents, a clear written explanation of the fees and the reason for charging fees exceeding those
24 which were previously disclosed.
25

1 **2.5 Requirement to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust.**

2 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
3 19.146.050(1) , WAC 208-660-410(3), (6), (7) and (9) for failing to deposit funds received from a borrower or
4 on behalf of a borrower for payment of third-party provider services in a trust account of a federally insured
5 financial institution located in this state, prior to the end of the third business day following receipt of such
6 monies, and for commingling operating funds with trust account funds.

7 **2.6 Requirement to Properly Disclose the Fees on Good Faith Estimate.** Based on the Factual
8 Allegations set forth in Section I above, Respondents are in apparent violation of Regulation X, 24 CFR Section
9 3500, Appendix A, and WAC 208-660-430(4) for failing to properly disclose mortgage broker fees on lines
10 808-811 of the Good Faith Estimate.

11 **2.7 Requirement to Disclose Yield Spread Premiums.** Based on the Factual Allegations set forth in
12 Section I above, Respondents are in apparent violation of Regulation X, 24 CFR Section 3500, Appendix B, for
13 failing to disclose Yield Spread Premiums charged to borrowers on the Good Faith Estimate.

14 **2.8 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW 19.146.060
15 and WAC 208-660-450(1)(iv) and (vii), a mortgage broker shall make accurate and current books and records
16 readily available to the Department until at least twenty-five months have elapsed following the effective period
17 to which the books and records relate.

18 **III. AUTHORITY TO IMPOSE SANCTIONS**

19 **3.1 Authority to Revoke or Suspend License.** Pursuant to RCW 19.146.220(2)(b)(iv), and (2)(e) (2006),
20 the Director may revoke or suspend a license for any violation of RCW 19.146.050, RCW 19.146.060(3), RCW
21 19.146.0201(1) through (9) or (12), RCW 19.146.205(4), or RCW 19.146.265 or any violation of the Act
22 (2006).

23 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and (2)(e) (2006), the Director
24 may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act
25

1 for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW 19.146.080,
2 RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or any violation of the Act.

3 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(d)(ii), and (2)(e) (2006), the Director may
4 issue orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution
5 to an injured borrower or for any violation of the Act.

6 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), upon completion of any
7 investigation of the books and records of a licensee or other person subject to the Act, the Department will furnish
8 to the licensee or other person subject to the Act a billing to cover the cost of the investigation. The investigation
9 charge will be calculated at the rate of \$48 per hour that each staff person devoted to the investigation.

11 IV. NOTICE OF INTENTION TO ENTER ORDER

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

- 16 **4.1** Respondent Homepoint Mortgage Inc.'s license to conduct the business of a mortgage broker be revoked
17 or suspended; and
- 18 **4.2** Respondent Veeny Van's license to conduct the business of a loan originator be revoked or suspended; and
- 19 **4.3** Respondents Homepoint Mortgage Inc. and Veeny Van jointly and severally pay a fine, which as of the
20 date of these charges is \$2,250; and
- 21 **4.4** Respondents Homepoint Mortgage Inc. and Veeny Van jointly and severally pay restitution to borrowers in
22 an amount to be determined at hearing; and
- 23 **4.5** Respondents Homepoint Mortgage Inc. and Veeny Van jointly and severally pay an investigation fee,
24 which as of the date of these charges is \$720 calculated at \$48 per hour for the 15 staff hours devoted to the
25 investigation; and
- 4.6** Respondents Homepoint Mortgage Inc. and Veeny Van maintain records in compliance with the Act and
provide the Department with the location of the books, records and other information relating to
Respondent Homepoint Mortgage Inc's mortgage broker business, and the name, address and telephone
number of the individual responsible for maintenance of such records in compliance with the Act.

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke or Suspend Licenses, Impose Fine, Order Restitution, and Collect Investigation Fee (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). Respondents 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 17th day of December, 2008.

[Redacted Signature]
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted Signature]
WILLIAM HALSTEAD
Financial Legal Examiner

Approved by:

[Redacted Signature]
JAMES R. BRUSSELBACK
Enforcement Chief



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