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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:

DAVID MATTHEW HELMANN,
Loan Originator,

Respondent.

NO. C-08-195-08-CO01

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and David Matthew Helmann (hereinafter Respondent), 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 have agreed upon a basis for resolution of the matters alleged in Amended Statement of Charges No. C-08-195-08-SC02 (Amended Statement of Charges), entered October 15, 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, Respondent hereby agrees to the Department's entry of

1 this Consent Order and further agrees that the issues raised in the above captioned matter may be
2 economically and efficiently settled by entry of this Consent Order. The parties intend this Consent
3 Order to fully resolve the Amended Statement of Charges and agree that Respondents do not admit any
4 wrongdoing by its entry. Respondent is agreeing not to contest the Amended Statement of Charges in
5 consideration of the terms of this Consent Order.

6 Based upon the foregoing:

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

10 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
11 hearing before an administrative law judge, and that he has waived his right to a hearing and any and all
12 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
13 Accordingly, Respondent agrees to withdraw his appeal and to inform the Office of Administrative
14 Hearings in writing of his withdrawal.

15 **C. License Surrender.** It is AGREED that the Department will accept the voluntary surrender
16 of Respondent's loan originator license.

17 **D. Agreement not to Apply.** It is AGREED that Respondent shall not apply for any license
18 issued under the Act and shall not work as a loan processor for any mortgage broker subject to the Act for
19 a period of five years.

20
21 **E. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
22 investigation fee of \$1,000 in the form of a cashier's check made payable to the "Washington State
23 Treasurer," upon entry of this Consent Order.

1 **F. Cooperation.** It is AGREED that Respondent shall cooperate fully, truthfully and completely
2 with the Department and the Consumer Protection Division and provide any and all information known
3 to him relating in any manner to A+ Mortgage, Inc. (A+), and any and all persons involved or in any way
4 associated with A+, including but not limited to the owner, employees, and businesses and persons with
5 whom A+, communicated, or otherwise related. It is further AGREED that Respondent shall provide any
6 and all documents, writings or materials, or objects or things of any kind in his possession or under his
7 care, custody, or control that he is authorized to possess, obtain, or distribute relating directly or indirectly
8 to all areas of inquiry and investigation. It is further AGREED that Respondent shall testify fully,
9 truthfully, and completely at any proceeding related to the Department's investigation and enforcement
10 actions related to this matter.
11

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

17 **H. Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily
18 entered into this Consent Order, which is effective when signed by the Director's designee.
19

20 **I. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this
21 Consent Order in its entirety and fully understands and agrees to all of the same.
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RESPONDENT:

David Matthew Helmann

By:

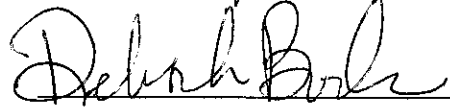


David Matthew Helmann

4-8-09
Date

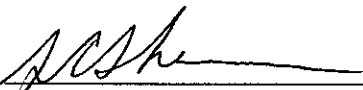
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THIS ORDER ENTERED THIS 9th DAY OF April, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions


Presented by:



STEVEN C. SHERMAN
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
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:

NO. C-08-195-08-SC02

DAVID MATTHEW HELMANN,
Loan Originator,

AMENDED STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, PROHIBIT
FROM INDUSTRY, IMPOSE FINE, AND
COLLECT INVESTIGATION FEE

Respondent.

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 July 16, 2008, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, instituted a Statement of Charges alleging certain violations of the Act (C-08-195-08-SC01). Thereafter, additional information has come to the Director's attention necessitating an amendment to the Statement of Charges. Now, then, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this amended proceeding and finds as follows:

¹ RCW 19.146 (2006)

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I. FACTUAL ALLEGATIONS

1.1 Respondent. David Matthew Helmann (Respondent) applied to be licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a loan originator on or about December 22, 2006, and continues to be licensed to date. At all times relevant to this Statement of Charges, Respondent was employed as a loan originator by A+ Mortgage, Inc. (A+ Mortgage), a licensed mortgage broker.

1.2 Examination. On or about September 30, 2007, the Department examined the business practices of A+ Mortgage. During the examination, the Department reviewed four residential mortgage loans originated by Respondent between January 1, 2007, and July 2, 2007.

1.3 Failure to Specify Fees Inuring to Mortgage Broker. In all four loans, Respondent did not specify on the initial Good Faith Estimate (GFE) disclosure all fees which inured to the benefit of the mortgage broker.

1.4 Failure to Timely Provide Disclosures. In one of the loans, Respondent did not provide a GFE or Truth-in-Lending (TIL) disclosure within three business days of receiving the borrower's application.

1.5 Failure to Properly Disclose Fees on the Good Faith Estimate Disclosure. In two loans, Respondent listed the fees to be paid to the mortgage broker on line 801 of the Good Faith Estimate.

1.6 Prohibited Acts.

A. In March 2007, Respondent assisted borrower K. V. W. with applying for a residential mortgage loan. The borrower signed an application, GFE, and TIL on March 3, 2007, which were submitted to a lender and resulted in the borrower obtaining a loan. The GFE submitted to the lender did not disclose any Yield Spread Premium (YSP). The Final HUD-1 Settlement Statement, however,

1 disclosed that A+ received a YSP in the amount of \$10,400. The borrower was contacted and stated
2 he was not aware there was a YSP.

3 B. In April 2007, Respondent assisted borrower L.R. with applying for a residential
4 mortgage loan. The borrower signed an application, GFE, and TIL on April 20, 2007, which were
5 submitted to a lender and resulted in the borrower obtaining a loan. The GFE signed on April 20,
6 2007, did not disclose any YSP. The Final HUD-1 Settlement Statement, however, disclosed that A+
7 received a YSP in the amount of \$6,080. The borrower was contacted and stated she was not aware
8 there was a YSP.

9
10 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the
11 Act by Respondent continues to date.

12 II. GROUNDS FOR ENTRY OF ORDER

13 **2.1 Requirement to Specify Fees Inuring to Mortgage Broker.** Based on the Factual
14 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.0201(1),
15 (2), (3), (6), (11), (13), and (15), RCW 19.146.030(1), (2), and (3), and WAC 208-660-430(1), (2), and
16 (3) for failing to specifically disclose to borrowers all fees inuring to the benefit of the mortgage
17 broker within three business days of receiving a loan application from a borrower.

18 **2.2 Requirement to Timely Provide Disclosures.** Based on the Factual Allegations set forth in
19 Section I above, Respondent is in apparent violation of RCW 19.146.0201(2), (6), (11), and (15),
20 RCW 19.146.030(1) and (2), WAC 208-660-430(1), (2), and (3), 24 C.F.R. Section 3500.21(b)(1)
21 [Regulation X], and 12 C.F.R. Section 226.5b [Regulation Z] for failing to provide disclosures within
22 three business days of receiving an application from a borrower.

23
24 **2.3 Requirement to Properly Complete the Good Faith Estimate Disclosure.** Based on the
25 Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW

1 19.146.0201(2), (6), and (11), WAC 208-660-430(4), and 24 C.F.R. Section 3500.21(b)(1)
2 [Regulation X] by using line 801 of the Good Faith Estimate to disclose fees payable to the mortgage
3 broker.

4 **2.4 Requirement to Disclose Yield Spread Premium.** Based on the Factual Allegations set forth
5 in Section I above, Respondent is in apparent violation of RCW 19.146.0201(1), (2), (3), (6), and (11)
6 and 24 C.F.R. Section 3500.21(b)(1) [Regulation X] for failing to disclose a Yield Spread Premium.

7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(e), the Director may revoke a
9 license for any violation of the Act.

10 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(3)(a), the Director may impose fines
11 on a loan originator for any violations of RCW 19.146.0201(1), (2), or (3), or RCW 19.146.030.

12 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director
13 may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage
14 broker, any loan originator of any licensed mortgage broker for any violation of RCW 19.146.0201(1)
15 through (9) or RCW 19.146.030, and for false statements or omission of material information on the
16 application that, if known, would have allowed the Director to deny the application for the original
17 license.

18 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-
19 550(5), the Director may collect the costs of an investigation. The investigation charge will be calculated
20 at the rate of \$48 per hour that each staff person devoted to the investigation.

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

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

- 6 **4.1** Respondent David Matthew Helmann's license to conduct the business of a loan originator be
7 revoked; and
- 8 **4.2** Respondent David Matthew Helmann pay a fine which as of the date of these charges totals
9 \$10,000; and
- 10 **4.3** Respondent David Matthew Helmann be prohibited from participation in the conduct of the
11 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of
five years; and
- 12 **4.4** Respondent David Matthew Helmann pay an investigation fee which as of the date of these
13 charges totals \$816, calculated at \$48 per hour for the seventeen staff hours devoted to the
investigation.

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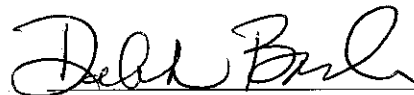
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1 **V. AUTHORITY AND PROCEDURE**

2 This Amended Statement of Charges and Notice of Intention to Enter an Order to Revoke
3 License, Prohibit from Industry, Impose Fine, and Collect Investigation Fee (Amended Statement of
4 Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW
5 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The
6 Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in
7 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this Amended Statement of Charges.
9

10 Dated this 15th day of October, 2008.
11

12 

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

17 Presented by:

18 

19 STEVEN C. SHERMAN
20 Financial Legal Examiner

21 Approved by:

22 

23 JAMES R. BRUSSELBACK
24 Enforcement Chief
25