



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

WALDEN MORTGAGE LLC, AND
DAVID A. WALDEN, Principal Owner and
Designated Broker,

Respondents.

NO. C-08-201-09-FO01

FINAL ORDER FOR
DAVID A. WALDEN

I. DIRECTOR'S CONSIDERATION

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. On July 21, 2008, the Director, through his designee Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (Statement of Charges). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated July 22, 2008, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Walden Mortgage LLC and David A. Walden. The Department served the Statement of Charges, cover letter dated July 22, 2008, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Walden Mortgage LLC and David A. Walden on Respondents on July 22, 2008, by First-Class mail and Federal Express overnight delivery.

1 On August 28, 2008, Respondent David A. Walden filed an Application for Adjudicative
2 Hearing. On November 14, 2008, the Department made a request to the Office of Administrative
3 Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on
4 the Statement of Charges. OAH assigned ALJ Todd Gay (ALJ Gay) to preside over prehearing and
5 hearing proceedings and issue an Initial Decision. On November 21, 2008, the Attorney General of
6 Washington, through Assistant Attorney General Chad Standifer, filed a Notice of Appearance on
7 behalf of the Department of Financial Institutions. On December 2, 2008, ALJ Gay issued a Notice of
8 Prehearing Conference by Telephone scheduling a prehearing conference on Tuesday, December 23,
9 2008, at 9:00 a.m.
10

11 On December 24, 2008, ALJ Gay issued a second Notice of Prehearing Conference by
12 Telephone scheduling a prehearing conference on January 12, 2009, at 9:35 a.m.

13 On January 12, 2009, all parties attended a telephonic prehearing conference. On February 17,
14 2009, ALJ Gay issued an Initial Order of Dismissal Without Prejudice. This Order was entered by
15 stipulation of the parties and the belief that the matter would settle short of a formal administrative
16 hearing. The Order was entered to allow Respondent David A. Walden time to make payments on an
17 agreed financial component of the settlement.
18

19 Respondent David A. Walden failed to comply with the proposed settlement terms. As a
20 result, ALJ Gay issued another Notice of Prehearing Conference by Telephone scheduling a prehearing
21 conference on June 3, 2009, at 9:30 a.m. Respondent David A. Walden failed to appear at the
22 prehearing conference on June 3, 2009. At the request of Assistant Attorney General Chad Standifer,
23 ALJ Gay issued an Order of Dismissal by Default on June 22, 2009, dismissing the case by default due
24 to Respondent David A. Walden's failure to appear for the prehearing conference.
25

1 On June 22, 2009, ALJ Gay mailed the Order of Dismissal by Default to Respondent David A.
2 Walden.

3
4 Pursuant to RCW 34.05.440, Respondent David A. Walden had seven (7) days from the date
5 of service of the Order of Dismissal by Default to file a Motion to Vacate the Dismissal by Default.
6 Respondent David A. Walden did not file a Motion to Vacate during the statutory period.

7 B. Record Presented. The record presented to the Director for his review and for entry of
8 a final decision included the following:

- 9 1. Statement of Charges, cover letter dated July 22, 2008, Notice of Opportunity to
10 Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing
11 for David A. Walden, with documentation of service;
12 2. Completed Application for Adjudicative Hearing for David A. Walden;
13 3. Notices of Prehearing Conference by Telephone dated December 2, 2008, and
14 December 24, 2008, with documentation of service;
15 4. Initial Order of Dismissal Without Prejudice

16 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director
17 hereby adopts the Statement of Charges, which is attached hereto.

18 II. FINAL ORDER

19 Based upon the foregoing, and the Director having considered the record and being
20 otherwise fully advised, NOW, THEREFORE:

21 A. IT IS HEREBY ORDERED, That:

- 22 1. Respondent David A. Walden pay a fine of \$1,400;
23 2. Respondent David A. Walden pay an investigation fee of \$480; and
24 3. Respondent David A. Walden pay a penalty equivalent to the amount of fees earned
25 from conducting unlicensed business between January 1, 2008, and January 14, 2008.

1 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
2 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
3 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
4 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
6 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
7 Reconsideration a prerequisite for seeking judicial review in this matter.

8 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
9 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
10 notice specifying the date by which it will act on a petition.

11 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
12 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
13 Review made under chapter 34.05 RCW and RCW 34.05.550.

14 D. Judicial Review. Respondents have the right to petition the superior court for
15 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
16 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

17 E. Non-compliance with Order. If you do not comply with the terms of this order, the
18 Department may seek its enforcement by the Office of Attorney General to include the collection of the
19 fines, fees, and penalty imposed herein.

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21 /////

22 /////

1 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
2 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
3 attached hereto.

4 DATED this 27th day of August, 2009.

5 STATE OF WASHINGTON
6 DEPARTMENT OF FINANCIAL INSTITUTIONS

7
8 
9 SCOTT JARVIS
10 DIRECTOR



**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:

WALDEN MORTGAGE LLC, AND
DAVID A. WALDEN, Principal Owner and
Designated Broker,

Respondents.

NO. C-08-201-08-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO ENTER AN ORDER TO IMPOSE
FINE 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. **Walden Mortgage LLC, (Respondent WM)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on March 21, 2001, and continued to be licensed through December 31, 2007, when its license expired². Respondent WM renewed its license on January 15, 2008. Respondent WM was not licensed from January 1, 2008, through January 14, 2008.

B. **David A. Walden (Respondent Walden)** is the Principal Owner and Designated Broker of Respondent Walden Mortgage LLC. Respondent Walden was issued a Loan Originator license on November 15, 2006, and continues to be licensed to date.

¹ RCW 19.146 (2006).

² RCW 19.146.210(4).

1 **1.2 Untimely Renewal of Mortgage Broker License.** In order to continue conducting business in 2008,
2 the Respondents were required to renew their mortgage broker license before January 1, 2008. The
3 Respondents did not renew their mortgage broker license timely and as a result could not conduct the business
4 of a mortgage broker until their license was renewed on January 15, 2008.

5 **1.3 Unlicensed Location.** Respondents conducted the business of a mortgage broker from 3316 6TH Ave.
6 Tacoma, WA 98406 between January 1, 2008, and January 14, 2008. Respondents did not have a license from
7 the Department to conduct business as a mortgage broker between January 1, 2008, and January 14, 2008.

8 **1.4 Unlicensed Activity.** Between January 1, 2008, and January 14, 2008, Respondents assisted at least 13
9 borrowers to obtain residential mortgage loans on property located in the State of Washington from the
10 unlicensed location discussed in paragraph 1.3.

11 **1.5 Operating and Advertising Under Unlicensed Name.** Between January 1, 2008, and January 14,
12 2008, Respondents were not licensed to conduct the business of a Mortgage Broker in the State of Washington
13 under the name "Walden Mortgage LLC." or any other name. Respondents maintained a website
14 (<http://www.waldenmortgage.net/>) on the internet for the purpose of advertising as a mortgage broker and to
15 conduct the business of a mortgage broker.

16 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
17 Respondents continues to date.

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

19 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-006,
20 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
21 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
22 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
23 person in obtaining or applying to obtain a residential mortgage loan.

24 **2.2 Definition of Borrower.** Pursuant to RCW 19.146.010(3) and WAC 208-660-006, a "Borrower" is
25 defined as any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or

1 seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or
2 persons including himself or herself, regardless of whether the person actually obtains such a loan.

3 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
4 apparent violation of RCW 19.146.0201(1), (2), and (3) for directly or indirectly employing a scheme, device or
5 artifice to defraud or mislead borrowers or lenders or any person, for engaging in an unfair or deceptive practice
6 toward any person, and for obtaining property by fraud or misrepresentation.

7 **2.4 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
8 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
9 broker without first obtaining and maintaining a license under the Act.

10 **2.5 Requirement to Timely Renew License and Refrain from Conducting Business.** Based on the
11 Factual Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-660-
12 163(16),(17) and (18) for continuing to conduct the business of a mortgage broker after failing to timely renew
13 a license under the Act.

14 **2.6 Operating and Advertising Under Unlicensed Name.** Based on the Factual Allegations set forth in
15 Section I above, Respondents are in apparent violation of RCW 19.146.250 for operating and advertising under
16 a name not licensed by the Department.

17 **III. AUTHORITY TO IMPOSE SANCTIONS**

18 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), and (3)(a), the Director may impose
19 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any
20 violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW
21 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or any violation of the Act.

22 **3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC
23 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other person subject
24 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of
25 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person
devoted to the investigation.

1 **3.3 Authority to Assess Penalty.** Pursuant to WAC 208-660-530, the Director may exercise discretion and by
2 order assess other penalties for a violation of the act.

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

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

8 **4.1** Respondents Walden Mortgage LLC and David A. Walden jointly and severally pay a fine of \$1,400;

9 **4.2** Respondents Walden Mortgage LLC and David A. Walden jointly and severally pay an investigation fee,
10 which as of the date of these charges is \$480 calculated at \$48 per hour for 10 staff hours devoted to the
investigation; and

11 **4.3** Respondents Walden Mortgage LLC and David A. Walden jointly and severally pay a penalty equivalent
12 to the amount of fees earned by Respondents from conducting unlicensed business between January 1,
2008, and January 14, 2008.

13 **V. AUTHORITY AND PROCEDURE**

14 This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect
15 Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
16 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
17 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth
18 in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying
19 this Statement of Charges.

20 Dated this 21st day of July, 2008.



21 DEBORAH BORTNER
22 Director Division of Consumer Services
23 Department of Financial Institutions

24 Presented by:

25 
WILLIAM HALSTEAD
Financial Legal Examiner



STATEMENT OF CHARGES
WALDEN MORTGAGE LLC AND
DAVID A. WALDEN
C-08-201-08-SC01

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