

TERMS COMPLETED

FINAL ORDER SUMMARY – Case Number: C-08-327

Name(s) Viktor V. Kobzar

Order Number C-08-327-10-FO01

Effective Date April 21, 2010

License Number DFI: 22235 NMLS ID: 75936

License Effect Application Denied

Not Apply until n/a

Prohibition/Ban until September 25, 2015

	\$	Due	Paid	Date
Investigation Costs	n/a		Y N	

	\$n/a	Due	Paid	Date
Assessment(s)			Y N	

	\$n/a	Due	Paid	Date
Monetary Penalty			Y N	

Other



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

VIKTOR KOBZAR,

Respondent.

NO. C-08-327-10-FO01

FINAL ORDER

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 October 6, 2008, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Prohibit from Industry (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 October 7, 2008, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Viktor Kobzar. The Department served the Statement of Charges, cover letter dated October 7, 2008, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Viktor Kobzar on Respondent on October 7, 2008, by First-Class mail and certified mail.

On October 17, 2008, Respondent filed an Application for Adjudicative Hearing. On October 22, 2008, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On

1 September 24, 2009, OAH issued a Notice of Prehearing Conference assigning ALJ Jason Grover (ALJ
2 Grover) to preside over prehearing and hearing proceedings and issue an Initial Decision, and set a
3 telephonic prehearing conference on Thursday, October 8, 2009, at 2:30 p.m. On October 21, 2009, ALJ
4 Grover rescheduled the telephonic Prehearing Conference for Monday, November 9, 2009, at 2:15 p.m.

5 On November 9, 2009, the parties attended the telephonic prehearing conference. On November
6 30, 2009, ALJ Grover issued a Prehearing Conference Order and Notice of Hearing scheduling a
7 telephonic hearing on April 23, 2010, at 9:00 a.m., and a Status Conference on Friday, February 5, 2010, at
8 8:30 a.m.¹ The Prehearing Conference Order and Notice of Hearing contained the following language,
9 “NOTICE TO PARTIES: Parties who fail to attend or participate in the hearing or other stage of the
10 adjudicative proceeding may be held in default in accordance with RCW 34.05.434 and RCW 34.05.440.”

11 On February 5, 2010, a representative for the Department attended the Status Conference hearing,
12 but Respondent did not appear or otherwise contact OAH. On February 8, 2010, ALJ Grover issued an
13 Order of Default and dismissed Respondent’s appeal of the Statement of Charges. An Amended Order of
14 Default was subsequently entered on March 2, 2010, to correct a scrivener’s error.

15 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the date
16 of service of the Order of Default to file a Petition for Review. Respondent did not file a Petition for
17 Review during the statutory period.

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

- 21 1. Statement of Charges, cover letter dated October 8, 2008, and Notice of Opportunity to
22 Defend and Opportunity for Hearing, with documentation of service;
- 23 2. Application for Adjudicative Hearing for Viktor Kobzar ;

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25 ¹ The Prehearing Conference Order and Notice of Hearing erroneously stated the year of the Status Conference hearing as 2009.

- 1 3. Request to OAH for Assignment of Administrative Law Judge;
- 2 4. Notice of Prehearing Conference, dated September 24, 2009, with documentation of
- 3 service;
- 4 5. Notice of Prehearing Conference, dated October 21, 2009, with documentation of service;
- 5 6. Prehearing Conference Order and Notice of Hearing dated November 30, 2009, with
- 6 documentation of service;
- 7 7. Order of Default dated February 8, 2010, with documentation of service; and
- 8 8. Amended Order of Default dated March 2, 2010, with documentation of service.

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

11 II. FINAL ORDER

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

14 A. IT IS HEREBY ORDERED, that:

- 15 1. Respondent Viktor Kobzar's application for a loan originator license is denied.
- 16 2. Respondent Viktor Kobzar is prohibited from participation in the conduct of the affairs
- 17 of any mortgage broker subject to licensure by the Director, in any manner, through
- 18 September 25, 2015.

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

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

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

7 D. Judicial Review. Respondent has the right to petition the superior court for judicial
8 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a
9 Petition for Judicial Review, see RCW 34.05.510 and sections following.

10 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
11 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service attached hereto.
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13 DATED this 21st day of April, 2010.



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15 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

16 [Redacted Signature]
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18 SCOTT JARVIS
DIRECTOR

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Mortgage Broker Practices Act of Washington by:

VIKTOR KOBZAR,

Respondent.

NO. C-08-327-08-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION
AND PROHIBIT FROM INDUSTRY

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INTRODUCTION

10 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial
11 Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the
12 Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to RCW 19.146.310, and
13 based upon the facts available as of the date of this Statement of Charges, the Director, through his designee,
14 Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

19 **1.1 Respondent Viktor Kobzar (Respondent Kobzar)** submitted an application to the Department of
20 Financial Institutions of the State of Washington (Department) for a loan originator license with no stated
21 affiliation with a mortgage broker licensed under the Act. The on-line application was received by the
22 Department on or about September 25, 2008.

23 **1.2 Prior Administrative Action.** Respondent Kobzar is know to have formerly been President and 50%
24 owner of Kobay Financial Corp.; which was licensed by the Department as a mortgage broker from December
25 5, 2000, to December 31, 2007, and which was licensed by the State of California as a Finance Lender from
about January 28, 2003, to November 15, 2005, under license number 6038785. On November 15, 2005, the
California Department of Corporations revoked the Finance Lenders license of KoBay Financial Corp.

¹ RCW 19.146 (Amended 2006; Effective January 1, 2007)

1 **1.3 Responses to Application Questions.** The "Regulatory Action" section of the loan originator license
2 application consists of nine questions, and includes the following question:

3 "Has any State or federal regulatory agency or foreign financial regulatory authority ever:

4 (4) entered an order against you in connection with a financial services-related activity?"

5 Respondent Kobzar answered "no" to this question. As stated above, however, the California Department of
6 Corporations revoked Respondent Kobzar's Financial Lenders license on November 15, 2005. Respondent
7 Kobzar was obligated by statute to answer questions on the loan originator license application truthfully.

8 II. GROUNDS FOR ENTRY OF ORDER

9 **2.1 Requirement of No Prior License Suspension or Revocation.** Based on the Factual Allegations set
10 forth in Section I above, Respondent Kobzar fails to meet the requirements of RCW 19.146.310(1)(c) and WAC
11 208-660-350(2)(b) by having a license issued under this chapter or any similar state statute suspended or
12 revoked within five years of the filing of the present application.

13 **2.2 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent
14 Kobzar is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making
15 any false statement or willfully making any omission of material fact in connection with any application or any
16 information filed by a licensee in connection with any application, examination or investigation conducted by
17 the Department.

18 **2.3 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
19 forth in Section I above, Respondent Kobzar fails to meet the requirements of RCW 19.146.300(1) and (2) and
20 RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form
21 prescribed by the Director.

22 **2.4 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
23 forth in Section I above, Respondent Kobzar fails to meet the requirements of RCW 19.146.310(1)(g) and
24 WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the
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1 confidence of the community and to warrant a belief that the business will be operated honestly and fairly
2 within the purposes of the Act.

3 III. AUTHORITY TO IMPOSE SANCTIONS

4 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW 19.146.220(1), the
5 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
6 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
7 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
8 of the denial.

9 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
10 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
11 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
12 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

13 IV. NOTICE OF INTENTION TO ENTER ORDER

14 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
15 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
16 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.310.

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

18 **4.1** Respondent Viktor Kobzar's application for a loan originator license be denied.

19 **4.2** Respondent Viktor Kobzar be prohibited from participation in the conduct of the affairs of any
20 mortgage broker subject to licensure by the Director, in any manner, through September 25, 2015.

21 V. AUTHORITY AND PROCEDURE

22 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and
23 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
24 RCW 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
25 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in

V. AUTHORITY AND PROCEDURE

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This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Prohibit from Industry (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). Respondent 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 9th day of October, 2008.

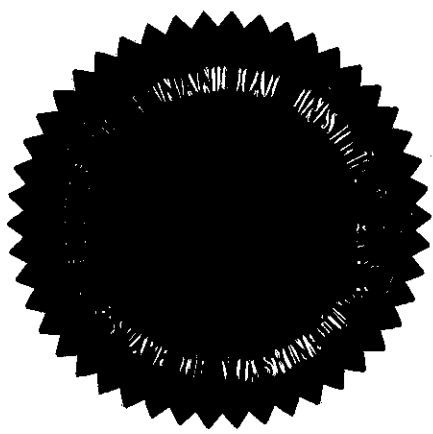


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



STEVEN C. SHERMAN
Financial Legal Examiner



Approved by:



FATIMA BATIE
Financial Legal Examiner Supervisor