



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:

U.S. FUNDING GROUP – WASHINGTON, INC.,
ROBERT DALTON, Loan Originator, and DARREN
TOLAN, Loan Originator,

Respondents.

NO. C-08-351-11-FO02

FINAL DECISION & ORDER RE:
ROBERT EUGENE DALTON

Date of Birth: August 14, 1974

COMES NOW, the Director of the Department of Financial Institutions, SCOTT JARVIS (“Director”), and makes the following FINAL DECISION & ORDER RE: ROBERT EUGENE DALTON (“Final Decision & Order”), including Findings of Fact and Conclusions of Law as set forth below.

A. PROCEDURAL HISTORY. Pursuant to RCW 19.146.220 and RCW 19.146.223, the 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, the Director, through his designee, Director of the Division of Consumer Services, Deborah Bortner, instituted this proceeding against Respondent U.S. FUNDING GROUP – WASHINGTON, INC. (“U.S. Funding”), ROBERT EUGENE DALTON, Loan Originator (“Dalton” and “Respondent”), and DARREN TOLAN, Loan Originator (“Tolan”). The Department served Respondent Dalton with a STATEMENT OF CHARGES AND NOTICE OF INTENTION TO ENTER AN ORDER TO PROHIBIT FROM INDUSTRY, IMPOSE FINE, AND COLLECT INVESTIGATIVE FEE (“Statement of Charges”) on or about April 29, 2010, by Federal Express overnight

¹ Chapter 19.146 RCW as it existed prior to 2006.

1 delivery. On or about May 17, 2010, Respondent Dalton submitted a request for a hearing, and the
2 matter was referred to the Office of Administrative Hearings ("OAH") on or about August 10, 2010.
3 A Prehearing Conference, to be held on March 24, 2011 at 9:00 A.M., was set by OAH and served on
4 Respondent Dalton. Respondent Dalton did not appear at the Prehearing Conference. However, OAH
5 did not issue an Order of Default. Then, on or about April 7, 2011, OAH set a Motion Hearing for
6 April 21, 2011, at 11:00 A.M., Respondent Dalton did not appear at the Motion Hearing.
7 Administrative Law Judge Janet L. Schneider then issued an Order of Default on that same day: April
8 21, 2011.

9
10 Pursuant to RCW 34.05.440(3), Respondent Dalton had seven (7) days from the date the Order
11 of Default was served to file a Petition to Vacate the Order of Default. Under RCW 34.05.464 and
12 WAC 10-08-211, Respondent Dalton had twenty (20) days from the date the Initial Order was served
13 to file a Petition for Review of the Initial Decision and Order. Respondent Dalton did not file a
14 Petition for Review.

15 B. RECORD PRESENTED. The record presented to the Director for his review and for
16 entry of a Final Decision & Order includes the entire administrative record of the OAH, including the
17 Statement of Charges and Order of Default.

18 C. FINDINGS OF FACT. The Director makes the following Findings of Fact based upon
19 the good faith, uncontested allegations of the Department's Division of Consumer Services, as set forth
20 in the Statement of Charges, and based upon the remainder of the OAH record:

- 21 1. Respondent Dalton never filed a Petition to Vacate the Order of Default.
- 22 2. Respondent Dalton never filed a Petition for Review from the Order of Default.
- 23 3. More than twenty (20) days has expired since the issuance of the Order of Default.
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1 4. U.S. Funding was licensed by the Department to conduct business as a mortgage broker
2 on April 10, 2003, through February 27, 2008, when it surrendered its license.

3 5. Respondent Dalton was a loan originator working for U.S. Funding during all relevant
4 times set forth in these Findings of Fact.

5 6. As set forth in the uncontested Statement of Charges, between at least July 1, 2006, and
6 July 31, 2006, Respondent Dalton worked as a loan originator for U.S. Funding.

7 7. While working for U.S. Funding, Respondent Dalton accepted money from borrowers
8 in exchange for credit repair services and to “buy down” the interest rate for a residential home loan.
9 The money received by Respondent Dalton totaled over \$1,500 in checks which were never forwarded
10 to U.S. Funding or the appropriate trust account. The checks were cashed by Respondent Dalton
11 although they were made payable to U.S. Funding. Respondent Dalton led the borrowers to believe
12 their residential loan had been approved, when he had knowledge the loan had previously been denied
13 by the lender. Respondent Dalton did not provide any credit repair services to the borrowers.

14 8. In August 2008, Respondent Dalton was criminally charged in the Clark County
15 Superior Court, in connection with the conduct set forth above, with Theft 1st Degree, Theft 2nd Degree
16 (two counts), and Mortgage Fraud (three counts) in connection with his activities as a Loan Officer for
17 U.S. Funding.
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19 9. On February 18, 2009, Respondent Dalton was found guilty of the criminal charges set
20 forth above, and Respondent Dalton was sentenced to a prison term of twenty-two (22) months and
21 ordered to pay restitution to the borrowers in connection with the conduct set forth above.
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23 10. The Department’s Division of Consumer Services has devoted sixty (60) staff hours to
24 the investigation of this matter.
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1 D. CONCLUSIONS OF LAW. Based upon the Findings of Fact set forth above, the
2 Director makes the following Conclusions of Law:

3 1. Based on the uncontested Findings of Fact, Respondent Dalton is in apparent violation
4 of RCW 19.146.0201(1), (2), (3), (6), (7), (12), and (14) for directly or indirectly employing a scheme,
5 device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or
6 deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to
7 make disclosures to loan applicants and non-institutional investors as required by RCW 19.146.030,
8 making false or deceptive statements or representation with regard to the rates, points, or other
9 financing terms or conditions for a residential mortgage loan, and failing to comply with any provision
10 of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.
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12 2. Respondent Dalton is in violation of RCW 19.146.050, for failing to deposit funds
13 received from a borrower or on behalf of a borrower for payment of third-party provider services in a
14 trust account of a federally insured financial institution located in this state, prior to the end of the third
15 business day following receipt of such monies.

16 3. Pursuant to RCW 19.146.220(2)(e)(i) and (iii), the Director may issue orders removing
17 from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage
18 broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or
19 any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
20 (12), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW
21 19.146.265, conviction of a gross misdemeanor involving dishonesty or financial misconduct or a
22 felony after obtaining a license.

23
24 4. Pursuant to RCW 19.146.220(2)(c)(i) and WAC 208-660-165, the Director may impose
25 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for

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

3 5. Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and WAC 208-660-061, upon
4 completion of any investigation of the books and records of a licensee or other person subject to the Act,
5 the Department may collect an investigation fee calculated at the rate of forty-seven dollars and seventy-
6 eight cents (\$47.78) per hour that each staff person devoted to the investigation.

7 6. Pursuant to RCW 34.05.440(3), Respondent Dalton had seven (7) days from the date
8 the Order of Default was served to file a Petition to Vacate the Order of Default.

9 7. Under RCW 34.05.464 and WAC 10-08-211, Respondent Dalton had twenty (20) days
10 from the date the Initial Order was served to file a Petition for Review of the Initial Decision and
11 Order.

12 8. There are sufficient grounds for entry of a Final Decision & Order under RCW
13 19.146.220, RCW 19.146.221 and RCW 19.146.223.

14 9. The Director finds that a fine of Fifty Thousand Dollars (\$50,000.00) is reasonable in
15 relation to the uncontested Findings of Fact set forth above.

16 10. Pursuant to WAC 208-660-550, the Department has authority to impose investigative
17 fees calculated at Forty-Eight Dollars (\$48.00) per hour. Sixty (60) staff hours of investigation appears
18 to the Director to have been reasonable in relation to the nature of this case. Accordingly, the
19 imposition against Respondent Dalton of investigative fees of Two Thousand Eight Hundred Eighty
20 Dollars (\$2,880.00) appears to the Director to be reasonable.

21 E. FINAL DECISION & ORDER.

22 NOW, THEREFORE, the Director makes the following Final Decision & Order as to
23 Respondent Dalton:
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1 1. The Respondent, ROBERT EUGENE DALTON, is prohibited from participation in the
2 conduct of the affairs of any mortgage broker subject to licensure by the Director, in any manner, for a
3 period of 10 years;

4 2. The Respondent, ROBERT EUGENE DALTON, shall pay:

5 a. A fine of Fifty Thousand Dollars (\$50,000.00), which is payable jointly and
6 severally by Respondent, ROBERT EUGENE DALTON, and Respondents U.S. Funding and Darren
7 Tolan (to the extent final orders are entered against Respondents U.S. Funding and Darren Tolan); and
8

9 b. An investigation fee of Two Thousand Eight Hundred Eighty Dollars
10 (\$2,880.00), which is payable jointly and severally by Respondent, ROBERT EUGENE DALTON,
11 and Respondents U.S. Funding and Darren Tolan (to the extent final orders are entered against
12 Respondents U.S. Funding and Darren Tolan); and

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

20 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
21 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
22 notice specifying the date by which it will act on a petition.
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1 G. STAY OF ORDER. The Director has determined not to consider a Petition to Stay the
2 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
3 Review made under chapter 34.05 RCW and RCW 34.05.550.

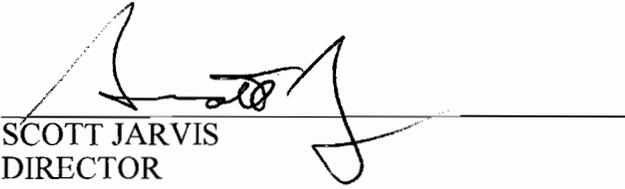
4 H. JUDICIAL REVIEW. Respondents have the right to petition the superior court for
5 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
6 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

7 I. NON-COMPLIANCE WITH ORDER. If you do not comply with the terms of this order,
8 the Department may seek its enforcement by the Office of Attorney General to include the collection of
9 the fines, fees and restitution imposed herein.

10 J. SERVICE. For purposes of filing a Petition for Reconsideration or a Petition for
11 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
12 attached hereto.
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14 DATED this 9th day of May, 2011.

15 STATE OF WASHINGTON
16 DEPARTMENT OF FINANCIAL INSTITUTIONS

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19 SCOTT JARVIS
20 DIRECTOR
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1 NOTICE TO THE PARTIES

2 In accordance with RCW 34.05.470 and WAC 10-08-215, any Petition for Reconsideration
3 of this FINAL DECISION & ORDER must be filed with the Director within ten (10) days of service
4 of this FINAL DECISION & ORDER. It should be noted that Petitions for Reconsideration do not
5 stay the effectiveness of said FINAL DECISION & ORDER. Judicial Review of this FINAL
6 DECISION & ORDER is available to a party according to provisions set out in the Washington
7 Administrative Procedure Act, RCW 34.05.570.

8 This is to certify that this FINAL DECISION & ORDER has been served upon the following
9 parties on May 9, 2011, by depositing a copy of same in the United
10 States mail, postage prepaid.

11 WASHINGTON STATE DEPARTMENT
12 OF FINANCIAL INSTITUTIONS

13 By: 

14 Susan Putzier

15 Executive Assistant to the Director

16 **Mailed to the following:**

17 Robert Eugene Dalton
18 3110 N.E. Edelwiess Avenue
19 Vancouver, WA 98682

20 Victor Minjares, Assistant Attorney General
21 Government Compliance & Enforcement Division
22 1125 Washington Street S.E.
23 P.O. Box 41200
24 Olympia, WA 98504-0100

25 James R. Brusselback
Chief of Enforcement
Division of Consumer Services
Department of Financial Institutions
P.O. Box 41200
Olympia, WA 98504-1200

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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:

US FUNDING GROUP – WASHINGTON INC.,
ROBERT DALTON, Loan Originator, and
DARREN TOLAN, Loan Originator,

Respondents.

NO. C-08-351-10-SC01

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

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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:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **US Funding Group – Washington Inc. (Respondent US Funding)** was licensed by the
Department of Financial Institutions of the State of Washington (Department) to conduct business as a
mortgage broker on April 10, 2003, through February 27, 2008, when it surrendered its license.

B. **Robert Dalton (Respondent Dalton)** was a loan originator working for Respondent US
Funding during all relevant times for purposes of this Statement of Charges.

C. **Darren Tolan (Respondent Tolan)** was a loan originator working for Respondent US Funding
during all times relevant to this Statement of Charges. In 2007, Respondent Tolan applied for a loan originator
license with the Department, which was denied as he was ineligible due to his criminal history.

¹ RCW 19.146 (pre-2006)

1 **1.2 Prohibited Acts by Respondent Dalton.** Between at least July 1, 2006, and July 31, 2006,
2 Respondent Dalton worked as a loan originator for Respondent US Funding. While working for US Funding,
3 Respondent Dalton accepted money from borrowers in exchange for credit repair services and to “buy down”
4 the interest rate for a residential home loan. The money received by Respondent Dalton totaled over \$1,500 in
5 checks which were never forwarded to Respondent US Funding or the appropriate trust account. The checks
6 were cashed by Respondent Dalton although they were made payable to US Funding. Respondent Dalton led
7 the borrowers to believe their residential loan had been approved, when he had knowledge the loan had
8 previously been denied by the lender. Respondent Dalton did not provide any credit repair services to the
9 borrowers.

10 In August 2008, Respondent Dalton was charged in the Clark County Washington Superior Court with
11 Theft 1st Degree, Theft 2nd Degree (2 counts), and Mortgage Fraud (3 counts). On February 18, 2009,
12 Respondent Dalton was found guilty of the criminal charges, and Respondent Dalton was sentenced to a prison
13 term of 22 months and ordered to pay restitution to the borrowers.

14 **1.3 Prohibited Acts by Respondent Tolan.** Between at least January 1, 2005, and May 31, 2007,
15 Respondent Tolan, while working as a loan originator for Respondent US Funding, employed a scheme by
16 which he would alter documents, usually in the form of bank statements, in order to qualify borrowers for
17 residential home loans. During the period in question, Respondent Tolan assisted at least 10 borrowers in
18 obtaining at least 7 residential home loans, by creating documents that made it appear that the borrowers had
19 sufficient amounts of cash reserves in their bank accounts when they did not. Respondent Tolan did this by
20 creating false Verification of Deposits (VODs) and presenting them to lenders. The false VODs ranged
21 between \$20,000 and \$100,000. In addition, Respondent Tolan forged the signatures of borrowers on certain
22 loan documents.

23 **1.4 On-Going Investigation.** The Department’s investigation into the alleged violations of the Act by
24 Respondents continues to date.
25

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

2 **2.1 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
3 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (12), and (14) for directly or indirectly employing
4 a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or
5 deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to make
6 disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other
7 applicable state or federal law, making, in any manner, any false or deceptive statement or representation with
8 regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engaging in
9 bait and switch advertising, collecting, charging, attempting to collect or charge or using or proposing any
10 agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or RCW 19.146.070, failing
11 to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

12 **2.2 Requirement to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust.**
13 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
14 19.146.050, for failing to deposit funds received from a borrower or on behalf of a borrower for payment of
15 third-party provider services in a trust account of a federally insured financial institution located in this state,
16 prior to the end of the third business day following receipt of such monies.

17 **2.3 Responsibility for Independent Contractor’s Violations.** Pursuant to RCW 19.146.200(1) and WAC
18 208-660-120, a person who independently contracts with a licensed mortgage broker need not be licensed if the
19 licensed mortgage broker and the independent contractor have on file with the Director a binding written
20 agreement under which the licensed mortgage broker assumes responsibility for the independent contractor’s
21 violations of any provision of the Act.

22 **III. AUTHORITY TO IMPOSE SANCTIONS**

23 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(i) and (iii), the Director
24 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
25 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage

1 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
2 (12), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,
3 conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a
4 license.

5 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and WAC 208-660-165, the Director
6 may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act
7 for any violations of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW 19.146.080,
8 RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265.

9 **3.3 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and
10 WAC 208-660-061, upon completion of any investigation of the books and records of a licensee or other person
11 subject to the Act, the Department may collect an investigation fee calculated at the rate of forty-seven dollars and
12 seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

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

14 Respondents' 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 and RCW 19.146.223. Therefore, it is the
17 Director's intention to ORDER that:

- 18 **4.1** Respondent US Funding – Washington Inc. be prohibited from participation in the conduct of the affairs of
19 any mortgage broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 20 **4.2** Respondent Robert Dalton be prohibited from participation in the conduct of the affairs of any mortgage
21 broker subject to licensure by the Director, in any manner, for a period of 10 years;
- 22 **4.3** Respondent Darren Tolan be prohibited from participation in the conduct of the affairs of any mortgage
23 broker subject to licensure by the Director, in any manner, for a period of 5 years;
- 24 **4.4** Respondents US Funding – Washington Inc., Robert Dalton, and Darren Tolan jointly and severally pay a
25 fine which, as of the date of this document, totals \$ 50,000;
- 4.5** Respondents US Funding – Washington Inc., Robert Dalton, and Darren Tolan jointly and severally pay an
investigation fee which, as of the date of this document, totals \$2,866.80, calculated at \$47.78 per hour for
the 60 staff hours devoted to the investigation; and

1 4.6 Respondent US Funding – Washington Inc., maintain records in compliance with the Act and provide the
2 Department with the location of the books, records and other information relating to Respondent U.S.
3 Funding – Washington Inc.’s mortgage broker business, and the name, address and telephone number of
4 the individual responsible for maintenance of such records in compliance with the Act.

5 **V. AUTHORITY AND PROCEDURE**

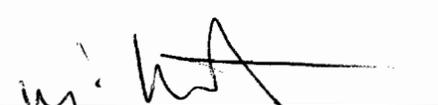
6 This Statement of Charges and Notice of Intention to Enter an Order Prohibit from Industry, Impose
7 Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of
8 RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions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

12 Dated this 26th day of April, 2010.

13 

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

18 Presented by:

19 
20 WILLIAM HALSTEAD
21 Financial Legal Examiner

22 Approved by:

23 
24 JAMES R. BRUSSELBACK
25 Enforcement Chief

