

ORDER SUMMARY – Case Number: C-09-181

Name(s): Chet Johnson Wall

Order Number: C-09-181-14-CO02

Effective Date: May 28, 2014

License Number: DFI: 30655 NMLS ID:90916
Or NMLS Identifier [U/L]

License Effect: none

Not Apply Until: n/a

Not Eligible Until: n/a

Prohibition/Ban Until: n/a*

Investigation Costs	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: *Respondent must complete 15 hours of Continuing Education (CE) related to compliance issues before the Department will consider any licensing application other than MLO. These 15 hours are in addition to any CE requirements to maintain Respondent's MLO license.

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

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

7 FLAGSHIP FINANCIAL GROUP, LLC,
8 WILLIAM K. FARRAR III, President, and
9 CHET J. WALL, Designated Broker,

10 Respondents.

No. C-09-181-14-CO02

ORDER AMENDING CONSENT ORDER
C-09-181-12-CO01 SOLELY AS TO
CHET J. WALL

11 I. DIRECTOR'S CONSIDERATION

12 THIS MATTER having come before the Director of the Department of Financial Institutions
13 (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services,
14 pursuant to RCW 34.05.060, WAC 208-08-120, and WAC 10-08-230 on Respondent Chet J. Wall's
15 request that the prohibition of unspecified duration set forth in paragraph E of Consent Order C-09-
16 181-12-CO01 be amended to include a termination date; and the Director's designee having
17 considered the record and file and being otherwise fully apprised, and having determined that it is in
18 the interest of justice to grant Respondent Wall's request, now, therefore, the Director's designee
19 enters the following:

20 II. **AGREEMENT AND ORDER**

21 A. **Jurisdiction.** It is AGREED that the Department of Financial Institutions (Department)
22 has jurisdiction over the subject matter of the activities discussed herein.

23 B. **Termination of Prohibition.** It is AGREED that the prohibition set forth in paragraph E
24 of Consent Order C-09-181-12-CO01 prohibiting Respondent Wall from participating in the conduct
of the affairs of any mortgage broker or consumer loan company licensed by or subject to licensure or
regulation by the Department, in any capacity, including but not limited to: (1) any financial capacity

1 whether active or passive; or (2) as an officer, director, principal, partner, or member; or (3) any
2 management, control, oversight or maintenance of any trust account(s) in any way related to any
3 residential mortgage transaction; or (4) receiving, disbursing, managing or controlling in any way,
4 consumer trust funds in any way related to any residential mortgage transaction, is terminated
5 effective the date of this Order Amending Consent Order (Order) subject to the completion of the
6 requirements of paragraph C of this Order.

7 **C. Continuing Education.** It is AGREED that Respondent Wall shall complete 15 hours of
8 continuing education classes which specifically address the duties and responsibilities of a designated
9 broker, compliance officer, and other responsible person(s) in both the consumer loan and mortgage
10 broker industries; at least 5 of which specifically address Washington laws and rules. It is further
11 AGREED, and Respondent Wall understands, that these 15 hours of continuing education shall be in
12 addition to any continuing education required to maintain Respondent Wall's loan originator's
13 license. It is further AGREED, and Respondent Wall understands, that the Department will not
14 process any application submitted by or on behalf of Respondent Wall for any license issued by the
15 Department (other than a loan originator's license) until such time as Respondent Wall has completed
16 the required 15 hours of continuing education and provided the Department with proof of completion.

17 **D. Completely Read, Understood, and Agreed.** It is AGREED that Respondent Wall has
18 read this Order in its entirety and fully understands and agrees to all of the same.

19 **RESPONDENT:**

20 

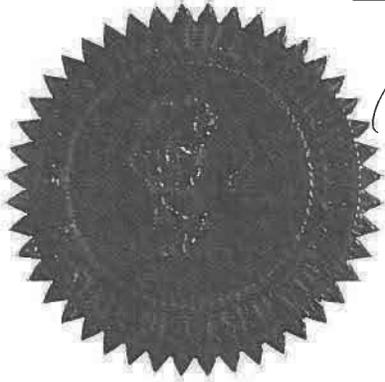
21 Chet J. Wall

22 5-21-14
Date

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THIS ORDER ENTERED THIS 28th DAY OF May, 2014.



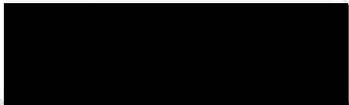
DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



Steven C. Sherman
Financial Legal Examiner Supervisor

Approved by:



Charles E. Clark
Enforcement Chief

RECEIVED

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Enforcement Unit
Division of Consumer Services
Dept. of Financial Institutions

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-09-181-12-CO01

CONSENT ORDER

FLAGSHIP FINANCIAL GROUP, LLC,
WILLIAM K. FARRAR III, President, and
CHET J. WALL, Designated Broker,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), by and through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Flagship Financial Group, LLC (Respondent Flagship), William K. Farrar III, President (Respondent Farrar), and Chet J. Wall, Designated Broker (Respondent Wall), by and through their attorney, Philip M. Guess of K & L Gates LLP, 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 the 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 Flagship, Farrar, and Wall (Respondents) have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-09-181-10-SC01 (Statement of Charges), entered November 8, 2010, incorporated herein by reference and attached hereto. Pursuant to RCW 19.146, the Mortgage Broker Practices Act (the 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 not to contest the Statement of Charges. The parties intend this Consent Order to fully resolve the Statement of Charges.

CONSENT ORDER
C-09-181-12-CO01
Flagship Financial Group, LLC, et al.

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
PO Box 41200
Olympia, WA 98504-1200
360-902-8703

1 Based upon the foregoing:

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

4 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
5 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached
7 herein. Accordingly, Respondents, by their signatures and the signature of their representative
8 below, hereby withdraw their appeal to the Office of Administrative Hearings.

9 **C. Admissions.** Respondent Flagship admits that in some transactions, Respondent Flagship
10 used unlicensed loan originators to originate residential mortgage loans in Washington. With that
11 exception, Respondents neither admit nor deny the Factual Allegations of the Statement of Charges.
12 Respondents further AGREE not to take any action or to make or permit to be made any public
13 statement creating the impression that this Consent Order is without factual basis. Nothing in this
14 paragraph affects Respondents' (a) testimonial obligations; (b) right to take legal or factual positions
15 in defense of litigation; or (c) right to make public statements that are factual.

16 **D. Cease and Desist.** Pursuant to RCW 19.146.220(4) and RCW 19.146.227, the Director may
17 order Respondents to cease and desist practices which violate the Act. Accordingly, it is AGREED
18 and ORDERED that:

- 19 1. In order to allow Respondents to establish supervisory and other systems reasonably
20 designed to detect and prevent future violations of the Act, Respondent Flagship
21 shall cease and desist, for a period of two months from entry of this Consent Order,
22 from originating new residential mortgage loans in Washington. Nothing in this
23 provision shall prohibit Respondents from continuing to process all residential
24 mortgage loans originated prior to the entry of this Consent Order.
2. Respondents shall permanently cease and desist from using unlicensed loan
originators to originate residential mortgage loans in Washington.

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- 1 3. Respondents shall permanently cease and desist from making inaccurate or
2 incomplete disclosures to residential mortgage loan applicants.
- 3 4. Respondents shall permanently cease and desist from directly or indirectly
4 advertising in a false or deceptive manner in violation of the Act.

4 **E. Removal and Prohibition of Respondent Wall.** Pursuant to RCW 19.146.220(5), the
5 Director may issue an order removing from office, or prohibiting from participation in the conduct of
6 the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator
7 of any licensed mortgage broker. After the Statement of Charges was issued, Respondent Wall
8 voluntarily resigned from the position of Designated Broker for Respondent Flagship. Accordingly,
9 it is AGREED and ORDERED that with the exception of acting as a loan originator, Respondent
10 Wall is prohibited from participating in the conduct of the affairs of any mortgage broker or
11 consumer loan company licensed by or subject to licensure or regulation by the Department, in any
12 capacity, including but not limited to: (1) any financial capacity whether active or passive; or (2) as
13 an officer, director, principal, partner, or member; or (3) any management, control, oversight or
14 maintenance of any trust account(s) in any way related to any residential mortgage transaction; or (4)
15 receiving, disbursing, managing or controlling in any way, consumer trust funds in any way related
16 to any residential mortgage transaction. It is further AGREED that Respondent Wall may work as a
17 loan originator under either the Act or the Consumer Loan Act provided Respondent Wall meets the
18 applicable licensing requirements. It is further AGREED that the conduct and allegations serving as
19 the basis for the issuance of the Statement of Charges and Consent Order in this matter will not be
20 used in the assessment of any future loan originator application by Respondent Wall, including but
21 not limited to submissions for renewal or transfer of a loan originator license.

22 **F. Restitution.** Pursuant to RCW 19.146.220(2), the Director may order Respondents to
23 pay restitution for any violation of the Act. Accordingly, it is AGREED and ORDERED that
24 Respondents Flagship and Farrar shall pay restitution in the amount of \$105,000 to the borrowers

1 identified in Restitution Schedule A. Prior to the entry of this Consent Order, the total of \$105,000 in
2 restitution shall be deposited into a third-party trust account for distribution to the specified
3 consumers, and Respondent Flagship shall provide the Department with proof that the restitution
4 funds have been deposited to the trust account. Once deposited, Respondents Flagship and Farrar
5 shall not be permitted to receive any portion of the restitution funds. Respondent Flagship will
6 instruct the third party to mail restitution checks to the specified consumers within 15 days after
7 entry of this Consent Order. The restitution checks will be accompanied by a cover letter printed on
8 Respondent Flagship's letterhead as set forth in the Restitution Cover Letter attached hereto. In the
9 event that any consumer(s) cannot be located or restitution checks are not cashed within 60 days of
10 issuance, Respondent Flagship will instruct the third party to submit those funds to the Washington
11 State Department of Revenue (Department of Revenue) within 120 days of entry of this Consent
12 Order as unclaimed property on behalf of the specified consumer(s), subject to the rules and
13 regulations of the Unclaimed Property Section of the Department of Revenue. Respondents Flagship
14 and Farrar will bear the cost of all restitution related expenses such as mailing, stop payment fees,
15 and submitting funds to the Department of Revenue. Within 130 days after entry of this Consent
16 Order, Respondent Flagship will provide the Department with written proof of compliance with this
17 provision in the form of copies of the front and back of each cancelled check, copies of all
18 unclaimed property reports submitted to the Department of Revenue, and written confirmation from
19 the third-party trust administrator that all funds have been distributed as agreed and ordered.

20 **G. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
21 consent of any person or entity not a party to this Consent Order to take any action concerning their
22 personal legal rights, and this Consent Order does not limit or create any private rights or remedies
23 against Respondents, limit or create liability of Respondents, or limit or create defenses of
24 Respondents to any claims.

1 **H. Fine.** Pursuant to RCW 19.146.220(2), the Director may order Respondents to pay a fine for
2 any violation of the Act. Accordingly, it is AGREED and ORDERED that upon entry of this
3 Consent Order, Respondents Flagship and Farrar shall pay to the Department a fine of \$165,000, in
4 the form of a cashier's check made payable to the "Washington State Treasurer."

5 **I. Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-550(4), the Director
6 may charge Respondents an investigation fee of \$48 an hour to cover the costs of the investigation.
7 Accordingly, it is AGREED and ORDERED that upon entry of this Consent Order, Respondents
8 Flagship and Farrar shall pay to the Department an investigation fee of \$5,000, in the form of a
9 cashier's check made payable to the "Washington State Treasurer." The Fine and Investigation Fee
10 may be paid in one ^{170,000}~~169,000~~ cashier's check made payable to the "Washington State Treasurer."

11 **J. 2011 Examination.** The 2011 examination, covering transactions and business practices
12 occurring from January 1, 2010, through November 30, 2011, will be addressed through the
13 Department's regular examination process. To the extent that the 2011 examination cannot be
14 resolved to the Department's satisfaction through the regular examination process, nothing in this
15 Consent Order shall preclude the Department from initiating a subsequent administrative
16 enforcement action arising from the 2011 examination.

17 **K. Compliance Examination.** Pursuant to RCW 19.146.235, the Director may conduct
18 examinations of licensees to determine compliance with the Act. Accordingly, it is AGREED and
19 ORDERED that approximately one year from the date of entry of this Consent Order, Respondent
20 Flagship shall be subject to an examination to determine compliance with the Act and this Consent
21 Order. It is further AGREED and ORDERED that Respondents Flagship and Farrar shall be jointly
22 and severally liable for and shall pay all costs associated with the compliance examination.

23 **L. Authority to Execute Order.** It is AGREED that the undersigned have represented and
24 warranted that they have the right to execute this Consent Order on behalf of the parties represented.

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

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

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

9 **RESPONDENTS:**

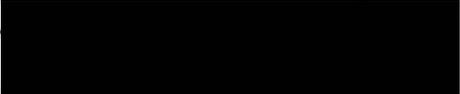
10 Flagship Financial Group, LLC, by:

11 
12 William K. Farrar, President

11/1/12
Date

13 
14 William K. Farrar, Individually

11/1/12
Date

15 
16 Chet J. Wall, Individually

11/01/12
Date

17 APPROVED AS TO FORM:
18 K&L Gates LLP

19 
20 Philip M. Guess, WSBA No. 26765
21 Attorneys for Respondents

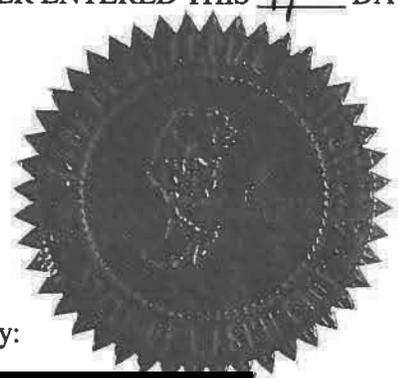
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THIS ORDER ENTERED THIS 11th DAY OF December, 2012.



[Redacted signature]

DEBORAH BORTNER
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted signature]

ANTHONY W. CARTER
Senior Enforcement Attorney

Approved by:

[Redacted signature]

CHARLES E. CLARK
Enforcement Chief

RESTITUTION SCHEDULE A

#	BI	DP REST.	UL LO REST.	TOTAL REST.
1	JA	\$ -	\$ 16,805.12	\$ 16,805.12
2	EB	\$ 1,399.07	\$ 502.29	\$ 1,901.36
3	DB	\$ 118.81	\$ 576.92	\$ 695.73
4	JC	\$ 1,846.68	\$ 577.87	\$ 2,424.55
5	DC	\$ 1,660.29	\$ 518.62	\$ 2,178.91
6	JC	\$ 2,254.42	\$ -	\$ 2,254.42
7	DD	\$ -	\$ 795.82	\$ 795.82
8	DE	\$ -	\$ 2,256.63	\$ 2,256.63
9	RF	\$ -	\$ 262.71	\$ 262.71
10	JG	\$ 3,744.88	\$ -	\$ 3,744.88
11	DH	\$ -	\$ 1,332.77	\$ 1,332.77
12	MH	\$ 2,488.65	\$ 1,278.30	\$ 3,766.95
13	JH	\$ 2,281.76	\$ 1,161.19	\$ 3,442.95
14	GH	\$ 3,527.91	\$ 1,184.26	\$ 4,712.17
15	BH	\$ 1,762.71	\$ 668.76	\$ 2,431.47
16	AH	\$ -	\$ 755.47	\$ 755.47
17	NJ	\$ 1,132.43	\$ 1,465.77	\$ 2,598.20
18	RJ	\$ -	\$ 2,264.27	\$ 2,264.27
19	MK	\$ 2,292.37	\$ 1,159.44	\$ 3,451.81
20	WK	\$ 3,005.47	\$ 1,220.41	\$ 4,225.88
21	CN	\$ 888.15	\$ -	\$ 888.15
22	DO	\$ 4,375.95	\$ 1,238.80	\$ 5,614.75
23	VO	\$ 1,838.87	\$ 909.27	\$ 2,748.14
24	DP	\$ 1,481.83	\$ -	\$ 1,481.83
25	RR	\$ 1,624.35	\$ 505.61	\$ 2,129.96
26	MR	\$ -	\$ 2,013.14	\$ 2,013.14
27	JS	\$ -	\$ 3,772.96	\$ 3,772.96
28	MS	\$ 1,887.35	\$ 708.82	\$ 2,596.17
29	WS	\$ -	\$ 5,948.47	\$ 5,948.47
30	TT	\$ 4,717.27	\$ 1,620.08	\$ 6,337.35
31	PT	\$ 1,396.23	\$ 1,371.52	\$ 2,767.75
32	JU	\$ 2,569.30	\$ 2,117.78	\$ 4,687.08
33	JV	\$ -	\$ 352.27	\$ 352.27
34	BZ	\$ 1,359.91	\$ -	\$ 1,359.91
		\$ 49,654.66	\$ 55,345.34	\$105,000.00

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

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

5 FLAGSHIP FINANCIAL GROUP LLC,
WILLIAM K. FARRAR III, President and
6 Owner, and CHET J. WALL, Designated Broker,

7 Respondents.

NO. C-09-181-10-SC01

STATEMENT OF CHARGES and NOTICE OF INTENT
TO ENTER AN ORDER TO CEASE AND DESIST,
REVOKE LICENSES, PROHIBIT FROM INDUSTRY,
REMOVE FROM OFFICE, ORDER RESTITUTION,
IMPOSE FINES, and COLLECT INVESTIGATION
FEES

8 INTRODUCTION

9 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions
10 of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage
11 Broker Practices Act (Act).¹ After having conducted an investigation pursuant to RCW 19.146.235, and based upon
12 the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of
13 Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

14 I. FACTUAL ALLEGATIONS

15 1.1 Respondents.

16 A. **Flagship Financial Group, LLC** (Respondent Flagship) was licensed by the Department of Financial
17 Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about
18 September 15, 2006, and has continued to be licensed to date. Respondent Flagship is licensed to conduct the
19 business of a mortgage broker from its main location in Lehi, Utah, and at four licensed branch locations located
20 in Utah, Georgia, and Idaho. The company does not have any licensed locations in Washington.

21 B. **William K. Farrar III** (Respondent Farrar) is the President and sole owner of Respondent Flagship.
22 Respondent Farrar has never been licensed by the Department.

23 C. **Chet J. Wall** (Respondent Wall) was licensed by the Department as the Designated Broker of
24 Respondent Flagship on or about September 15, 2006, and has continued as the licensed Designated Broker to date.

25
¹ Effective January 1, 2007.

1 **1.2 Unearned Discount Points.** In April 2009 the Department conducted an on-site examination of
2 Respondent Flagship. During the examination the Department reviewed 36 Washington residential mortgage
3 loans originated between January 1, 2007, and January 31, 2009, the relevant time period. During the relevant
4 time period, Respondents Flagship, Farrar, and Wall (Respondents) charged at least 24 borrowers discount points
5 on residential mortgage loans on property located in the State of Washington. Respondents collected more than
6 \$87,500 in discount point fees, and used part of the money to pay allowable lender fees. However, Respondents
7 retained almost \$50,000 in unearned discount points.

8 **1.3 Unlicensed Loan Originators.** During the relevant time period, Respondents used at least 21 unlicensed
9 loan originators to assisted at least 29 borrowers obtain residential mortgage loans on property located in the State
10 of Washington. The borrowers involved in these residential mortgage loans paid mortgage broker fees, not
11 including unearned discount points, to Respondents totaling at least \$110,000.

12 **1.4 Failure to Maintain Funds from Borrowers for Payment of Third-Party Providers in Trust.**

13 Respondent Flagship has not received authorization from the Department to accept trust funds. In at least 29
14 residential mortgage loans on property located in the State of Washington Respondents received funds at closing
15 for payment of third-party services. Respondents deposited these funds into operating accounts under their
16 control, thereby commingling trust funds with operating funds, and paid the third-party providers out of operating
17 funds.

18 **1.5 Missing or Incomplete Disclosures.** The April 2009 loan file review revealed that during the relevant time
19 period Respondents were not making required disclosures, not making complete disclosures, or both, including:

20 **A. Mortgage Fees.** In at least four transactions Respondents disclosed their mortgage broker fee on line
21 801 of the Good Faith Estimate (GFE) instead of on line 808 and incorrectly identified the fee as a loan origination
22 fee instead of a mortgage broker fee. In addition, in at least four transactions Respondents did not specify that the
23 processing, administrative, and application fees disclosed on the GFE inured to the benefit of Respondents.

24 **B. Yield Spread Premium.** In at least eight transactions Respondents did not accurately disclose the
25 Yield Spread Premium (YSP), and in at least three transactions, Respondents did not disclose the YSP.

1 **C. Truth in Lending.** In at least 15 transactions Respondents did not provide complete and accurate
2 Truth in Lending disclosures, incorrectly calculating the annual percentage rate, finance charge, or amount financed,
3 disclosing a fixed payment stream on variable rate loans, not checking the disclosure box on variable rate loans, and
4 not checking the disclosure box identifying the presence of prepayment penalties, security interests, assumption
5 policy, or late payment fees.

6 **D. Rate Locks.** In at least 36 transactions Respondents did not provide the required rate-lock disclosure,
7 did not provide the required rate-lock agreement, or provided an incomplete rate-lock agreement.

8 **E. Loan Originator License Numbers.** In at least seven transactions Respondents did not disclose the
9 loan originator's license number on the applicant's residential mortgage loan application.

10 **F. Written Notice of Borrower Paid Services.** In at least 17 transactions Respondents did not provide
11 the required Written Notice of Borrower Paid Services.

12 **G. Variable Rate Loans.** In at least two transactions Respondents did not provide the required variable
13 rate loan disclosure.

14 **H. Privacy Policy and Opt-Out Notice.** In at least ten transactions Respondents did not provide the
15 required privacy policy and opt-out notice.

16 **1.6 False or Deceptive Advertising.** Respondent Flagship derives their majority of their business from direct
17 mail advertising to refinance VA and FHA loans. In 2008, Respondents delivered more than 160,000 direct mail
18 solicitations to Washington relating to VA loans. The April 2009 examination revealed that during the relevant
19 time period Respondents' direct mail solicitations contained numerous violations of the Act, including:

20 **A. Failure to Clearly and Conspicuously Disclose the Annual Percentage Rate.** Respondents
21 advertised a simple interest rate but did not clearly and conspicuously disclose the corresponding Annual
22 Percentage Rate (APR).

23 **B. False Affiliation.** Respondents' solicitations suggest or represent that Respondent Flagship was
24 affiliated with the FHA or VA. In addition, Respondents used envelopes designed to resemble a government
25 mailing or suggest an affiliation that did not exist.

1 **C. False Rates.** Respondents' solicitations offered interest rates that were only available if the borrower
2 paid discount points to buy down the interest to the advertised rate. The fact that the advertised interest rate was
3 bought down, and the cost of the required discount points, was not disclosed.

4 **D. Source of Loan information.** Respondents' solicitations contained information about the recipients'
5 current loan, but did not clearly and conspicuously disclose the source of that information or a required statement
6 that Respondent Flagship was not affiliated with the recipients' current lender.

7 **E. "No Cost" Loans.** Respondents' solicitations for VA loans contained the phrase "no lender costs."
8 In fact, charges for lender underwriting, discounts, and tax servicing were included on the loans, but were paid by
9 Respondent Flagship outside of closing. Because Respondent Flagship could recover the cost of the purportedly
10 "no cost" items through negotiation, or by overcharging for other services, the Act prohibits advertising the use of
11 "free" or similar terms or phrases that imply there is no cost to the applicant.

12 **F. Variable Rate Loans.** Respondents distributed solicitations offering variable rate loans. The
13 solicitations did not clearly and conspicuously disclose that the interest rate was subject to change after
14 consummation and did not disclose the limited term to which the initial "teaser" rate applied.

15 **G. Truth in Lending Act Disclosures.** Respondents' solicitations included triggering terms, such as
16 monthly payments or the term of the loan, but did not disclose the terms of repayment.

17 **1.7 Failure to File Mortgage Broker Annual Report.** Mortgage brokers are required to file an annual report
18 of mortgage broker activity by March 31 of each year. The report must show the total number, and the total dollar
19 volume, of closed residential mortgage loans originated on property located in the State of Washington in the
20 prior calendar year. Respondents filed their 2008 report on or about April 29, 2009, 29 days late. As of the date
21 of this Statement of Charges Respondents have not filed their 2009 mortgage broker annual report.

22 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
23 Respondents continues to date.

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25 //

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

2 **2.1 Liability for Actions by Others.** Pursuant to RCW 19.146.245 and WAC 208-660-155(3), Respondent
3 Flagship is liable for and responsible for any conduct which violates the Act by designated brokers, loan
4 originators, or other licensed mortgage brokers while employed or engaged by Respondent Flagship. Pursuant
5 to WAC 208-660-155(4) and WAC 208-660-530(6), Respondents Farrar and Wall are liable for and responsible
6 for any conduct which violates the Act. Furthermore, pursuant to RCW 19.146.200(4)(b) and WAC 208-660-
7 530(7), Respondents Farrar and Wall are liable for any conduct which violates the Act by employees,
8 independent contractors, or other licensees if they directed or instructed the conduct that was in violation of the
9 Act, or had knowledge of the specific conduct, and approved or allowed the conduct; or if they knew, or by the
10 exercise of reasonable care and inquiry should have known, of the conduct in time to prevent it, or minimize the
11 consequences, and did not take reasonable remedial action.

12 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
13 apparent violation of RCW 19.146.0201(1), (2), (3), and (13) for directly or indirectly employing a scheme,
14 device or artifice to defraud or mislead any person; engaging in an unfair or deceptive practice toward any person;
15 obtaining property by fraud or misrepresentation from any person; and charging or collecting, or attempting to
16 charge or collect, any fee prohibited by RCW 19.146.030 or RCW 19.146.070 by charging and collecting
17 unearned discount points and by advertising interest rates that included undisclosed discount points.

18 **2.3 Requirement to Obtain Loan Originator Licenses.** Based on the Factual Allegations set forth in
19 Section I above, Respondents are in apparent violation of RCW 19.146.200(1) for using unlicensed loan
20 originators to originate residential mortgage loans on property located in the State of Washington.

21 **2.4 Requirement to Maintain Funds from Borrower for Payment of Third-Party Providers in Trust.**
22 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of
23 RCW 19.146.050 and WAC 208-660-410 for not depositing funds received on behalf of a borrower for payment
24 of third-party provider services in a trust account of a federally insured financial institution located in the State of
25

1 Washington, prior to the end of the third business day following receipt of such monies, and for commingling
2 operating funds with trust account funds.

3 **2.5 Requirement to Make Disclosures.** Based on the Factual Allegations set forth in Section I above,
4 Respondents are in apparent violation of RCW 19.146.0201(6), (11), and (15) for not making disclosures to loan
5 applicants as required by RCW 19.146.030 and any other applicable state or federal law, including the Truth in
6 Lending Act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226; the Real Estate Settlement Procedures
7 Act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500; the Gramm-Leach-Bliley Act, 12 U.S.C. Sections
8 6801-6809 and Regulation P, 12 C.F.R. Sec. 216; and the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

9 **2.6 False or Deceptive Advertising.** Based on the Factual Allegations set forth in Section I above,
10 Respondents are in apparent violation of RCW 19.146.0201(2), (5), (7), (10), and (11) for engaging in an unfair
11 or deceptive practice toward any person; soliciting or advertising specific interest rates or other financing terms
12 when the advertised interest rates or terms were not available; making, in any manner, any false or deceptive
13 statement or representation with regard to the rates, points, or other financing terms or conditions for a
14 residential mortgage loan; advertising any rate of interest without conspicuously disclosing the annual
15 percentage rate implied by such rate of interest; advertising recipients' current loan information without clearly
16 and conspicuously disclosing the source of that information; and not complying with federal law in any
17 advertisement for residential mortgage loans by advertising simple interest rates without clearly and
18 conspicuously disclosing the corresponding annual percentage rate, falsely suggesting or representing that
19 Respondents were affiliated with the FHA or VA, advertising interest rates that included undisclosed discount
20 points, advertising "no cost" loans, and advertising variable rate loans and credit triggering terms without
21 making the required disclosures under the Truth in Lending Act or the Real Estate Settlement Procedures Act.

22 **2.7 Requirement to File Mortgage Broker Annual Report.** Based on the Factual Allegations set forth in
23 Section I above, Respondents are in apparent violation of RCW 19.146.290(1) and WAC 208-660-400(1), (2), and
24 (3) for not timely filing their 2008 and 2009 mortgage broker annual report.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4) the Director may issue
3 orders directing a licensee, its employees, loan originators, or other person subject to the Act to cease and desist from
4 conducting business in a manner that is injurious to the public or violates any provision of the Act.

5 **3.2 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(e) the Director may revoke licenses for
6 any violation of the Act.

7 **3.3 Authority to Remove from Office or Prohibit from the Industry.** Pursuant to RCW 19.146.220(5) the
8 Director may issue an order removing from office or prohibiting from participation in the conduct of the affairs of
9 a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
10 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9),
11 RCW 19.146.030 through RCW 19.146.080, or RCW 19.146.200.

12 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e) the Director may issue an order directing
13 a licensee, its employees, loan originators, or other person subject to the Act to pay restitution to an injured borrower
14 for any violation of the Act.

15 **3.5 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a licensee,
16 employee, loan originator of the licensee, or other person subject to the Act for any violation of the Act.

17 **3.6 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and
18 WAC 208-660-550(4) the Department may collect the costs of any investigation of alleged violations of the Act.

19 **IV. NOTICE OF INTENT TO ENTER ORDER**

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

24 **4.1** Respondents Flagstar Financial Group, LLC, William K. Farrar III, and Chet J. Wall immediately cease and
25 desist charging, collecting, and retaining unearned discount points; using unlicensed loan originators to
originate residential mortgage loans on property located in the State of Washington; receiving or depositing

1 funds for third-party services into their general operating accounts; not making, or making incomplete
2 residential mortgage loan disclosures required under state and federal law; and engaging in false or deceptive
advertising in violation of state or federal law; and

3 **4.2** Respondent Flagstar Financial Group LLC's license to conduct the business of a mortgage broker be
4 revoked; and

5 **4.3** Respondent Chet J. Wall's loan originator license be revoked, and that he be removed from his position as the
Designated Broker of Respondent Flagstar Financial Group, LLC; and

6 **4.4** Respondents Flagstar Financial Group, LLC, William K. Farrar III, and Chet J. Wall be prohibited from
7 participation in the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any
manner, for a period of five years; and

8 **4.5** Respondents Flagstar Financial Group, LLC and William K. Farrar III jointly and severally pay restitution to all
9 borrowers injured by Respondents' illegal practices of:

10 **A.** Charging, collecting, and retaining unearned discount points, including payment of at least
\$48,672.36 in restitution to the 26 borrowers identified in paragraph 1.2; and

11 **B.** Using unlicensed loan originators to originate residential mortgage loans on property located in the
State of Washington, including payment of at least \$114,531.29 in restitution to the 29 borrowers
identified in paragraph 1.3; and

12 **4.6** Respondents Flagstar Financial Group, LLC and William K. Farrar III jointly and severally pay a fine that as of
13 the date of this Statement of Charges totals \$200,000; and

14 **4.7** Respondents Flagstar Financial Group, LLC and William K. Farrar III jointly and severally pay a fine of \$100
15 per day beginning April 1, 2010, until the 2009 Mortgage Broker Annual Report is filed with the Department;
and

16 **4.8** Respondents Flagstar Financial Group, LLC, William K. Farrar III, or Chet J. Wall file the 2009 Mortgage
Broker Annual Report with the Department; and

17 **4.9** Respondent Chet J. Wall pay a fine that as of the date of this Statement of Charges totals \$50,000; and

18 **4.10** Respondents Flagstar Financial Group, LLC and William K. Farrar III jointly and severally pay an investigation
19 fee that as of the date of this Statement of Charges totals \$2,160, representing 45 staff hours at \$48.00 per hour;
and

20 **4.11** Respondents Flagstar Financial Group, LLC and William K. Farrar III maintain records in compliance with the
21 Act and provide the Department with the location of the books, records and other information relating to
Respondent Flagstar Financial Group, LLC and William K. Farrar III's mortgage broker business, and the
22 name, address and telephone number of the individual responsible for maintenance of such records in
compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist, Revoke Licenses,
3 Prohibit from Industry, Remove from Office, Order Restitution, Impose Fines, and Collect Investigation Fees
4 (Statement of 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 Administrative
6 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF
7 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

8
9 Dated this 8th day of November, 2010.

10 [Redacted Signature]

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

13 Presented by:

14 [Redacted Signature]

15 ANTHONY W. CARTER
16 Enforcement Attorney



17
18 Approved by:

19 [Redacted Signature]

20 JAMES R. BRUSSELBACK
21 Enforcement Chief