



State of Washington

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

BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING
Whether there has been a violation of the Mortgage
Broker Practices Act of Washington (chapter
19.146 RCW) by:

SK MORTGAGE LENDING CORP,

Respondent.

No. C-09-251-10-FO01

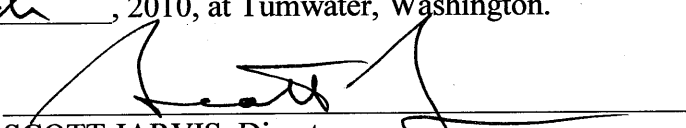
FINAL DECISION AND ORDER

THIS MATTER having come before Scott Jarvis, Director (Director) of the Department of Financial Institutions (Department), on Petition for Review of the Initial Decision and Order (Initial Order) in the above-referenced Brief Adjudicative Proceeding (BAP) for the Division of Consumer Services (Division), in relation to a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (Statement of Charges) under the Washington Mortgage Broker Practices Act, chapter 19.146 RCW (Act), against SK Mortgage Lending Corp, the Respondent (Respondent).

NOW THEREFORE, after full consideration of the complete record on review, including the Statement of Charges and the Initial Order, IT IS HEREBY ORDERED:

1. The Director affirms and incorporates herein by this reference the Findings of Fact and Conclusions of Law contained in the Initial Order.
2. Based upon the Findings of Fact and Conclusions of Law, the Director, as the Final Decision and Order of the Department, AFFIRMS the Initial Decision and Order in this matter.

Dated this 17th day of March, 2010, at Tumwater, Washington.


SCOTT JARVIS, Director
Washington State Department of Financial Institutions



State of Washington

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

BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING
Whether has been a violation of the
Washington Mortgage Broker Practices Act
(Ch. 19.146 RCW) by:

SK MORTGAGE LENDING CORP.,

Respondent.

DCS – BAP – C-09-251-09-IO

INITIAL DECISION AND ORDER

THIS MATTER having come before Joseph M. Vincent, General Counsel for the Department of Financial Institutions (“Department”), sitting in his capacity as Presiding Officer (“Presiding Officer”) for Brief Adjudicative Proceedings (“BAP”) for the Division of Consumer Services (“Division”), in relation to a State of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (“Statement of Charges”) under the Washington Mortgage Broker Practices Act, Chapter 19.146 RCW (“Act”), against SK MORTGAGE LENDING CORP., the Respondent (“Respondent”);

NOW THEREFORE, the Presiding Officer issues the following Findings of Fact, Conclusions of Law, and Initial Decision and Order:

1.0 RECORD

The Presiding Officer has considered the following material documents, which comprise the relevant record in this matter (“Record”):

- 1.1 Statement of Charges, dated September 9, 2009;
- 1.2 Request for Brief Adjudicative Proceeding, dated September 14, 2009, in which the designated broker of Respondent, Sung Kim (“Designated Broker”) declined a qualified interpreter or to be represented by an attorney;

- 1.3 Letter from James Brusselback, Enforcement Chief of the Division, dated September 16, 2009;
- 1.4 Notice of Assignment and Time to File Additional Materials, from the Presiding Officer, dated October 15, 2009;
- 1.5 Letter of Explanation from Designated Broker dated October 28, 2009; and
- 1.6 Memorandum of Fatima Batie, dated December 1, 2009, in reply to Designated Broker's Letter of Explanation, including the Department's Resolution and Closure of Complaint in Complaint No. 286094 ("Resolution & Closure").

2.0 FINDINGS OF FACT

Based upon the Record, the following facts undisputed as between the Division and the Respondent:

- 2.1 Respondent was originally licensed as a mortgage broker on March 12, 2007.
- 2.2 Sung Kim is the Designated Broker of Respondent and has been since date of original license.
- 2.3 Respondent was required to file a Mortgage Broker Annual Report ("MBAR") of mortgage activity with the Division on or before March 31st of every year following any year in which it held a mortgage broker license.
- 2.4 This change went into effect on January 1, 2007, so the first MBAR was due to the Division no later than March 31, 2008.
- 2.5 Respondent did not submit its 2007 MBAR, which was due March 31, 2008.
- 2.6 The Division issued a Directive on August 20, 2008, requiring Respondent to submit the 2007 MBAR by September 7, 2008.
- 2.7 Respondent still did not submit the 2007 MBAR by September 7, 2008.
- 2.8 On October 29, 2009, the Division issued a Second Directive requiring the 2007 MBAR to be filed.
- 2.9 Finally, the Division received the 2007 MBAR on November 3, 2008.
- 2.10 On November 22, 2008, the Division issued a Resolution & Closure relative to the untimely filing of the 2007 MBAR, putting Respondent on notice that it had:

- 2.10.1 Violated RCW 19.146.290, by failing to file an MBAR;
- 2.10.2 Violated WAC 208-660-400(1), by failing to file an MBAR as required;
and
- 2.10.3 Violated RCW 19.146.235, by failing to comply with examination authorities, occasioned by the non-responsiveness to the first Directive referenced above.
- 2.11 In its Resolution & Closure of the untimely filing of the 2007 MBAR, the Division also notified Respondent that “future failure to file an annual report or future late filing of an annual report” would subject Respondent to an enforcement action that might include “imposition of fines and investigative costs.”
- 2.12 The 2008 MBAR was due to the Division by March 31, 2009, but the Division did not receive it.
- 2.13 Despite that, the Department did not issue its Statement of Charges until September 9, 2009, at a time when the Respondent had still not filed its 2008 MBAR.
- 2.14 Respondent faxed the Division a 2008 Profit and Loss Statement and a Balance Sheet for December 31, 2008, but the Division never received the 2008 MBAR.
- 2.15 The Designated Broker’s Letter of Explanation to the Presiding Officer dated October 28, 2009, does not deny any of the Findings of Fact set forth above.
- 2.16 Based upon the Findings of Fact above, it is clear that the Designated Broker, as principal for Respondent, was on notice of the importance and legal requirement of timely filing of an MBAR, owing to the Directive, Second Directive, and Resolution & Closure in connection with the untimely filing of the 2007 MBAR.
- 2.17 The MBAR is not the same as a Profit and Loss Statement or a Balance Sheet. It is a separate, required tool of the Division for measuring the activity of Mortgage Broker Licensees so that the Division may allocate its scarce resources in determining such matters as which Mortgage Broker Licensees ought to be examined. It is not an annual report in the manner of renewing one’s corporation license with the Secretary of State. Because of the MBAR’s purpose, it is essential that it be filed – and filed timely.

- 2.18 Respondent did not treat the MBAR filing requirement or this Department with the respect they deserve.
- 2.19 The Designated Broker's Letter of Explanation is devoid of any assertions of fact that would give rise to a finding of excusable neglect.
- 2.20 The Presiding Officer finds that Respondent has disregarded the Department and the Department's applicable laws and regulations in Respondent's untimely filing of the 2008 MBAR.
- 2.21 Two staff hours were devoted to this investigation.

3.0 CONCLUSIONS OF LAW

Based upon the Findings of Fact above, the Presiding Officer must conclude, as follows:

- 3.1 In its untimely filing of the 2008 MBAR, Respondent violated RCW 19.146.290(1) and WAC 208-660-400(1), (2), and (3).
- 3.2 Pursuant to RCW 19.146.220(2)(e), the Department may impose fines on a Mortgage Broker Licensee for any violation of the Act.
- 3.3 Pursuant to RCW 19.146.228(2), WAC 208-660-520 and WAC 208-660-550(4), upon completion of any investigation of the books and records of a licensee, the Department will furnish to the licensee a billing to cover the cost of investigation.
- 3.4 The investigative charge will be calculated at the rate of \$48 per hour for each staff person of the Department devoted to the investigation.

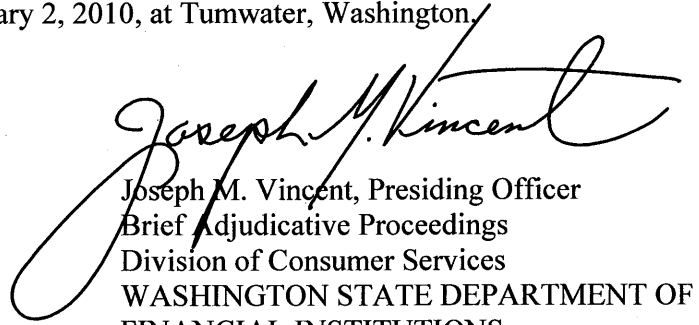
4.0 INITIAL DECISION AND ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS HEREBY ORDERED THAT:

- 4.1 Respondent, SK MORTGAGE LENDING CORP., pay a fine of Three Thousand Dollars (\$3,000.00); and

4.2 Respondent, SK MORTGAGE LENDING CORP., pay an investigative fee of
Ninety-Six Dollars (\$96.00).

Dated and mailed on February 2, 2010, at Tumwater, Washington.



Joseph M. Vincent, Presiding Officer
Brief Adjudicative Proceedings
Division of Consumer Services
WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS
P.O. Box 41200
Olympia, Washington 98504-1200
Phone: (360) 902-0516
E-Fax: (360) 704-7036

FURTHER APPEAL RIGHTS

Under the Washington Administrative Procedures Act, Chapter 34.05 RCW, and WAC 10-08-211, any party to an adjudicative proceeding may file a *Petition for Review* of this Initial Decision and Order. Any *Petition for Review* shall be filed with the Director of the Department of Financial Institutions within twenty (20) days of service of the Initial Decision and Order. **The deadline to file a Petition for Review is February 22, 2010.**

Address for filing the Petition for Review:

Scott Jarvis, Director
Washington State Department of Financial Institutions
P.O. Box 41200
Olympia, Washington 98504-1200

A copy of any such *Petition for Review* must also be served upon the Division of Consumer Services, Washington State Department of Financial Institutions, P.O. Box 41200, Olympia, Washington 98504-1200, at the time the *Petition for Review* is filed with the Director.

A *Petition for Review* shall specify the portions of the *Initial Decision and Order* to which exception is taken and shall refer to the evidence of record which is relied upon to support the *Petition for Review*. Any party may file a reply to a *Petition for Review*. Replies must be filed with the Director within ten (10) days of the date of the service of the *Petition for Review*, and copies of the reply must be served upon all other parties or their representatives at the time the reply is filed with the Director.

At the time for filing a *Petition for Review* has elapsed, the Director of the Washington State Department of Financial Institutions will issue a *Final Decision and Order* in this matter. In accordance with RCW 34.05.470 and WAC 10-08-215, any *Petition for Reconsideration* of such *Final Decision and Order* must be filed with the Director within ten (10) days of the service of the *Final Decision and Order*. **NOTE: *Petitions for Reconsideration* do not stay the effectiveness of the *Final Decision and Order*.**

Judicial Review of the *Final Decision and Order* is available to a party according to the provisions set out in the Washington Administrative Procedures Act, at RCW 34.05.570.

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
8 SK MORTGAGE LENDING CORP,
9
10 Respondent.

NO. C-09-251-09-SC01

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

7 INTRODUCTION

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

13 I. FACTUAL ALLEGATIONS

14 1.1 Respondent SK Mortgage Lending Corp (Respondent) was licensed by the Department of Financial
15 Institutions of the State of Washington (Department) to conduct business as a mortgage broker at all times
16 relevant to the conduct alleged.

17 1.2 Failure to File Mortgage Broker Annual Report. By March 31, 2009, Respondent was required to
18 file an annual report of mortgage broker activity to include the total number of closed loans originated and the
19 total volume of closed loans originated. As of the date of this Statement of Charges Respondent has not filed
20 the 2008 mortgage broker annual report.

21 1.3 On-Going Investigation. The Department's investigation into the alleged violations of the Act by
22 Respondent continues to date.

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STATEMENT OF CHARGES
SK Mortgage Lending Corp
C-09-251-09-SC01

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

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II. GROUNDS FOR ENTRY OF ORDER

2.1 Requirement to File Mortgage Broker Annual Report. Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.290(1) and WAC 208-660-400(1), (2), (3), and (4) for failing to file the mortgage broker annual report.

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Impose Fine. Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a licensee or other person subject to the Act for any violations of the Act.

3.2 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person devoted to the investigation.

IV. NOTICE OF INTENTION TO ENTER ORDER

Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis for 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 intention to ORDER that:


- 4.1** Respondent SK Mortgage Lending Corp pay a fine of \$3,000; and
- 4.2** Respondent SK Mortgage Lending Corp pay an investigation fee, which as of the date of these charges is \$96 calculated at \$48 per hour for two staff hours devoted to the investigation; and
- 4.3** Respondent SK Mortgage Lending Corp file the 2008 annual report of mortgage broker activity.

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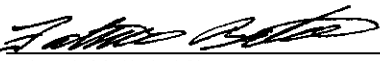
1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect
3 Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05
5 RCW (The Administrative Procedure Act). Respondent may make a written request for a Brief Adjudicative
6 Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF
7 ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

8 Dated this 9th day of September, 2009.

9
10 
11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

16 
17 FATIMA BATIE
18 Financial Legal Examiner Supervisor

19 Approved by:

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21 JAMES R. BRUSSELBACK
22 Enforcement Chief



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

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

SK MORTGAGE LENDING CORP,
Respondent.

No. C-09-251-09-SC01

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR BRIEF
ADJUDICATIVE PROCEEDING

7 THE STATE OF WASHINGTON TO:

SK Mortgage Lending Corp

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YOU ARE HEREBY NOTIFIED that a STATEMENT OF CHARGES has been issued by the
Department of Financial Institutions, a true and correct copy of which is attached and made a part hereof.

YOU ARE HEREBY NOTIFIED that you may file a Request for Brief Adjudicative Proceeding before the
Washington State Department of Financial Institutions on the Statement of Charges. Service of this notice is
deemed complete upon deposit in the United States mail. YOUR REQUEST MUST BE RECEIVED BY THE
DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS FROM THE DATE YOU
RECEIVED THIS NOTICE. If you request a Brief Adjudicative Proceeding, you will be notified of the schedule
and oral argument, if any, at least seven (7) days in advance.

The Brief Adjudicative Proceeding will be as informal as is practical within the requirements of the
Administrative Procedure Act (see chapter 34.05 RCW). If you are limited English- speaking or hearing impaired,
you have the right to have an interpreter appointed at no cost to you, as discussed below.

INTERPRETER AVAILABILITY. If you are a person who, because of non-English-speaking cultural
background, cannot readily speak or understand the English language, or if you are a person who, because of a
hearing impairment or speech defect, cannot readily understand or communicate in spoken language, including
persons who are deaf, deaf and blind, or hard of hearing, AND YOU NEED AN INTERPRETER, then a qualified
interpreter will be appointed at no cost to you. You may request the appointment of a qualified interpreter by
indicating your request on the attached Request for Brief Adjudicative Proceeding form.

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR BRIEF
ADJUDICATIVE PROCEEDING

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE the
2 Request for Brief Adjudicative Proceeding form within twenty (20) days from the date you received this notice, this
3 will constitute a waiver of your right to a Brief Adjudicative Proceeding and the Director will find that you do not
4 contest the allegations of the Statement of Charges. Upon such a finding by the Director a final order will be
5 immediately entered disposing of this matter as described in the Statement of Charges. If you desire a Brief
6 Adjudicative Proceeding in this matter, please return the attached Request for Brief Adjudicative Proceeding to:

7 Department of Financial Institutions
8 Division of Consumer Services
9 Attn: Fatima Batie
10 PO Box 41200
11 Olympia, Washington 98504-1200

12 Dated this 9th day of September 2009.

13 *Deborah Bortner*

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

