

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:

UNIQUE MORTGAGE LLC,

NO. C-09-308-10-FO01

FINAL DECISION AND ORDER

Respondent.

I. <u>DIRECTOR'S CONSIDERATION</u>

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 September 9, 2009, the Director, through Consumer Services Division Director, Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (Statement of Charges) against Unique Mortgage LLC, Respondent. 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 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for a Brief Adjudicative Proceeding for Unique Mortgage LLC. The Department served the Statement of Charges, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for a Brief Adjudicative Proceeding for Unique Mortgage LLC on Respondent, on September 9, 2009, by First-Class mail and Federal Express overnight delivery.

Brief Adjudicative Proceeding Final Decision and Order In re Unique Mortgage LLC No. C-09-308-10-FO01 Page 1 of 5 Pages On September 28, 2009, the Department received from Respondent's representative,

Konstantin Gerasimov a completed Application for Brief Adjudicative Proceeding. On September

29, 2009, the Division of Consumer Services made a request to the BAP Hearing Officer, Joseph M.

Vincent, (BAP Hearing Officer Vincent) to schedule and conduct a hearing on the Statement of

Charges. On October 15, 2009, BAP Hearing Officer Vincent issued a Notice of Assignment &

Time to File Additional Materials giving Respondent until Friday, October 30, 2009, to provide

additional materials.

On February 17, 2010, BAP Hearing Officer Vincent issued an Initial Decision and Order.

This Initial Decision and Order includes the following Findings of Fact:

Respondent was required to file a Mortgage Broker Annual Report (MBAR) on or

before March 31, 2009.

• Respondent filed the MBAR on June 8, 2009.

• Respondent's representative was on notice of the importance and legal requirement of timely filing of the MBAR on or before March 31st of each year for as long as

Respondent remained a licensee.

ch 31" of each year for as lo

The Initial Decision and Order ordered Respondent to pay a fine of \$1,500 and to pay investigative

costs of \$96. On February 17, 2010, the Initial Decision and Order was mailed to Respondent via

First-Class mail.

Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from

the date of service of the Initial Decision and Order to file a Petition for Review of the Initial

Decision and Order. Respondent did not file a Petition for Review during the statutory period.

B. <u>Record Presented</u>. The record presented to the Director for his review and for

entry of a final decision included the following:

Brief Adjudicative Proceeding Final Decision and Order In re Unique Mortgage LLC No. C-09-308-10-FO01

- 1. Statement of Charges, and Notice of Opportunity to Defend and Opportunity for Hearing, with documentation of service;
- 2. Completed application for Brief Adjudicative Proceeding for Unique Mortgage LLC;
- 3. Letter requesting the scheduling of a Brief Adjudicative Proceeding;
- 4. Notice of Assignment & Time To File Additional Materials dated October 15, 2009; and
- 5. Initial Decision and Order dated February 17, 2010, with documentation of service.
- C. <u>Factual Findings and Grounds For Order</u>. Pursuant to RCW 34.05.461, the Director hereby adopts the Initial Decision and Order, which is attached hereto.

II. FINAL ORDER

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

A. <u>IT IS HEREBY ORDERED</u>, That:

- 1. Respondent Unique Mortgage LLC. pay a fine of \$1,500; and
- 2. Respondent Unique Mortgage LLC. pay an investigative fee of \$96.
- B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

E. <u>Non-compliance with Order</u>. If Unique Mortgage LLC does not comply with the terms of this order, the Department may seek its enforcement by the Office of Attorney General to include the collection of the fine and fees imposed herein.

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

Dated this 28 day of

, 2010, at Tumwater, Washington.

SCOTT JARVIS, Director

Washington State Department of Financial Institutions

Brief Adjudicative Proceeding Final Decision and Order In re Unique Mortgage LLC No. C-09-308-10-FO01 Page 4 of 5 Pages

NOTICE TO THE PARTIES

Judicial Review of this Final Decision and Order is available to a party according to the provisions set out in Part V of the Washington Administrative Procedure Act, RCW 34.05.510 through RCW 34.05.598, inclusive. Judicial Review may be made by filing a Petition for Judicial Review (RCW 34.05.570) within thirty (30) days of the date of the Final Decision and Order, as permitted under RCW 34.05.542(2). The contents of the Petition for Review shall be according to the requirements of RCW 34.05.546.

This is to certify that the above FINAL DECISION AND ORDER has been served upon the following parties on ________, 2010, by depositing a copy of same in the United States mail, postage prepaid.

SUSAN PUTZIER

Mailed to the following:

ATTN: Konstantin Gerasimov Designated Broker Unique Mortgage LLC. 29837 8th Avenue SW Federal Way, WA 98023

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

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-09-308-09-SC01

UNIQUE MORTGAGE LLC,

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

Respondent.

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). After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

- 1.1 Respondent Unique Mortgage LLC (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker at all times relevant to the conduct alleged.
- 1.2 Failure to Timely File Mortgage Broker Annual Report. By March 31, 2009, Respondent was required to file an annual report of mortgage broker activity to include the total number of closed loans originated and the total volume of closed loans originated. Respondent filed the 2008 mortgage broker annual report after April 30, 2009. Respondent also did not timely file the 2007 mortgage broker annual report.
- 1.3 On-Going Investigation. The Department's investigation into the alleged violations of the Act by Respondent continues to date.

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25 // STATEMENT OF CHARGES Unique Mortgage LLC

C-09-308-09-SC01

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

Requirement to Timely File Mortgage Broker Annual Report. Based on the Factual Allegations set 2.1 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 timely file the mortgage broker annual report.

III. AUTHORITY TO IMPOSE SANCTIONS

- Authority to Impose Fine. Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a 3.1 licensee or other person subject to the Act for any violations of the Act.
- Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC 3.2 208-660-550(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:

- Respondent Unique Mortgage LLC pay a fine of \$1,500; and 4.1
- Respondent Unique Mortgage LLC pay an investigation fee, which as of the date of these charges 4.2 is \$96 calculated at \$48 per hour for two staff hours devoted to the investigation.

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STATEMENT OF CHARGES Unique Mortgage LLC C-09-308-09-SC01

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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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect Investigation Fee (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 Brief Adjudicative Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

Dated this 9th day of September, 2009.

Director
Division of Consumer Services

Presented by:

FATIMA BATIE

Financial Legal Examiner Supervisor

Approved by:

MES R. BRUSSELBACK

Enforcement Chief

STATEMENT OF CHARGES
Unique Mortgage LLC
C-09-308-09-SC01



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:

UNIQUE MORTGAGE LLC,

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Respondent.

No. C-09-308-09-SC01

NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF ADJUDICATIVE PROCEEDING

THE STATE OF WASHINGTON TO:

Unique Mortgage LLC

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, <u>AND YOU NEED AN INTERPRETER</u>, 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.

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NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR BRIEF ADJUDICATIVE PROCEEDING 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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YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not <u>RECEIVE</u> the Request for Brief Adjudicative Proceeding form within twenty (20) days from the date you received this notice, this will constitute a waiver of your right to a Brief Adjudicative Proceeding and the Director will find that you do not contest the allegations of the Statement of Charges. Upon such a finding by the Director a final order will be immediately entered disposing of this matter as described in the Statement of Charges. If you desire a Brief Adjudicative Proceeding in this matter, please return the attached Request for Brief Adjudicative Proceeding to:

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

Dated this 9th day of September 2009.

Deboral Bohren

DEBORAH BORTNER

Director

Division of Consumer Services Department of Financial Institutions

