

TERMS COMPLETED

ORDER SUMMARY – Case Number: C-09-314

Name(s): Summit Mortgage Corporation
 Kevin A. Schmidt
 Kimberly A. Bean
 Miles D. Rusth
 Brian R. Haveman

Order Number: C-09-314-10-CO01

Effective Date: March 25, 2010

License Number: DFI: 20692 NMLS ID: 3236 (Summit Mortgage)
 DFI: MLO-91450 NMLS ID: 91450 (Schmidt)
 DFI: MLO-55921 NMLS ID: 55921 (Bean)
 DFI: MLO-84660 NMLS ID: 84660 (Rusth)
 DFI: MLO-4988 NMLS ID: 4988 (Haveman)

Or NMLS Identifier [U/L]

License Effect: Surrendered

Not Apply Until: March 25, 2015

Not Eligible Until: March 25, 2015

Prohibition/Ban Until: March 25, 2015

Investigation Costs	\$11,998.50	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 3/22/2010
Fine	\$68,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 3/22/2010
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$18,977.48	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 4/30/2010
Judgment	\$	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:			

RECEIVED
MAR 18 2010
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-09-314-10-CO01

SUMMIT MORTGAGE CORPORATION,
KEVIN A. SCHMIDT, President and 25% Owner,
KIMBERLY A. BEAN, Vice President and 25%
Owner,
MILES D. RUSTH, Vice President and 25%
Owner, and
BRIAN R. HAVEMAN, Secretary, Designated
Broker, and 25% Owner,

CONSENT ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Summit Mortgage Corporation (hereinafter Respondent Summit), Kevin A. Schmidt, President and Owner (hereinafter Respondent Schmidt), Kimberly A. Bean, Vice President and Owner (hereinafter Respondent Bean), Miles D. Rusth, Vice President and Owner (hereinafter Respondent Rusth), and Brian R. Haveman, Secretary, Designated Broker, and Owner (hereinafter Respondent Haveman)(collectively Respondents), 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:

CONSENT ORDER
C-09-314-10-CO01
SUMMIT MORTGAGE CORPORATION
KEVIN A. SCHMIDT
KIMBERLY A. BEAN
MILES D. RUSTH
BRIAN R. HAVEMAN

1

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

1 **AGREEMENT AND ORDER**

2 The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents
3 have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-09-314-09-SC01
4 (Statement of Charges), entered December 7, 2009, (copy attached hereto). Pursuant to chapter 19.146 RCW, the
5 Mortgage Broker Practices Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondents
6 hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-
7 captioned matter may be economically and efficiently settled by entry of this Consent Order. Respondents are
8 further agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

9 Based upon the foregoing:

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

12 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
13 before an administrative law judge, and that they hereby waive their right to a hearing and any and all
14 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
15 Accordingly, by the authorized signatures below Respondents hereby withdraw their appeal.

16 **C. No Admission of Liability.** It is AGREED that Respondents do not admit or deny the Factual
17 Allegations set forth in the Statement of Charges by entry of this Consent Order and that resolution of this matter
18 is without any findings in favor of or against Respondents. The parties acknowledge the cooperation of one
19 another and intend this Consent Order to fully resolve the Statement of Charges. The parties further agree that the
20 Statement of Charges and this Consent Order will not be considered in the Department's assessment of
21 Respondents' applications to renew their existing license to conduct business under the Washington Consumer
22 Loan Act (CLA).

23 **D. License Surrender.** It is AGREED that the Department will accept the voluntary surrender of
24 Respondents' mortgage broker license.

1 **E. Agreement not to Apply.** It is AGREED that Respondents will not apply for a license to conduct
2 business as a mortgage broker for a period of five years following the date of this Consent Order. However, if
3 during that five year period there are material changes to the CLA or related Rules which would preclude
4 Respondents from doing business under the CLA, then Respondents may apply for a license to conduct
5 business as a mortgage broker. Upon such event, Respondents would be required to provide the Department
6 with evidence of their inability to conduct business under the CLA and would have to comply with all licensing
7 requirements under the Mortgage Broker Practices Act.

8 **F. Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$68,000 in the form of a
9 cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

10 **G. Restitution.** It is AGREED that Respondents have issued restitution checks in the aggregate amount
11 of \$18,977.48 to those borrowers more specifically set forth in Appendix A and has provided the Department
12 with a copy of each check. In the event that a borrower could or cannot be found or a restitution check is not
13 cashed within 60 days of issuance, Respondents will submit the related funds to the Department of Revenue as
14 unclaimed property. Respondents will bear the cost of all related expenses such as costs of mailing and
15 stopping payment on outstanding checks that are not returned or cashed. Within 130 days of entry of this
16 Consent Order, Respondents will provide the Department with proof of all payments in the form of copies of
17 the front and back of cancelled restitution checks and any checks to the Department of Revenue, and a copy of
18 any unclaimed property forms submitted to the Department of Revenue.

19 **H. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee
20 of \$11,998.50 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of
21 this Consent Order. Respondents may pay both the fine and the investigation fee in the form of a single cashier's
22 check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

23 **I. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide
24 by the terms and conditions of this Consent Order is a separate violation of the Act and may result in further

1 legal action by the Director. In the event of such legal action, Respondents may be responsible to reimburse
2 the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

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

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

7 **RESPONDENTS:**

8 **Summit Mortgage Corporation**

9 By:

10 [Redacted Signature]

11 Kevin A. Schmidt
12 President

3/17/2010
Date

13 [Redacted Signature]

14 Kevin A. Schmidt
15 Individually

3/17/2010
Date

16 [Redacted Signature]

17 Kimberly A. Bean
18 Individually

3/17/10
Date

19 [Redacted Signature]

20 Miles D. Rusth
21 Individually

3/17/2010
Date

22 [Redacted Signature]

23 Brian R. Haveman
24 Individually

3/17/10
Date

25 [Redacted Signature]

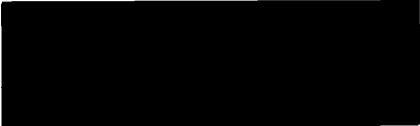
Christopher R. Ambrose, WSBA No. 26237
Attorney at Law
Attorney for Respondents

3-17-10
Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 25th DAY OF March, 2010.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



STEVEN C. SHERMAN
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

1
2
3
4
5
6
7
8
9
10
11
12

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

13
14
15
16
17
18
19
20
21
22
23
24
25

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

NO. C-09-314-09-SC01

SUMMIT MORTGAGE CORPORATION,
KEVIN A. SCHMIDT, President and 25%
Owner,
KIMBERLY A. BEAN, Vice President and
25% Owner,
MILES D. RUSTH, Vice President and 25%
Owner, and
BRIAN R. HAVEMAN, Secretary,
Designated Broker, and 25% Owner,

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

Respondents.

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 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 Respondents.

A. Summit Mortgage Corporation (Respondent Summit) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a

¹ RCW 19.146 (2006) thru (2009)

1 mortgage broker on June 2, 1998, and has continued to be licensed to date. Respondent Summit is
2 licensed to conduct the business of a mortgage broker at its main office at 5331 SW Macadam
3 Avenue, Portland, Oregon, and at two branch locations in Portland, Oregon, and Vancouver,
4 Washington.

5 **B. Kevin A. Schmidt (Respondent Schmidt)** is President and 25% owner of Respondent
6 Summit. Respondent Schmidt is also a licensed Loan Originator for Respondent Summit.

7 **C. Kimberly A. Bean (Respondent Bean)** is Vice President and 25% owner of
8 Respondent Summit. Respondent Bean is also a licensed Loan Originator for Respondent Summit.

9 **D. Miles D. Rusth, (Respondent Rusth)** is Vice President and 25% owner of Respondent
10 Summit. Respondent Rusth is also a licensed Loan Originator for Respondent Summit.

11 **E. Brian R. Haveman (Respondent Haveman)** is Secretary, Designated Broker, and
12 25% Owner of Respondent Summit. Respondent Haveman was named Designated Broker of
13 Respondent Summit on or about June 2, 1998, and has continued as Designated Broker to date.

14 **1.2 Investigation.** On or about April 6, 2009, the Department received information that
15 Respondents were permitting unlicensed loan originators to originate Washington residential mortgage
16 loans. As part of its investigation, from July 6, 2009, through July 29, 2009, the Department examined
17 the business practices of Respondents for the period of April 30, 2007, through May 31, 2009. The
18 Department also reviewed 34 loan files for compliance with the Act.

19 **1.3 Unlicensed Loan Originators.** The Department determined that the following 6 unlicensed
20 Loan Originators had originated at least 22 residential mortgage loans for Washington properties on
21 Respondents' behalf:

22 Stephen Shaw (12 loans)
23 Lea Snyder (4 loans)

24 Ken Gebarowski (2 loans)
25 Cheryl James-Sutherland (2 loans)

Brock Snidow (1 loan)
Gabrielle Purdom (1 loan)

1 **1.4 Application Misrepresentation.** In the four loans originated by Loan Originator Lea Snyder
2 (see §1.3), the application misrepresented that Respondent Rusth had taken the application from the
3 borrower by telephone. In the loan originated by Loan Originator Gabrielle Purdon (see §1.3), the
4 application misrepresented that Respondent Rusth had taken the application from the borrower by
5 telephone. In the loan originated by Loan Originator Brock Snidow (see §1.3), the application
6 misrepresented that Respondent Bean had taken the application from the borrower by telephone. In
7 one loan originated by Loan Originator Ken Gebarowski (see §1.3), the application misrepresented
8 that Respondent Schmidt had taken the application from the borrower “face-to-face.”
9

10 **1.5 Advertising Rates or Fees as the “Lowest” or “Best.”** Respondents permitted six individual
11 Loan Originators to advertise on their own web sites. Each individual Loan Originator’s web site used
12 the terms “lowest rates,” “lowest fees,” or “best rates.”

13 **1.6 Failure to Display Loan originator License Numbers.**

14 **A.** Respondents listed the names of its Washington Loan Originators on its web site, but did
15 not include the Loan Originator’s license number for six Loan Originators.

16 **B.** Respondents permitted Loan Originators to advertise in the form of newsletters, but did not
17 ensure that six Loan Originators included their license number immediately following their name on
18 the newsletter.

19 **C.** In seven of the loan files reviewed, Respondents did not include the Loan Originator’s
20 license number on the loan application.

21 **1.7 Failure to Properly Re-Disclose Increase in Fees.**

22 **A.** In one loan, Respondents provided an initial Good Faith Estimate disclosure (GFE) which
23 included a processing fee of \$395, and an updated disclosure which included an increased processing
24

1 fee of \$995, but Respondents did not provide a clear written explanation of the fee and the reason for
2 charging a fee exceeding that which was previously disclosed.

3 **B.** In a second loan, Respondents provided an initial GFE which included a loan origination
4 fee of \$1,200, and an updated disclosure which included an increased loan origination fee of \$1,600,
5 but Respondents did not provide a clear written explanation of the fee and the reason for charging a
6 fee exceeding that which was previously disclosed.

7 **C.** In a third loan, Respondents provided the borrower with a blank GFE (disclosing no fees
8 payable to Respondents), but received a "Loan Brokers Fee" at closing. Respondents' loan file
9 contained no subsequent GFE re-disclosing an increased fee and no clear written explanation of the
10 fee and the reason for charging a fee exceeding that which was previously disclosed.

11
12 **1.8 Collecting Unearned Underwriting Fees.** In 16 loans, Respondents collected an
13 underwriting fee when Respondents did not actually provide underwriting for the loan.

14 **1.9 Failure to Provide a Complete and Accurate Truth-in-Lending Disclosure.** In four loans,
15 Respondents did not provide a complete and accurate Truth-in-Lending Disclosure by not completing
16 the bottom section of the disclosure or by not marking the box identifying a variable rate feature.

17 **1.10 Failure to Comply with Rate-Lock Disclosure Requirements.** In one loan, Respondent's
18 file contained no evidence that a rate-lock disclosure had been provided. In a second loan, the rate-
19 lock disclosure provided was improperly completed by leaving the acknowledgment section blank.

20 **1.11 Failure to Properly Disclose Yield Spread Premium.** In five of the ten loans in which
21 Respondents received a Yield Spread Premium, Respondents did not properly disclose the Yield
22 Spread Premium by not using the term "Yield Spread Premium" and by disclosing the amount as a
23

1 percentage. In a sixth loan, Respondents loan file contained no evidence that Respondents disclosed
2 the Yield Spread Premium.

3 **1.12 Failure to Provide Written Notice on Borrower Paid Services.** In 16 loans, Respondents
4 did not provide a written notice stating that if the borrower is unable to obtain a loan for any reason,
5 the mortgage broker must give copies of any appraisal, title report, or credit report paid for by the
6 borrower within five days of a written request from the borrower. In the alternative, Respondents did
7 not keep sufficient records in their loan files that the written notice was provided.

8 **1.13 Failure to Provide Variable Rate Loan Program Disclosure.** In three loans, Respondents
9 did not provide a variable rate loan disclosure. In the alternative, Respondents did not keep sufficient
10 records in their loan files that the disclosure was provided.

11 **1.14 Failure to Properly Provide Rate-Lock Agreements.** In six loan files, Respondents did not
12 properly complete the rate-lock agreement by leaving some areas blank. In two other loan files, the
13 Department was unable to locate any evidence that a rate-lock agreement had been provided, even
14 though the rate had been locked.

15 **1.15 Failure to Specify Fees Inuring to Respondents' Benefit.** In 11 loans, Respondents did not
16 provide the borrower, within three business days of application, with a written disclosure specifying
17 all fees which inured to Respondents' benefit.

18 **1.16 Failure to Provide National Credit Score Disclosure and Notice to Home Loan Applicant.**
19 In 24 loans, Respondents did not provide a National Credit Score Disclosure and Notice to Home
20 Loan Applicant. In the alternative, Respondents did not keep sufficient records in their loan files that
21 the disclosures were provided.
22
23
24
25

1 **1.17 On-Going Investigation.** The Department's investigation into the alleged violations of the
2 Act by Respondents continues to date.

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

4 **2.1 Unlicensed Loan Originator Activity.** Based on the Factual Allegations set forth in Section I
5 above, Respondents are in apparent violation of RCW 19.146.0201(2) and (3), RCW 19.146.200(1),
6 WAC 208-660-155(9), and WAC 208-660-500(3)(b) and (c) for utilizing the services of unlicensed
7 loan originators to assist borrowers with applying for or obtaining residential mortgage loans for
8 Washington properties.

9 **2.2 Application Misrepresentation.** Based on the Factual Allegations set forth in Section I
10 above, Respondents are in apparent violation of RCW 19.146.0201(3) and WAC 208-660-155(9) for
11 misstating the identity of the interviewing loan originator on loan applications.

12 **2.3 Prohibition against Advertising Rates and Fees as "Lowest" or "Best."** Based on the
13 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
14 19.146.0201(2) and WAC 208-660-440 for using the terms "lowest rates," "lowest fees," and "best
15 rates" in Respondents' advertisements.

16 **2.4 Requirement to Display Loan Originator License Number.** Based on the Factual
17 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
18 19.146.0201(2) and WAC 208-660-350(24), (25), and (26), and WAC 208-660-500(3)(b) for failing to
19 ensure that loan originator's license numbers are included on internet web sites, newsletters, and loan
20 applications.

21 **2.5 Requirement to Properly Re-disclose Increase in Fees.** Based on the Factual Allegations set
22 forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (3), RCW
23
24
25

1 19.146.030(1) and (4), and WAC 208-660-500(3)(b) for failing to properly re-disclose an increase in
2 fees paid to Respondents.

3 **2.6 Prohibition against Collecting Unearned Fees.** Based on the Factual Allegations set forth in
4 Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (3), WAC 208-
5 660-006, and WAC 208-660-500(3)(b) for collecting an underwriting fee when Respondents did not
6 perform underwriting for the loans.

7 **2.7 Requirement to Provide Complete and Accurate Truth-In-Lending Disclosures.** Based on
8 the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
9 19.146.0201(2), (6), (7), (11), and (15), RCW 19.146.030(2), WAC 208-660-430(1) and (3), and
10 WAC 208-660-500(3)(b) and (u) for failing to provide accurate Truth-in-Lending Disclosures.

11 **2.8 Requirement to Comply with Rate-Lock Disclosure Requirements.** Based on the Factual
12 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
13 19.146.0201(2), (6), and (15), RCW 19.146.030(2)(c), WAC 208-660-430(1), (3), and (5), and WAC
14 208-660-500(3)(b) and (u) for failure to provide a Rate-Lock Disclosure and for failing to properly
15 complete a Rate-Lock Disclosure.

16 **2.9 Requirement to Properly Disclose the Yield Spread Premium.** Based on the Factual
17 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
18 19.146.0201(2) and (7), and WAC 208-660-430(5)(a) for not properly disclosing the Yield Spread
19 Premium.

20 **2.10 Requirement to Provide Written Notice on Borrower Paid Services.** Based on the Factual
21 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201
22 (2), (6), (11), (13), and (15), and RCW 19.146.030(2)(d), for failing to provide a written notice to
23
24

1 borrowers notifying them that if the borrower is unable to obtain a loan the mortgage broker must
2 within five days of request give copies of the appraisal, title report, or credit report paid for by the
3 borrower, and transmit them to any other mortgage broker or lender to whom the borrower directs the
4 documents be sent. In the alternative, Respondents are in apparent violation of RCW 19.146.060(1)
5 and (4) and WAC 208-660-450(1)(iv) for failing to keep sufficient records to show that the notices
6 were provided.

7 **2.11 Requirement to Provide Variable Rate Loan Program Disclosure.** Based on the Factual
8 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
9 19.146.0201(2), RCW 19.146.030(2), and WAC 208-660-450(1)(iv) for failing to provide variable
10 rate loan disclosures. In the alternative, Respondents are in apparent violation of RCW 19.146.060(1)
11 and (4) and WAC 208-660-450(1)(iv) for failing to keep sufficient records to show that the disclosures
12 were provided.

13 **2.12 Requirement to Properly Provide Rate-Lock Agreements.** Based on the Factual
14 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
15 19.146.0201(2), RCW 19.146.030(c) and (e), RCW 19.146.060(1) and (4), and WAC 208-660-
16 450(1)(vii) for failing to keep sufficient records to show that rate-lock agreements were provided.

17 **2.13 Requirement to Specify Fees Inuring to Respondents' Benefit.** Based on the Factual
18 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
19 19.146.0201(2), (6), (11), (13), and (15), RCW 19.146.030(1), WAC 208-660-430(1) and (2), and
20 WAC 208-660-500(3)(b) and (u) for failing to disclose all fees which inure to the benefit of the
21 mortgage broker within three business days of receiving a borrower's application and failing to
22 provide accurate Good Faith Estimate disclosures.
23
24
25

1 **2.14 Requirement to Provide National Credit Score Disclosure and Notice to Home Loan**

2 **Applicants.** Based on the Factual Allegations set forth in Section I above, Respondents are in
3 apparent violation of RCW 19.146.0201(2) and (6) for failing to provide the National Credit
4 Disclosure and Notice to Home Loan Applicant. In the alternative, Respondents are in apparent
5 violation of RCW 19.146.060(1) and (4) and WAC 208-660-450(1)(iv) for failing to keep sufficient
6 records to show that the notices were provided.

7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245 and WAC
9 208-660-155(3), a licensed mortgage broker is liable for any conduct violating the Act by the
10 designated broker or a loan originator employed or engaged by the licensed mortgage broker.
11 Pursuant to RCW 19.146.200(4)(a) and (b), a designated broker or principal of a licensed mortgage
12 broker is liable for an employee's violations of the Act committed after January 1, 2007, if the
13 designated broker or principal directs or instructs the conduct, or with knowledge of the specific
14 conduct approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry
15 should have known of the conduct at a time when its consequences can be avoided or mitigated and
16 fails to take reasonable remedial action.

17 **3.2 Authority to Revoke or Suspend License.** Pursuant to RCW 19.146.220(2)(e), the Director
18 may revoke or suspend a license for any violation of the Act committed on or after January 1, 2007.

19 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5), the Director may
20 issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
21 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
22 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed
23 mortgage broker or any person subject to licensing under the Act for any violation of RCW
24

1 19.146.0201(1) through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, or
2 RCW 19.146.265 committed on or after January 1, 2007.

3 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), the Director may impose a fine
4 for any violation of the Act committed on or after January 1, 2007.

5 **3.5 Authority to Order Restitution.** Pursuant to RCW 19.146.220(e), the Director may issue orders
6 directing a licensee or other person subject to the Act to pay restitution for any violation of the Act
7 committed on or after January 1, 2007.

8 **3.6 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-660-
9 550(4)(a) and (b) and (5), the Department may collect the costs of investigation. The investigation charge
10 will be calculated at the rate of \$48 per hour that each examiner devoted to the investigation and will
11 include the cost of specialists retained by the director to aid in the investigation and travel costs if the
12 mortgage business is out-of-state.

14 IV. NOTICE OF INTENTION TO ENTER ORDER

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

19
20 **4.1** Respondent Summit Mortgage Corporation's license to conduct business as a mortgage broker be
21 revoked or suspended;

22 **4.2** Respondent Kevin A. Schmidt's license to conduct the business of a loan originator be revoked
23 or suspended;

24 **4.3** Respondent Kimberly A. Bean's license to conduct the business of a loan originator be revoked
25 or suspended;

- 1 **4.4** Respondent Miles D. Rusth's license to conduct the business of a loan originator be revoked or
2 suspended;
- 3 **4.5** Respondent Brian R. Haveman's license to conduct the business of a designated broker and
4 loan originator be revoked or suspended;
- 5 **4.6** Respondents Summit Mortgage Corporation, Kevin A. Schmidt, Kimberly A. Bean, Miles D.
6 Rusth, and Brian R. Haveman be prohibited from participation in the conduct of the affairs of
7 any mortgage broker subject to licensure by the Director, in any manner, for a period of five
8 years;
- 9 **4.7** Respondents Summit Mortgage Corporation, Kevin A. Schmidt, Kimberly A. Bean, Miles D.
10 Rusth, and Brian R. Haveman jointly and severally pay a fine which as of the date of these
11 charges totals \$150,000;
- 12 **4.8** Respondents Summit Mortgage Corporation, Kevin A. Schmidt, Kimberly A. Bean, Miles D.
13 Rusth, and Brian R. Haveman jointly and severally pay restitution totaling \$18,977.48 to those
14 borrowers more specifically identified in Appendix A.
- 15 **4.9** Respondents Summit Mortgage Corporation, Kevin A. Schmidt, Kimberly A. Bean, Miles D.
16 Rusth, and Brian R. Haveman jointly and severally pay an investigation fee which as of the date
17 of these charges totals \$11,998.50 and which consists of \$9,600, calculated at \$48 per hour for the
18 200 examiner hours devoted to the investigation, and travel costs of \$2,398.50; and
- 19 **4.10** Respondents maintain records in compliance with the Act and provide the Department with the
20 location of the books, records and other information relating to Respondents' mortgage broker
21 business, and the name, address and telephone number of the individual responsible for
22 maintenance of such records in compliance with the Act.
- 23 //
- 24 //
- 25 //

1 **V. AUTHORITY AND PROCEDURE**

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

10 Dated this 7th day of December, 2009.



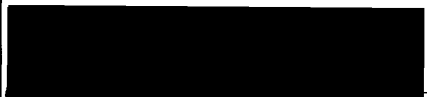
11
12
13
14 **DEBORAH BORTNER**
15 Director
16 Division of Consumer Services
17 Department of Financial Institutions

18 Presented by:



19 **STEVEN C. SHERMAN**
20 Financial Legal Examiner

21 Approved by:



22
23
24 **JAMES R. BRUSSELBACK**
25 Enforcement Chief

1 **RESTITUTION**

2

3 **Borrower** **Loan Number¹** **Amount**

4 E. A. [REDACTED]	[REDACTED]	\$ 395.00
5 B. B. [REDACTED]	[REDACTED]	\$ 695.00
6 K. E. [REDACTED]	[REDACTED]	\$ 495.00
7 J. C. [REDACTED]	[REDACTED]	\$ 995.00
8 S. H. [REDACTED]	[REDACTED]	\$ 952.48
9 M. H. [REDACTED]	[REDACTED]	\$ 675.00
10 M. I. [REDACTED]	[REDACTED]	\$1,290.00
11 B. J. [REDACTED]	[REDACTED]	\$1,090.00
12 T. J. [REDACTED]	[REDACTED]	\$ 695.00
13 T. L. [REDACTED]	[REDACTED]	\$1,470.00
14 T. I. [REDACTED]	[REDACTED]	\$1,070.00
15 D. L. [REDACTED]	[REDACTED]	\$ 695.00
16 E. M. [REDACTED]	[REDACTED]	\$1,070.00
17 J. M. [REDACTED]	[REDACTED]	\$ 695.00
18 B. M. [REDACTED]	[REDACTED]	\$ 695.00
19 T. N. [REDACTED]	[REDACTED]	\$ 495.00
20 H. S. [REDACTED]	[REDACTED]	\$ 695.00
21 G. S. [REDACTED]	[REDACTED]	\$ 695.00
22 S. S. [REDACTED]	[REDACTED]	\$1,290.00

23

¹ Loan Numbers are from the Final HUD-1

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

H. S [REDACTED]

[REDACTED]

\$ 695.00

M. W [REDACTED]

[REDACTED]

\$ 675.00

M. Z [REDACTED]

[REDACTED]

\$1,455.00

TOTAL \$18,977.48