



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:

TAHN CAM HA, d/b/a VINA MORTGAGE,

Respondent.

NO. C-09-324-10-FO01

FINAL DECISION AND ORDER

**I. DIRECTOR'S CONSIDERATION**

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 15, 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 Tahn Cam Ha d/b/a Vina Mortgage, 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 First Advantage. 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 Tahn Cam Ha d/b/a Vina Mortgage, on Respondent, on September 15, 2009, by First-Class mail and Federal Express overnight delivery.

On October 1, 2009, the Department received from Respondent's representative, Tahn Cam Ha, a completed Application for Brief Adjudicative Proceeding. On October 5, 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 16, 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 11, 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 (MB AR) on or before March 31 of every year following any year in which it held a Mortgage Broker license.
- Respondent was required to file the MB AR for 2007 on or before March 31, 2008.
- Respondent did not submit its 2007 MB AR on or before March 31, 2008.
- Respondent was required to file the 2008 MB AR on or before March 31, 2009, but the Department did not receive an MB AR from the Respondent by this date.
- The Department issued a Statement of Charges on September 9, 2009 as a result of Respondent's failure to file the 2008 MB AR.
- Respondent's representative was on notice of the importance and legal requirement of timely filing of the MBAR on or before March 31<sup>st</sup> of each year for as long as Respondent remained a licensee.

The Initial Decision and Order ordered Respondent to pay a fine of \$3,000 and to pay investigative costs of \$96. On February 11, 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. Record Presented. The record presented to the Director for his review and for entry of a final decision included the following:

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 First Advantage;
3. Letter requesting the scheduling of a Brief Adjudicative Proceeding;
4. Notice of Assignment & Time To File Additional Materials dated October 16, 2009;
5. Memorandum of Fatima Batie to Hearing Officer Vincent, dated December 1, 2009; and
6. Initial Decision and Order dated February 11, 2010, with documentation of service.

C. Factual Findings and Grounds For Order. 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. IT IS HEREBY ORDERED, That:

1. Respondent Tahn Cam Ha d/b/a Vina Mortgage pay a fine of \$3,000; and
2. Respondent Tahn Cam Ha d/b/a Vina Mortgage 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.     Stay of Order.       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.     Judicial Review.       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.     Non-compliance with Order. If Tahn Cam Ha d/b/a Vina Mortgage 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.     Service.       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<sup>th</sup> day of May, 2010, at Tumwater, Washington.



  
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SCOTT JARVIS, Director  
Washington State Department of Financial Institutions

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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**

**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:

TAHN CAM HA, d/b/a VINA MORTGAGE,

Respondent.

DCS – BAP – C-09-324-09-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 TAHN CAM HA, d/b/a VINA MORTGAGE, 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, received by the Division on October 1, 2009, in which the designated broker/owner of Respondent, TAHN CAM HA ("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 23, 2009; and
- 1.4 Notice of Assignment and Time to File Additional Materials, from the Presiding Officer, dated October 16, 2009.

## 2.0 FINDINGS OF FACT

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

- 2.1 Respondent was required to file a Mortgage Broker Annual Report ("MBAR") of mortgage activity with the Division on or before March 31<sup>st</sup> of every year following any year in which it held a mortgage broker license.
- 2.2 This change went into effect on January 1, 2007, so the first MBAR was due to the Division no later than March 31, 2008.
- 2.3 It is noted in passing that Respondent did not submit its 2007 MBAR when it was due on March 31, 2008.
- 2.4 The 2008 MBAR was due to the Division by March 31, 2009, but the Division did not receive it.
- 2.5 The Department waited and did not issue its Statement of Charges until September 9, 2009, at a time when the Respondent had still not filed its 2008 MBAR.
- 2.6 Despite written notice dated October 16, 2009, of an opportunity to present additional materials explaining the failure to file the 2008 MBAR, no such materials were received from the Respondent or its Designated Broker.
- 2.7 The MBAR is a tool 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.
- 2.8 Respondent appears not to have treated the MBAR filing requirement or this Department with the respect they deserve.



2.9 The Presiding Officer finds that Respondent has shown a disregard for the Department and the Department's applicable laws and regulations in Respondent's untimely filing of the 2008 MBAR.

2.10 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, TAHN CAM HA, pay a fine of Three Thousand Dollars (\$3,000.00);  
and

4.2 Respondent, TAHN CAM HA, pay an investigative fee of Ninety-Six Dollars (\$96.00).

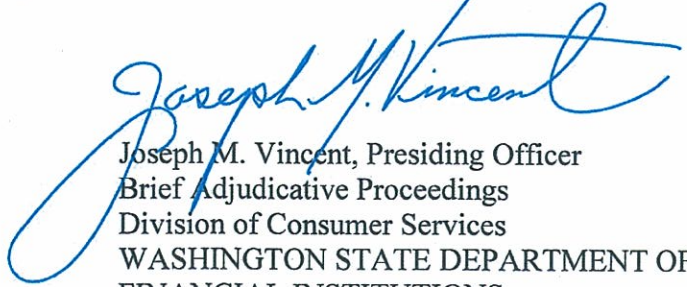
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Dated and mailed on February 11, 2010, at Tumwater, Washington.



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

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

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e) the Director may impose fines on a  
7 licensee or other person subject to the Act for any violations of the Act.

8 **3.2 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC  
9 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person subject  
10 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of  
11 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person  
12 devoted to the investigation.

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

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

18 **4.1** Respondent Tahn Cam Ha pay a fine of \$3,000; and

19 **4.2** Respondent Tahn Cam Ha pay an investigation fee, which as of the date of these charges is \$96  
20 calculated at \$48 per hour for two staff hours devoted to the investigation; and

21 **4.3** Respondent Tahn Cam Ha file the 2008 annual report of mortgage broker activity.

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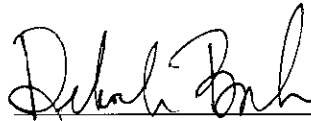
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1 **V. AUTHORITY AND PROCEDURE**

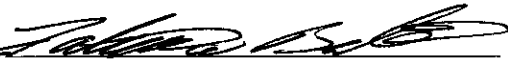
2 This Statement of Charges and Notice of Intention to Enter an Order to Impose Fine and Collect  
3 Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,  
4 RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05  
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 15<sup>th</sup> day of September, 2009.

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

13 Presented by:

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15 FATIMA BATIE  
16 Financial Legal Examiner Supervisor

17 Approved by:

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19 JAMES R. BRUSSELBACK  
20 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:  
  
TAHN CAM HA,  
  
Respondent.

No. C-09-324-09-SC01

NOTICE OF OPPORTUNITY TO DEFEND  
AND OPPORTUNITY FOR BRIEF  
ADJUDICATIVE PROCEEDING

THE STATE OF WASHINGTON TO:

Tahn Cam Ha

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.



