



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:

MORTGAGE ADVANTAGE LLC,

Respondent.

NO. C-09-331-10-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 Mortgage Advantage 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 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 Mortgage Advantage LLC, on Respondent, on September 15, 2009, by First-Class mail and Federal Express overnight delivery.

On September 18, 2009, the Department received from Respondent's representative, Terry Laxton, a completed Application for Brief Adjudicative Proceeding. On September 21, 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 18, 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.
- The Department issued a directive on August 20, 2008, requiring Respondent to submit the 2007 MB AR by September 1, 2008.
- The Department issued a second directive on October 29, 2008, requiring the Respondent to submit the 2007 MB AR.
- Respondent filed the 2007 MB AR on November 14, 2008.
- After receipt of the 2007 MB AR on November 3, 2008, the Department issued a Resolution and Closure, dated November 22, 2008, putting Respondent on notice 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.
- 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 15, 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 31st of each year for as long as Respondent remained a licensee.
- Respondent had failed to submit the 2008 MB AR as of the date of the order.

The Initial Decision and Order ordered Respondent to pay a fine of \$3,000 and to pay investigative costs of \$96. On February 18, 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 15, 2009;
5. Memorandum of Fatima Batie to Hearing Officer Vincent, dated December 1, 2009;
6. 2007 Mortgage Broker Annual Report received November 14, 2008;
7. Department's Resolution and Closure of Complaint No. 28916; and
8. 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 Mortgage Advantage LLC pay a fine of \$3,000;
2. Respondent Mortgage Advantage LLC pay an investigative fee of \$96; and
3. Respondent Mortgage Advantage LLC immediately file the 2008 Mortgage Broker Annual Report.

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.

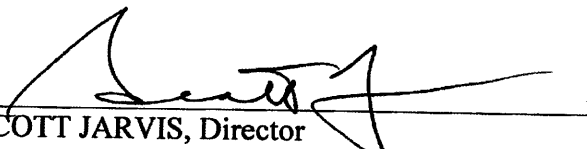
D. Judicial Review. Respondent has the right to petition the superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

E. Non-compliance with Order. If Mortgage Advantage 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. 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 20th day of May, 2010, at Tumwater, Washington.




SCOTT JARVIS, Director
Washington State Department of Financial Institutions

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 May 28, 2010, by depositing a copy of same in the United States mail, postage prepaid.


SUSAN PUTZIER

Mailed to the following:

ATTN: Terry Laxton
Mortgage Advantage LLC
3015 112th Ave. NE #212
Bellevue, WA 98004

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

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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:

MORTGAGE ADVANTAGE LLC,

Respondent.

NO. C-09-331-09-SC01

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

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 Mortgage Advantage 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 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. As of the date of this Statement of Charges Respondent has not filed the 2008 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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STATEMENT OF CHARGES
Mortgage Advantage LLC
C-09-331-09-SC01

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

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 Mortgage Advantage LLC pay a fine of \$3,000; and

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

21 **4.3** Respondent Mortgage Advantage LLC 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 15th 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:

MORTGAGE ADVANTAGE LLC,
Respondent.

No. C-09-331-09-SC01

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR BRIEF
ADJUDICATIVE PROCEEDING

THE STATE OF WASHINGTON TO:

Mortgage Advantage 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, 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.

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
 PO Box 41200
 Olympia, Washington 98504-1200

10 Dated this 15th day of September 2009.

11
12 *Deborah Bortner*

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

