

1
2
3
4
5
6
7
8
9

**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-09-415-10-CO01

FINANCIAL CENTER MORTGAGES AND
INVESTMENTS LLC, SCOTT JAMES
FOUSHEE, President, Owner, Designated Broker,
PRESTON HODGES, Mortgage Loan Originator,
and JON BURNETT, Mortgage Loan Originator,

CONSENT ORDER

Respondents.

10 COMES NOW the Director of the Department of Financial Institutions (Director), through his designee
11 Deborah Bortner, Division Director, Division of Consumer Services, and Financial Center Mortgages and
12 Investments LLC (Respondent Financial Center), Scott James Foushee, President, Owner, and Designated Broker
13 (Respondent Foushee), Preston Hodges, Mortgage Loan Originator (Respondent Hodges), and Jon Burnett,
14 Mortgage Loan Originator (Respondent Burnett), by and through their attorney Christopher R. Ambrose, and
15 finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to
16 the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of
17 Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

18
19

AGREEMENT AND ORDER

20 The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents
21 have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-09-415-09-SC01
22 (Statement of Charges), entered December 24, 2009, (copy attached hereto). Pursuant to chapter 19.146 RCW,
23 the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents
24 hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-
captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend

25
CONSENT ORDER
C-09-415-10-FO01
FINANCIAL CENTER MORTGAGES AND
INVESTMENTS LLC, SCOTT JAMES FOUSHEE,
PRESTON HODGES, and JON BURNETT

1

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

1 this Consent Order to fully resolve the Statement of Charges and agree that Respondents do not admit any
2 wrongdoing by its entry. Respondents are agreeing not to contest the Statement of Charges in consideration of the
3 terms of this Consent Order.

4 Based upon the foregoing:

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

7 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of their right to a hearing
8 before an administrative law judge, and hereby waive their right to a hearing and any and all administrative and
9 judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondents,
10 by their signatures below, withdraw their appeal to the Office of Administrative Hearings.

11 C. **No Admission of Liability.** The parties intend this Consent Order to fully resolve the Statement of
12 Charges and agree that Respondents do not admit to any wrongdoing by its entry.

13 D. **License Surrender.** It is AGREED that the Department will accept the voluntary surrender of
14 Respondent Financial Center's mortgage broker license.

15 E. **Prohibition from Industry.** It is AGREED that:

- 16 1. Respondent Financial Center is prohibited from participating in the conduct of the affairs
17 of any mortgage broker licensed by the Department or any person subject to licensure or
18 regulation by the Department for five (5) years from the date of entry of this Consent
19 Order.
- 20 2. Respondent Burnett is prohibited from participating as an officer, director, owner or
21 control person of any mortgage broker licensed by the Department, or originating any
22 loans or taking any action that would otherwise require a license to be issued by the
23 Department, for five (5) years from the date of entry of this Consent Order.

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

3. Respondent Hodges is prohibited from participating as an officer, director, owner or control person of any mortgage broker licensed by the Department, or originating any loans or taking any action that would otherwise require a license to be issued by the Department, for three (3) years from the date of entry of this Consent Order.

F. Prohibition from Application for Licensure. It is AGREED that :

- 1. Respondent Financial Center and Respondent Burnett shall not apply to the Department for any license issued pursuant to chapter 19.146 RCW and chapter 31.04 RCW, under any name, for a period of five (5) years from the date of entry of this Consent Order. Should Respondent Financial Center or Respondent Burnett apply to the Department for a mortgage broker or mortgage loan originator license at any time later than five (5) years from the date of entry of this Consent Order, Respondent Financial Center or Respondent Burnett shall be required to meet any and all application requirements in effect at that time.
- 2. Respondent Hodges shall not apply to the Department for any license issued pursuant to chapter 19.146 RCW and chapter 31.04 RCW, under any name, for a period of three (3) years from the date of entry of this Consent Order. Should Respondent Hodges apply to the Department for a mortgage broker or mortgage loan originator license at any time later than three (3) years from the date of entry of this Consent Order, Respondent Hodges shall be required to meet any and all application requirements in effect at that time.

G. License Application or Renewal Request. It is AGREED that so long as Respondent Foushee

complies with the terms of this Consent Order, then nothing in this Consent Order, or the facts giving rise to, or underlying the Statement of Charges, will be considered by the Department in the assessment of any future application or renewal request by Respondent Foushee for a Mortgage Loan Originator license under chapter

1 19.146 RCW or chapter 31.04 RCW in the event Respondent Foushee pursues such an application or renewal
2 request. It is further AGREED that, should Respondent Foushee apply for or request renewal of a Mortgage Loan
3 Originator license at any time in the future, Respondent Foushee shall be required to meet any and all application
4 requirements in effect at the time of such application or renewal request.

5 H. **Fine.** It is AGREED that Respondents shall pay to the Department a fine of \$3,200, in the form of a
6 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

7 I. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee
8 of \$720 in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
9 Consent Order. The Fine and Investigation Fee may be paid together in one cashier's check made payable to the
10 "Washington State Treasurer."

11 J. **Restitution.** It is AGREED that Respondents have provided restitution to the consumers referenced
12 in the Statement of Charges.

13 K. **Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted
14 that they have the full power and right to execute this Consent Order on behalf of the parties represented.

15 L. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide
16 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the
17 event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in
18 pursuing such action, including but not limited to, attorney fees.

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

21 //

22 //

23 //

24 //

25

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

3 **RESPONDENTS:**

4 **Financial Center Mortgages and Investments LLC**

5 By:

6 

7 SCOTT JAMES FOUSHEE
8 President, Owner, Designated Broker

10/13/10
Date

9 

10 SCOTT JAMES FOUSHEE
11 Individually

10/13/10
Date

12 PRESTON HODGES
13 Individually

Date

14 JON BURNETT
15 Individually

Date

16 
17 CHRISTOPHER R AMBROSE, WSBA No.26237
18 AMBROSE LAW GROUP LLC
19 Attorney for Respondents

10/15/10
Date

20 //

21 //

22 //

23 //

24 //

25 //

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

3 **RESPONDENTS:**

4 **Financial Center Mortgages and Investments LLC**

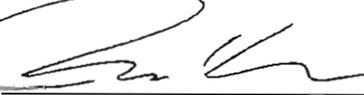
5 By:

6 _____
7 SCOTT JAMES FOUSHEE
8 President, Owner, Designated Broker

_____ Date

9 _____
10 SCOTT JAMES FOUSHEE
11 Individually

_____ Date

11 

10.14.10

12 PRESTON HODGES
13 Individually

_____ Date

14 _____
15 JON BURNETT
16 Individually

_____ Date

17 _____
18 CHRISTOPHER R AMBROSE, WSBA No.26237
19 AMBROSE LAW GROUP LLC
20 Attorney for Respondents

_____ Date

21 //

22 //

23 //

24 //

25 //

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

3 **RESPONDENTS:**

4 **Financial Center Mortgages and Investments LLC**

5 By:

6
7 _____
8 SCOTT JAMES FOUSHEE
9 President, Owner, Designated Broker

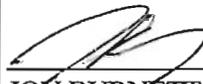
_____ Date

10 _____
11 SCOTT JAMES FOUSHEE
12 Individually

_____ Date

13 _____
14 PRESTON HODGES
15 Individually

_____ Date

16
17 
18 _____
19 JON BURNETT
20 Individually

_____ Date
10/14/10

21 _____
22 CHRISTOPHER R AMBROSE, WSBA No.26237
23 AMBROSE LAW GROUP LLC
24 Attorney for Respondents

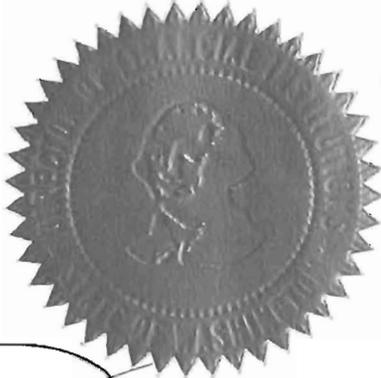
_____ Date

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

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 8th DAY OF November, 2010.



Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Marnie Sheeran

MARNIE SHEERAN
Financial Legal Examiner

Approved by:

James R. Brusselback

JAMES R. BRUSSELBACK
Enforcement Chief

1
2
3
4
5
6
7
8
9

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

10
11
12
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-09-415-09-SC01

FINANCIAL CENTER MORTGAGES AND
INVESTMENTS LLC, SCOTT JAMES
FOUSHEE, President, Owner, Designated Broker,
PRESTON HODGES, Mortgage Loan Originator,
and JON BURNETT, Mortgage Loan Originator,

STATEMENT OF CHARGES AND NOTICE OF
INTENTION TO REVOKE OR SUSPEND
MORTGAGE BROKER LICENSE AND
MORTGAGE LOAN ORIGINATOR LICENSE,
PROHIBIT FROM INDUSTRY, IMPOSE FINE,
ORDER RESTITUTION, AND COLLECT
INVESTIGATION COSTS

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 19.146.210, RCW 19.146.310 and 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. Financial Center Mortgages and Investments LLC (Respondent Financial Center) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about December 20, 2001, and continues to be licensed to date. Respondent Financial Center is currently licensed to conduct the business of a mortgage broker at one location: 5335 SW Meadows Road, Suite 400, Lake Oswego, Oregon 97035.

¹ RCW 19.146 (2007)

1 B. Scott James Foushee (Respondent Foushee) is the President, Owner, and Designated Broker of
2 Respondent Financial Center. Respondent Foushee became the Designated Broker of Respondent Financial
3 Center on or about March 31, 2004, and continues as the Designated Broker to date.

4 C. Preston Hodges (Respondent Hodges) acted as a mortgage loan originator for Respondent
5 Financial Center between at least June 1, 2008, and March 31, 2009.

6 D. Jon Burnett (Respondent Burnett) acted as a mortgage loan originator for Respondent Financial
7 Center between at least October 1, 2008, and March 31, 2009.

8 **1.2 Examination.** In or around March 2009, the Department conducted an examination of the books and
9 records of Respondents for the period of February 1, 2007, through March 31, 2009. The Department found
10 violations of the Act as outlined below.

11 **1.3 Unlicensed Activity.** Respondent Hodges conducted the business of a mortgage loan originator for
12 Respondent Financial Center between at least June 1, 2008, and March 31, 2009. To date, the Department has
13 not issued a license to Respondent Hodges to conduct the business of a mortgage loan originator from any
14 location.

15 **1.4** Between at least June 1, 2008, and March 31, 2009, Respondent Hodges assisted at least three
16 borrowers in applying to obtain or obtaining residential mortgage loans on property located in the State of
17 Washington from Respondent Financial Center's office.

18 **1.5** Respondent Burnett conducted the business of a mortgage loan originator for Respondent Financial
19 Center between at least October 1, 2008, and March 31, 2009. To date, the Department has not issued a license
20 to Respondent Burnett to conduct the business of a mortgage loan originator from any location.

21 **1.6** Between at least October 1, 2008, and March 31, 2009, Respondent Burnett assisted at least two
22 borrowers in applying to obtain or obtaining residential mortgage loans on property located in the State of
23 Washington from Respondent Financial Center's office.

24 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
25 Respondents continues to 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

II. GROUNDS FOR ENTRY OF ORDER

2.1 Definition of Mortgage Broker. Pursuant to RCW 19.146.010(12) and WAC 208-660-006, “Mortgage Broker” means any person who, for compensation or gain, or in the expectation of compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage loan.

2.2 Definition of Loan Originator. Pursuant to RCW 19.146.010(10) and WAC 208-660-006, “Loan Originator” means a natural person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in expectation of direct or indirect compensation or gain. “Loan Originator” also includes a person who holds themselves out to the public as able to perform any of these activities.

2.3 Definition of Borrower. Pursuant to RCW 19.146.010(2), a “Borrower” is defined as any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

2.4 Requirement to Obtain or Maintain Loan Originator License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) and (3), RCW 19.146.200(1), and WAC 208-660-350(3) for engaging in the business of a loan originator without first obtaining and maintaining a license under the Act.

2.5 Responsibility for Conduct of Loan Originators. Pursuant to RCW 19.146.245 and WAC 208-660-155(3), a licensed mortgage broker is liable for any conduct violating the Act by the designated broker or loan originator employed or engaged by the licensed mortgage broker. Pursuant to RCW 19.146.200(4)(a) and (b), a designated broker or principal of a licensed mortgage broker is liable for an employee’s violations of the act if the designated broker or principal directs or instructs the conduct or with knowledge of the specific conduct

1 approves or allows the conduct, or knows or by the exercise of reasonable care and inquiry should have known
2 of the conduct at the time when its consequences can be avoided or mitigated and fails to take reasonable
3 remedial action.

4 **2.6 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in
5 apparent violation of RCW 19.146.0201(1), (2) and (3) for directly or indirectly employing any scheme, device
6 or artifice to defraud or mislead any borrower or any person or engaging in any unfair or deceptive practice
7 toward any person or directly or indirectly obtaining property by fraud or misrepresentation.

8 III. AUTHORITY TO IMPOSE SANCTIONS

9 **3.1 Authority to Revoke or Suspend License.** Pursuant to RCW 19.146.220(2)(b),(d), and (e), the
10 Director may revoke or suspend a license for false statements or omission of material information on the
11 application that, if known, would have allowed the director to deny the application for the original license,
12 failure to comply with any directive or order of the Director, or any violation of chapter 19.146 RCW.

13 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a),(b) and (d), the Director
14 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
15 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
16 broker or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or
17 (13), RCW 19.146.030 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), or RCW 19.146.265,
18 false statements or omission of material information on the application that, if known, would have allowed the
19 Director to deny the application for the original license, or failure to comply with a directive or order of the
20 Director.

21 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(b),(d) and (e) and RCW 19.146.220(3) (a)
22 and (b), the Director may impose fines on a licensee, employee or loan originator of the licensee, or other
23 person subject to the Act for any violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030
24 through RCW 19.146.080, RCW 19.146.200, RCW 19.146.205(4), RCW 19.146.265, failure to comply with a
25 directive or order of the Director or any violation of Chapter 19.146 RCW.

1 **3.4 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(b),(d) and (e), the Director may issue
2 orders directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution.

3 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(5),
4 upon completion of any investigation of the books and records of a licensee or other person subject to the Act,
5 the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of the
6 investigation. The investigation charge will be calculated at the rate of forty-eight dollars per hour that each
7 staff person devoted to the investigation.

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

9 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
10 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
11 for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223.

12 Therefore, it is the Director's intention to ORDER that:

13 **4.1** Respondent Financial Center Funding Inc.'s license to conduct the business of a mortgage broker be
14 revoked or suspended; and

15 **4.2** Respondent Scott James Foushee's license to conduct the business of a loan originator and designated
16 broker be revoked or suspended; and

17 **4.3** Respondents Financial Center Funding Inc, Scott James Foushee, Preston Hodges, and Jon Burnett be
18 prohibited from participation in the conduct of the affairs of any mortgage broker subject to licensure by
19 the Director, in any manner, for a period of five years; and

20 **4.4** Respondents Financial Center Funding Inc, Scott James Foushee, Preston Hodges, and Jon Burnett jointly
21 and severally pay a fine, which as of the date of these charges totals \$15,000; and

22 **4.5** Respondents Financial Center Funding Inc, Scott James Foushee, Preston Hodges, and Jon Burnett jointly
23 and severally refund all fees that inured to Respondents' benefit to at least the borrowers referenced in
24 paragraphs 1.3 through 1.6; and

25 **4.6** Respondents Financial Center Funding Inc, Scott James Foushee, Preston Hodges, and Jon Burnett jointly
and severally pay an investigation fee in the amount of \$720 calculated at \$48 per hour for the fifteen hours
staff hours, as of the date of this Statement of Charges, devoted to the investigation; and

4.7 Respondents Financial Center Funding Inc, Scott James Foushee, Preston Hodges, and Jon Burnett
maintain records in compliance with the Act and provide the Department with the location of the books,
records and other information relating to Respondent Financial Center Funding Inc's mortgage broker
business, and the name, address and telephone number of the individual responsible for maintenance of
such records in compliance with the Act.

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

V. AUTHORITY AND PROCEDURE

This 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). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 24th day of December, 2009.



Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Marnie Sheeran
MARNIE SHEERAN
Financial Legal Examiner

Approved by:

James R. Brusselback
JAMES R. BRUSSELBACK
Enforcement Chief