



STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

KAMAU HERNDON, Unlicensed Loan  
Originator,

Respondent.

NO. C-09-486-10-FO01

FINAL 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 February 2, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges). 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 cover letter dated June 3, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Kamau Herndon. The Department served the Statement of Charges, cover letter dated June 3, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Kamau Herndon on Respondent, on June 4, 2010, by First-Class Certified Mail.

On June 24, 2010, Respondent filed an Application for Adjudicative Hearing. In his Application for Adjudicative Hearing, the Respondent stated he would be represented by an attorney. On September 9, 2010, the Department made a request to the Office of Administrative Hearings

1 (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the  
2 Statement of Charges. On September 22, 2010, Assistant Attorney General (AAG) Jennifer Elias filed  
3 a Notice of Appearance on behalf of the Department.

4 OAH assigned ALJ Thomas P. Rack (ALJ Rack) to preside over prehearing and hearing  
5 proceedings and issue an Initial Decision. On October 12, 2010, ALJ Rack issued a Notice of  
6 Prehearing Conference to all parties scheduling a prehearing conference on Monday, November 1,  
7 2010, at 2 p.m.

8  
9 On November 3, 2010, ALJ Rack issued an Amended Notice of Prehearing Conference by  
10 Webex to all parties scheduling a second prehearing conference on Thursday, December 2, 2010, at  
11 1:30 p.m. The prehearing conference was rescheduled due to the Respondent's incarceration and  
12 limited access to a telephone. On December 2, 2010, AAG Jennifer Elias attended the prehearing  
13 conference. Neither the Respondent nor his attorney attended the prehearing conference on December  
14 2, 2010. At the December 2, 2010, prehearing conference, AAG Elias moved for a Default Order to be  
15 entered against the Respondent. ALJ Rack granted the motion and on December 3, 2010, ALJ Rack  
16 issued an Order of Default dismissing the request for a hearing by the Respondent and affirming the  
17 Statement of Charges. On December 3, 2010, ALJ Rack mailed the Order of Default to Respondent  
18 and his counsel.

19 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondent had twenty (20) days from the  
20 date of service of the Order of Default to file a Petition for Review of the Order. Respondent did not  
21 file a Petition for Review during the statutory period.  
22

23 B. Record Presented. The record presented to the Director for his review and for entry of a final  
24 decision included the following:

- 1 1. Statement of Charges, cover letter dated February 2, 2010, and Notice of Opportunity  
2 to Defend and Opportunity for Hearing, with documentation of service;
- 3 2. Application for Adjudicative Hearing for Kamau Herndon;
- 4 3. Request to OAH for Assignment of Administrative Law Judge;
- 5 4. Notice of Prehearing Conference dated October 12, 2010, with documentation of  
6 service;
- 7 5. Amended Notice of Prehearing Conference by Webex dated November 3, 2010, with  
8 documentation of service; and
- 9 6. Order of Default dated December 3, 2010, with documentation of service.

10 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director hereby  
11 adopts the Statement of Charges, which is attached hereto.

## 12 II. FINAL ORDER

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

15 A. IT IS HEREBY ORDERED, That:

- 16 1. Respondent Kamau Herndon is prohibited from participation in the conduct of the  
17 affairs of any mortgage broker subject to licensure by the Director, in any manner, for  
18 a period of 10 years;
- 19 2. Respondent Kamau Herndon pay a fine of \$10,000; and
- 20 3. Respondent pay an investigation fee of \$960.

21 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a Petition  
22 for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be  
23 filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road  
24 SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-  
25 1200, within ten (10) days of service of the Final Order upon Respondent. The Petition for

1 Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a  
2 prerequisite for seeking judicial review in this matter.

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

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

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

12 E. Non-compliance with Order. If you do not comply with the terms of this order, the  
13 Department may seek its enforcement by the Office of Attorney General to include the collection of the  
14 fine and fees imposed herein.

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

18 DATED this 31<sup>st</sup> day of January, 2011.



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21 STATE OF WASHINGTON  
22 DEPARTMENT OF FINANCIAL INSTITUTIONS

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

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

KAMAU HERNDON, Unlicensed Loan  
Originator,  
Respondent.

NO. C-09-486-10-SC01

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

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**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 (2006), the Mortgage Broker Practices Act (Act). After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as 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 Kamau Herndon (Respondent)** worked for Crown Point Enterprises Inc. d/b/a Lighthouse Financial Group as a loan originator at all times relevant to this Statement of Charges. Respondent has never applied for a loan originator license with the Department.
- 1.2 Loan Originator License.** In order to conduct business as a loan originator in 2007, Respondent was required to obtain and maintain a loan originator license before originating any residential mortgage loans for property located in the state of Washington. Respondent did not obtain a loan originator license and as a result could not conduct the business of a loan originator.
- 1.3 Unlicensed Loan Originator Activity.** Respondent conducted the business of a loan originator between, on or about, January 1, 2007, and May 31, 2007. Respondent originated at least two loans for borrowers whose property was located in the state of Washington.
- 1.4 Felony Conviction.** On February 19, 2009, Respondent was charged with eleven felonies in the United States District Court for the District of Oregon by the United States Attorney for the District of Oregon. On

1 July 17<sup>th</sup>, 2009, the Respondent pled guilty to the charge of Aggravated Identity Theft in violation of 18 U.S.C.  
2 Sec. 1028A (a felony). The charge stemmed from information that the Respondent had caused a materially  
3 false loan application to be submitted to a lending institution for the purchase of property in Washington State.  
4 The documents submitted to the lender were in the name of a third-party, without her knowledge, and by  
5 forging her signature on several loan documents and using her birth certificate, driver's license, Social Security  
6 card and Social Security Number without her knowledge or permission. As a result of the scheme, Respondent  
7 was to receive a kickback in excess of \$70,000.

8 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
9 Respondent continues to date.

## 10 **II. GROUNDS FOR ENTRY OF ORDER**

11 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29),  
12 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or  
13 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential  
14 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a  
15 person in obtaining or applying to obtain a residential mortgage loan.

16 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010 (10), "Loan Originator" means a natural  
17 person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or negotiates  
18 terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct or indirect  
19 compensation or gain.

20 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(3), a "Borrower" is defined as any person who  
21 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information  
22 in obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself  
23 or herself, regardless of whether the person actually obtains such a loan.

24 **2.4 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents are in  
25 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (7), (9) and (12) for directly or indirectly employing a

1 scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an unfair or  
2 deceptive practice toward any person, obtaining property by fraud or misrepresentation, failing to make  
3 disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other  
4 applicable state or federal law, making, in any manner, any false or deceptive statement or representation with  
5 regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engaging in  
6 bait and switch advertising, collecting, charging, attempting to collect or charge or using or proposing any  
7 agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or RCW 19.146.070.

8 **2.5 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section  
9 I above, Respondent is in apparent violation of RCW 19.146.200 for engaging in the business of a loan  
10 originator without first obtaining and maintaining a license under the Act.

### 11 III. AUTHORITY TO IMPOSE SANCTIONS

12 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue  
13 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed  
14 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker  
15 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) and  
16 RCW 19.146.200.

17 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(e), and (3)(a), the Director may impose  
18 fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for any  
19 violations of RCW 19.146.0201(1) through (9) or (13), RCW 19.146.030 through RCW 19.146.080, RCW  
20 19.146.200, RCW 19.146.205(4), or RCW 19.146.265, or any violation of the Act.

21 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2)(e), the Director may issue orders  
22 directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to for any  
23 violation of the Act.

24 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520, and WAC  
25 208-660-550(5), upon completion of any investigation of the books and records of a licensee or other person subject

1 to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover the cost of  
2 the investigation. The investigation charge will be calculated at the rate of \$48 per hour that each staff person  
3 devoted to the investigation.

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

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

- 9 **4.1** Respondent Kamau Herndon be prohibited from participation in the conduct of the affairs of any mortgage  
10 broker subject to licensure by the Director, in any manner, for a period of 10 years;
- 11 **4.2** Respondent Kamau Herndon pay a fine of \$ 10,000;
- 12 **4.3** Respondent Kamau Herndon pay restitution to borrowers in an amount to be proven at hearing;
- 13 **4.4** Respondent Kamau Herndon pay an investigation fee, which as of the date of these charges is \$960  
14 calculated at \$48 per hour for 20 staff hours devoted to the investigation.

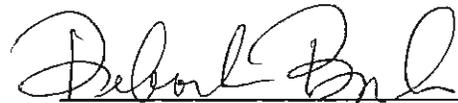
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V. AUTHORITY AND PROCEDURE

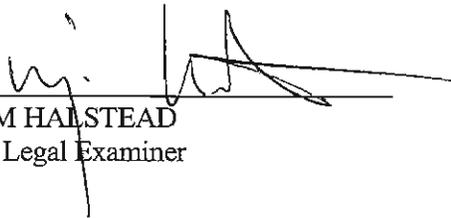
This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry, Impose Fine, Order Restitution and Collect an Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject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

Dated this 2<sup>nd</sup> day of February, 2010.



DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:



WILLIAM HALSTEAD  
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK  
Enforcement Chief