

Terms Completed

ORDER SUMMARY – Case Number: C-10-101

Name(s): Executive Lending Group LLC
Ryan Kent Buth

Order Number: C-10-101-11-FO01

Effective Date: May 10, 2011

License Number: DFI: 19388 NMLS ID: 4114 (Company) NMLS ID: 103504 (Buth)
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect:

Not Apply Until:

Not Eligible Until:

Prohibition/Ban Until:

Investigation Costs	\$48	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 8/22/2012
Fine	\$2,500	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 8/22/2012
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
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:				

Comments:



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

BRIEF ADJUDICATIVE PROCEEDING

IN THE MATTER OF INVESTIGATING
Whether there has been a violation of the
Washington Mortgage Broker Practices Act
(Ch. 19.146 RCW) by:

EXECUTIVE LENDING GROUP LLC;
RYAN BUTH, DESIGNATED BROKER,

Respondent.

DCS – BAP – C-10-101-10-FO01

FINAL DECISION AND ORDER

THIS MATTER having come before the Director, SCOTT JARVIS (“Director”), of the Department of Financial Institutions (“Department”), in relation to a Statement 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 EXECUTIVE LENDING GROUP LLC (“ELG”) and RYAN BUTH, Designated Broker (“Buth”) (collectively, “Respondents”); and

The Hearing Officer of Brief Adjudicative Proceedings, JOSEPH M. VINCENT (“BAP Hearing Officer”), having made an Initial Decision and Order on January 5, 2011 (“Initial Order”); and

Respondents having thereafter filed a timely Petition for Review on January 19, 2011 (“Petition for Review”); and

The Department’s Division of Consumer Services having not filed a Reply to the Petition for Review and having apparently relied upon the record before the BAP Hearing Officer;

NOW THEREFORE, the Director issues the following Findings of Fact, Conclusions of Law, and Final 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 April 22, 2010;
- 1.2 Request for Brief Adjudicative Proceeding, received by the Division on April 26, 2010;
- 1.3 Letter from James Brusselback, Enforcement Chief of the Division, dated April 27, 2010;
- 1.4 Notice of Assignment and Time to File Additional Materials, from the Presiding Officer, dated April 30, 2010;
- 1.5 2009 Mortgage Broker Annual Report, dated April 26, 2010;
- 1.6 Department's Resolution and Closure of Complaint dated September 9, 2009, evidence prior failure to file or untimely filing of 2008 Mortgage Broker Annual Report;
- 1.7 Additional materials of record that Respondents filed (or may have filed) in response to Notice of Assignment and Time to File Additional Materials;
- 1.8 Memorandum from the Division dated June 4, 2010;
- 1.9 Mortgage Broker Closure Report dated November 8, 2010;
- 1.10 Initial Decision and Order dated January 5, 2011; and
- 1.11 Petition for Review received by the Department on January 19, 2011;

2.0 FINDINGS OF FACT

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

- 2.1 Respondent ELG is licensed as a mortgage broker with the Division.
- 2.2 Respondent Buth is its Designated Broker.
- 2.3 Respondent was required to file a Mortgage Broker Annual Report ("MBAR") of mortgage activity with the Division on or before March 31st of every year following any year in which it held a mortgage broker license.
- 2.4 This change went into effect on January 1, 2007, so the first MBAR was due to the Division no later than March 31, 2008.
- 2.5 The 2009 MBAR was due to the Division by March 31, 2010, but the Division of Consumer Services did not timely receive it. The 2009 MBAR was not received until April 26, 2010.

- 2.6 The Department did not issue its Statement of Charges until April 22, 2010.
- 2.7 Respondents were on notice of the importance and legal requirement of timely filing of an MBAR on or before March 31st of each year for as long as Respondents remain a licensee and designated broker, respectively.
- 2.8 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. It is a threshold investigative and examination tool and not related to annual fees at all. Because of the MBAR's special purpose, it is essential that it be filed – and filed timely.
- 2.9 The record clearly indicates that this is the second consecutive year in which Respondents failed to timely file an MBAR.
- 2.10 Based upon the untimely filed 2009 MBAR, the Respondents generated loan volume in Washington State in calendar year 2009 in the amount of \$6,674,985.
- 2.11 There are no new factual issues raised in the Petition for Review that are material to this case.
- 2.12 The Director finds that under the circumstances, and in the absence of any mitigating circumstances set forth in the Petition for Review, a fine of \$2,500 is reasonable and appropriate in relation to the nature of the violation by Respondents, taking into consideration the amount of the loan volume of Respondent ELG in Washington State for the calendar year 2009 (assuming the accuracy of 2009 MBAR).
- 2.13 One staff hour was devoted to this investigation.

3.0 CONCLUSIONS OF LAW

Based upon the Findings of Fact above, the Director concludes, as follows:

- 3.1 In its failure to file the 2009 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 A fine of \$2,500 in this case is both allowable and appropriate under the statute.
- 3.4 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.
- 3.5 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 FINAL DECISION AND ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS HEREBY ORDERED THAT:

- 4.1 Respondents, EXECUTIVE LENDING GROUP LLC, and RYAN BUTH, jointly and severally, pay a fine of Two Thousand Five Hundred Dollars (\$2,500.00); and
- 4.2 Respondents, EXECUTIVE LENDING GROUP LLC, and RYAN BUTH, jointly and severally, pay an investigative fee of Forty-Eight Dollars (\$48.00).
- 4.3 Reconsideration. Pursuant to RCW 34.05.470, Respondents have 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.

- 4.4 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.
- 4.5 Judicial Review. Respondents have 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.
- 4.6 Non-compliance with Order. If you do 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 fines, fees, and penalty imposed herein.
- 4.7 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: May 10, 2011, at Tumwater, Washington.


SCOTT JARVIS, Director

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:

EXECUTIVE LENDING GROUP LLC;
RYAN BUTH, DESIGNATED BROKER,

Respondents.

DCS – BAP – C-10-101-10-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 Executive Lending Group LLC and the Designated Broker, Ryan Buth, the Respondents (“Respondents”);

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 April 22, 2010;
- 1.2 Request for Brief Adjudicative Proceeding (“BAP”), received by the Division on April 26, 2010;
- 1.3 Letter from James Brusselback, Enforcement Chief of the Division, dated April 27, 2010, acknowledging Request for Brief Adjudicative Proceeding, and directing assignment to BAP Hearing Officer;

- 1.4 Notice of Assignment and Time to File Additional Materials, from the BAP Hearing Officer, dated April 30, 2010;
- 1.5 2009 Mortgage Broker Annual Report dated April 26, 2010;
- 1.6 Department's Resolution and Closure of Complaint dated September 9, 2009, evidencing prior failure to file or untimely filing of 2008 Mortgage Broker Annual Report;
- 1.7 Additional materials (if any) of record that Respondents filed (or may have filed) in response to Notice of Assignment and Time to File Additional Materials; and
- 1.8 Memorandum from the Division dated June 4, 2010, in response to Notice of Assignment and Time to File Additional Materials, or other request of the Presiding Officer.

2.0 FINDINGS OF FACT

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

- 2.1 Respondents was required to file a Mortgage Broker Annual Report ("MBAR") of mortgage activity with the Division on or before March 31st of every year following any year in which it held a mortgage broker license.
- 2.2 The 2009 MBAR was due to the Division by March 31, 2010, but the Division did not receive it timely. The 2009 MBAR was not received until April 26, 2010.
- 2.3 The Department did not issue its Statement of Charges until April 22, 2010.
- 2.4 Respondents were on notice of the importance and legal requirement of timely filing of an MBAR on or before March 31st of each year for as long as Respondents remain a licensee and designated broker, respectively.
- 2.5 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, for example, 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. Every licensee is on notice of this distinction by statute and by rule.

- 2.6 The record indicates that this is the second consecutive year in which Respondents failed to timely file an MBAR.
- 2.7 Based upon the untimely filed 2009 MBAR, the Respondents generated loan volume in Washington State in calendar 2009 in the amount of \$6,674,985.
- 2.8 The Presiding Officer finds that under the circumstances, a fine of \$2,500 is reasonable and appropriate in relation to the nature of the violation by Respondents, taking into consideration the amount of loan volume of the Respondents in Washington State for the calendar year 2009 (assuming the accuracy of the 2009 MBAR).
- 2.9 One staff hour was 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 failure to timely file the 2008 MBAR, Respondents violated RCW 19.146.290(1) and WAC 208-660-400(1), (2), (3) and (4).
- 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 A fine of \$2,500 is permitted under the Act.
- 3.4 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.
- 3.5 The investigative charge will be calculated at the rate of \$48 per hour for each staff person of the Department devoted to the investigation.

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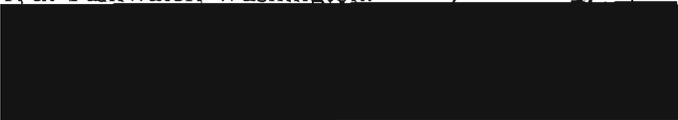
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4.0 INITIAL DECISION AND ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS HEREBY ORDERED THAT:

- 4.1 Respondents, Executive Lending Group LLC and Ryan Buth, pay a fine of \$2,500 as and for untimely filing of the 2009 MBAR; and
- 4.2 Respondents, Executive Lending Group LLC and Ryan Buth, pay in addition an investigative fee of \$48.00.

Dated and mailed on January 5, 2011, 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 January 25, 2011.**

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.

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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:

EXECUTIVE LENDING GROUP LLC;
RYAN BUTH, DESIGNATED BROKER,

Respondents.

NO. C-10-101-10-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 Respondents. Executive Lending Group LLC and Ryan Buth, Designated Broker (Respondents) were 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. At all times relevant to the Statement of Charges, Ryan Buth was the Designated Broker for the company.

1.2 Failure to File Mortgage Broker Annual Report. By March 31, 2010, Respondents were 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 Respondents have not filed the 2009 mortgage broker annual report.

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

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II. GROUNDS FOR ENTRY OF ORDER

2.1 Requirement to File Mortgage Broker Annual Report. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.290(1), WAC 208-660-250(7) and WAC 208-660-400(1), (2), (3), and (4) for failing to file the mortgage broker annual report.

III. AUTHORITY TO IMPOSE SANCTIONS

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

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

IV. NOTICE OF INTENTION TO ENTER ORDER

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

- 4.1** Respondents Executive Lending Group LLC and Ryan Buth jointly and severally pay a fine of \$100 per day for every day starting April 1, 2010, until the 2009 Mortgage Broker Annual Report is filed; and
- 4.2** Respondents Executive Lending Group LLC and Ryan Buth jointly and severally pay an investigation fee, which as of the date of these charges is \$48 calculated at \$48 per hour for one staff hour devoted to the investigation; and
- 4.3** Respondents Executive Lending Group LLC and Ryan Buth file the 2009 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). Respondents 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 22nd day of April, 2010.



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16 **DEBORAH BORTNER**
17 Director
18 Division of Consumer Services
19 Department of Financial Institutions

20 Presented by:

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24 **FATIMA BATIE**
25 Financial Legal Examiner Supervisor

Approved by:

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20 **JAMES R. BRUSSELBACK**
21 Enforcement Chief