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STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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

No.: C-10-313-11-CO01

CONSENT ORDER

1ST AMERICAN MORTGAGE SOURCE, LLC
and KURT B. PHILLIPS, Managing Member and
Designated Broker,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and 1st American Mortgage Source, LLC (Respondent 1st American), and Kurt B. Phillips, Managing Member and Designated Broker (Respondent Phillips), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-10-313-10-SC01 (Statement of Charges), entered October 19, 2010, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents 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 this Consent Order to fully resolve the Statement of Charges. Respondents are agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

CONSENT ORDER
C-10-313-11-CO01
1st American Mortgage Source, LLC and Kurt B. Phillips

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902.8703

1 Based on the Foregoing:

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

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

9 C. **License Surrender.** It is AGREED that the Respondents surrendered the mortgage
10 broker license for Respondent 1st American.

11 D. **Ban from Industry.**

12 1. **Respondent 1st American:** It is AGREED that Respondent 1st American is banned
13 from participating in the conduct of the affairs of any mortgage broker licensed by the Department or
14 any person subject to licensure or regulation by the Department or any mortgage broker exempt from
15 Washington law under RCW 19.146.020(1)(e) or (g) for five (5) years from the date of entry of this
16 Consent Order.

17 2. **Respondent Phillips:**

18 a. It is AGREED that Respondent Phillips is banned from participation in the conduct
19 of the affairs of any mortgage broker licensed by the Department or any person subject to licensure or
20 regulation by the Department or any mortgage broker exempt from Washington law under RCW
21 19.146.020(1)(e) or (g) in any capacity, including but not limited to: (1) any financial capacity
22 whether active or passive or (2) as an officer, director, principal, designated broker, or employee
23 [excluding loan originator as described in paragraph D(2)(b)] or (3) any management, control,

1 oversight or maintenance of any trust account(s) in any way related to any residential transaction or
2 (4) receiving, disbursing, managing or controlling in any way, consumer trust funds in any way
3 related to any residential mortgage transaction, for five (5) years from the date of entry of this
4 Consent Order.

5 b. This provision does not affect Respondent Phillips' ability to be employed by or in
6 association with a mortgage broker company or consumer loan company subject to licensure by the
7 Director, in the capacity of a loan originator, so long as Respondent Phillips applies for and receives a
8 loan originator license from the Department.

9 c. So long as Respondent Phillips has fully complied with this order, Respondent
10 Phillips may reduce the five (5)-year term of his ban by one (1) year upon the payment to the
11 Department of a fine in the amount of \$2,000; by two (2) years upon the payment of a fine of \$3,000;
12 by three (3) years upon the payment of a fine of \$4,000; or by four (4) years upon the payment of a
13 fine of \$5,000. The fine must be paid in the form of a cashier's check made payable to the
14 Washington State Treasurer.

15 d. The fines listed in paragraph D(2)(c) above, if Respondent Phillips chooses to
16 reduce the term of the ban pursuant to paragraph D(2)(c) above, are payable upon the requisite
17 number of months from the date of entry of this order¹ and must be paid before the reduction in term
18 becomes effective.

19 i. In order to request a reduction in the term of the ban pursuant to paragraph
20 D(2)(c), the following must occur:

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23 ¹ The fine of \$2,000, if Respondent Phillips chooses to reduce the term of the ban by one (1) year, is payable forty-eight (48) months from the date of
entry of this order; the fine of \$3,000 is payable thirty-six (36) months from the date of entry of this order; the fine of \$4,000 is payable twenty-four (24)
24 months from the date of entry of this order; and the fine of \$5,000 is payable twelve (12) months from the date of entry of this order.

1 a. Respondent Phillips must make such request to the Department in writing
2 no later than thirty (30) days prior to the requisite number of months from the date of entry of this
3 order and no sooner than sixty (60) days prior to the requisite number of months from the date of
4 entry of this order;

5 b. The request must be addressed to the Department, Attention Enforcement
6 Chief. The Department, if satisfied that Respondent Phillips has complied with all terms of this
7 order, will so notify Respondent Phillips within twenty (20) days of receipt of the request, and will
8 indicate that upon timely payment of the additional fine in the requisite amount the term shall be
9 reduced by the correspondent number of months as specified in paragraph D(2)(c); and

10 c. The request must specify Respondent Phillips' current mailing address.

11 E. **Agreement not to Apply.** During the term of the ban, Respondent Phillips shall refrain
12 from applying to the Department for any Mortgage Broker or Consumer Loan license under any
13 name.

14 F. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
15 investigation fee of \$1,176 in the form of a cashier's check made payable to the "Washington State
16 Treasurer," upon entry of this Consent Order.

17 G. **Records Retention.** It is AGREED that Respondents shall maintain all records in
18 compliance with the Act and provide the Department with the location of the books, records and
19 other information relating to Respondents' mortgage broker business, and the name, address and
20 telephone number of the individual responsible for maintenance of such records in compliance with
21 the Act.

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1 H. **Authority to Execute Order.** It is AGREED that the undersigned have represented and
2 warranted that they have the full power and right to execute this Consent Order on behalf of the
3 parties represented.

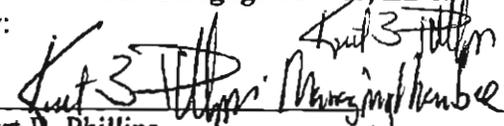
4 I. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to
5 abide by the terms and conditions of this Consent Order may result in further legal action by the
6 Director. In the event of such legal action, Respondents may be responsible to reimburse the Director
7 for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

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

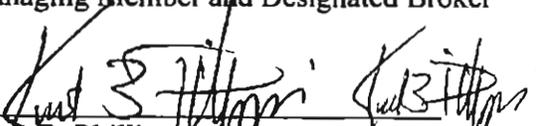
10 K. **Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
11 this Consent Order in its entirety and fully understand and agree to all of the same.

12 **RESPONDENTS:**

13 **1st American Mortgage Source, LLC**

14 By: 
15 Kurt B. Phillips
16 Managing Member and Designated Broker

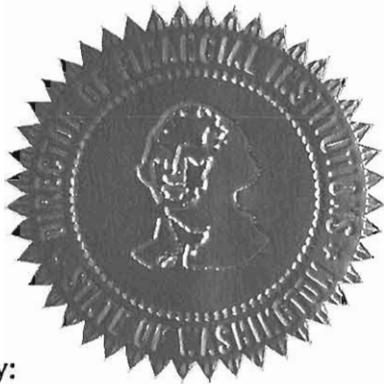

Date 4/10/11

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18 Kurt B. Phillips
19 Individually

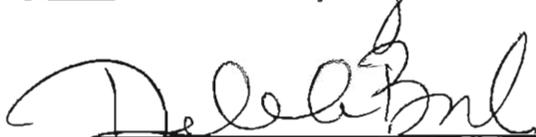

Date 4/10/11

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21 **DO NOT WRITE BELOW THIS LINE**

1 THIS ORDER ENTERED THIS 3rd DAY OF May, 2011



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DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

11 Presented by:

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MARISA E. BROGGEL
Financial Legal Examiner

16 Approved by:

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JAMES R. BRUSSELBACK
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:

1st AMERICAN MORTGAGE SOURCE, LLC
and KURT B. PHILLIPS, Managing Member and
Designated Broker,

Respondents.

NO. C-10-313-10-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, PROHIBIT
FROM INDUSTRY, IMPOSE FINE, 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, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **1st American Mortgage Source, LLC (Respondent 1st American)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about March 8, 2006, and continues to be licensed to date. Respondent 1st American is licensed to engage in the business of a mortgage broker at one location.

B. **Kurt Phillips (Respondent Phillips)** is Managing Member and 91% owner of Respondent 1st American. Respondent Phillips was named Designated Broker of Respondent 1st American on or about February 25, 2006, and continues as Designated Broker to date. Respondent Phillips was licensed by the

¹ RCW 19.146 (2009)

1 Department to conduct business as a loan originator on or about March 6, 2008, and continues to be licensed to
2 date.

3 **1.2 Failure to Maintain Bond.** On or about April 13, 2010, the Department received notice from the
4 Hartford Fire Insurance Company that Respondent 1st American's surety bond would be cancelled, effective
5 May 18, 2010. To date, Respondents have not notified the Department of the cancellation of the surety bond,
6 and have not provided the required surety bond or an approved alternative.

7 **1.3 Failure to Respond to Directive.** On or about June 17, 2010, the Department served a directive on
8 Respondents by First-Class mail. This directive was not returned by the United States Postal Service. This
9 directive required Respondents to provide a surety bond or acceptable alternative. To date, the Department has
10 not received a response to this directive.

11 **1.4 Failure to Notify Department of Significant Developments.** As stated in paragraph 1.2, to date,
12 Respondents have not notified the Department of the cancellation of Respondent 1st American's surety bond.

13 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
14 Respondents continues to date.

15 **II. GROUNDS FOR ENTRY OF ORDER**

16 **2.1 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I
17 above, Respondents are in apparent violation of RCW 19.146.205(6)(a) and WAC 208-660-175 for failing to
18 file and maintain a surety bond or approved alternative with the Department.

19 **2.2 Requirement to Respond to Directive.** Based on the Factual Allegations set forth in Section I above,
20 Respondents are in apparent violation of RCW 19.146.235 for failure to comply with a directive issued by the
21 Director.

22 **2.3 Requirement to Notify Department of Significant Developments.** Based on the factual allegations
23 set forth in Section I above, Respondents are in apparent violation of WAC 208-660-400(7)(b)(vi) for failure to
24 notify the director in writing within ten days after receipt of notification of cancellation of Respondent 1st
25 American's surety bond.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2)(c) and (d), the Director may revoke a
3 license if a licensee fails to maintain the required bond, or fails to comply with any directive or order of the
4 Director.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(d), the Director may issue
6 orders removing from office or prohibiting from participation in the conduct of the affairs of any licensee, or
7 both, any officer, principal, employee, or loan originator or any person subject to the Act for failure to comply
8 with any directive or order issued under this chapter.

9 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c) and (d), RCW 19.146.220(3)(a) and (b),
10 and WAC 208-660-530(6), the Director may impose fines of up to one hundred dollars per day on a licensee, its
11 employee or loan originator, or other person subject to the Act for any violations of the Act, or failure to
12 comply with any order or subpoena issued by the director under this chapter.

13 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520(9), and
14 WAC 208-660-550(4), upon completion of any investigation of the books and records of a licensee or other person
15 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
16 the cost of the investigation. The investigation charge will be calculated at the rate of forty eight dollars per hour
17 that each staff person devoted to the investigation.

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

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

- 6 **4.1** Respondent 1st American Mortgage Source, LLC's license to conduct the business of a mortgage broker
7 be revoked;
- 8 **4.2** Respondent 1st American Mortgage Source, LLC be prohibited from participation in the conduct of the
9 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)
10 years;
- 11 **4.3** Respondent Kurt Phillips be prohibited from participation in the conduct of the affairs of any mortgage
12 broker or loan originator subject to licensure by the Director, in any manner, for a period of five (5) years;
- 13 **4.4** Respondents 1st American Mortgage Source, LLC and Kurt Phillips jointly and severally pay a fine which
14 as of the date of this Statement of Charges totals \$10,000;
- 15 **4.5** Respondents 1st American Mortgage Source, LLC and Kurt Phillips jointly and severally pay an
16 investigation fee which as of the date of this Statement of Charges totals \$434.40 calculated at \$48.00 per
17 hour for the nine and five tenths staff hours; and
- 18 **4.6** Respondents 1st American Mortgage Source, LLC and Kurt Phillips maintain records in compliance with
19 the Act and provide the Department with the location of the books, records and other information relating
20 to Respondent 1st American's mortgage broker business, and the name, address and telephone number of
21 the individual responsible for maintenance of such records in compliance with the Act.

22 **V. AUTHORITY AND PROCEDURE**

23 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit from
24 Industry, Impose Fine, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the
25 provisions of RCW 19.146.220 and RCW 19.146.223, 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.

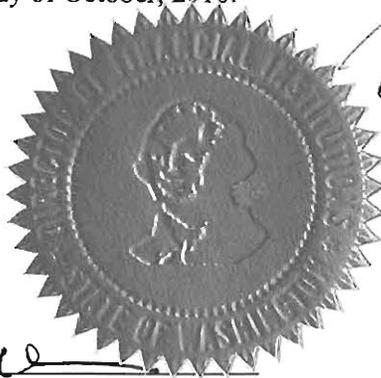
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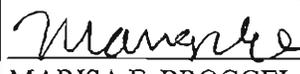
1 Dated this 19th day of October, 2010.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions



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4 Presented by:

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7 MARISA E. BROGGEL
Financial Legal Examiner

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9 Approved by:

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11 JAMES R. BRUSSELBACK
Enforcement Chief

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