

Terms Completed

FINAL ORDER SUMMARY – Case Number: C-10-428

Name(s): Kenneth Marc Moss

Order Number: C-10-248-11-FO01

Effective Date: March 8, 2011

License Number: _____

License Effect: (Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.
Denied license due to convictions

Not Apply Until: May not re-apply until 11/19/17

Prohibition/Ban Until: November 19, 2017

| | | | | |
|----------------------------|--------------------|-----|------------------|------|
| Investigation Costs | \$0 | Due | Paid Y N | Date |
| | | | | |
| Fine | \$0 | Due | Paid Y N | Date |
| | | | | |
| Assessment(s) | \$ | Due | Paid Y N | Date |
| | | | | |
| Restitution | \$ | Due | Paid Y N | Date |
| | No. of Victims: | | | |

Other: _____

Special Instructions: _____

Distribution: Original to Enforcement File
 Copy to Licensing Supervisor with Licensing File and copy of Final Order
 Information to Database(s) – Branch, Individual, Contact Person

1
2
3
4
5
6

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under
the Consumer Loan Act of Washington by:

No.: C-10-428-11-FO01

FINAL ORDER

KENNETH MARC MOSS,

Respondent.

7
8

I. DIRECTOR'S CONSIDERATION

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On January 19, 2011, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Deny License Renewal, and Prohibit from Industry (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 January 19, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Respondent Kenneth Marc Moss (Respondent). The Department served the Statement of Charges, cover letter, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent by Federal Express overnight delivery and United States Postal Service First-Class mail (First-Class mail). On January 20, 2011, the documents sent via Federal Express overnight delivery were delivered. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service.

1 Respondent did not request an adjudicative hearing within twenty calendar days after the
2 Department served him with the Notice of Opportunity to Defend and Opportunity for Hearing, as
3 provided for in WAC 208-08-050(2).

4 B. Record Presented. The record presented to the Director's designee for her review and
5 for entry of a final decision included the following: Statement of Charges, cover letter, Notice of
6 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing
7 for Respondent, with documentation for service.

8 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
9 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

10 II. FINAL ORDER

11 Based upon the foregoing, and the Director's designee having considered the record and being
12 otherwise fully advised, NOW, THEREFORE:

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent Kenneth Marc Moss' application for a license to conduct the business
15 of an Loan Originator is denied; and
- 16 2. Respondent Kenneth Marc Moss be prohibited from participation in the conduct of
the affairs of a licensed consumer loan company until November 19, 2017.

17 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
18 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
19 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
20 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
21 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
22 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
23 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

10 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
11 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
12 attached hereto.

13 DATED this 7th day of March, 2011



14
15
16 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

17 [Redacted Signature]
18 DEBORAH BORTNER
19 Director
20 Division of Consumer Services

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

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

IN THE MATTER OF INVESTIGATING
the Loan Originator License Application under the
Consumer Loan Act of Washington by:

KENNETH MARC MOSS,

Respondent.

NO. C-10-428-10-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO DENY LICENSE
RENEWAL AND PROHIBIT FROM INDUSTRY

INTRODUCTION

Pursuant to RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.247, 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 Kenneth Marc Moss (Respondent) was licensed by the Department as a mortgage loan originator on or about July 16, 2010. Respondent applied to renew his license on or about November 19, 2010. However, Respondent's license expired on December 31, 2010.

1.2 Prior Criminal Acts. On or about April 11, 2007, Respondent was charged under California State, Orange County Court Cause No. [REDACTED] with one count of [REDACTED], a felony pursuant to California Health and Safety Code Section [REDACTED].

1.3 On or about April 17, 2007, Respondent was charged under California State, Orange County Court Cause No. [REDACTED] with one count of [REDACTED], a felony pursuant to California Health and Safety Code Section [REDACTED].

¹ Respondent was also charged with two misdemeanors that are not relevant to this Statement of Charges.

² Respondent was also charged with an enhancement related to bail that is not relevant to this Statement of Charges and was dismissed when Respondent was convicted of the [REDACTED] charge.

1 **1.4** On or about April 25, 2007, Respondent was charged under California State, Orange County
2 Court Cause No. [REDACTED] with one count of [REDACTED], a felony pursuant to
3 California Health and Safety Code Section [REDACTED].

4 **1.5** On or about June 21, 2007, Respondent was convicted under California State, Orange County
5 Court Cause No. [REDACTED] of one count of [REDACTED]. See paragraph 1.2
6 above.

7 **1.6** On or about June 21, 2007, Respondent was convicted under California State, Orange County,
8 Court Cause No. [REDACTED] of one count of [REDACTED]. See paragraph 1.3
9 above.

10 **1.7** On or about June 21, 2007, Respondent was convicted under California State, Orange County
11 Court Cause No. [REDACTED] of one count of [REDACTED]. See paragraph 1.4
12 above.

13 **1.8 Failure to Disclose in Renewal Application for Licensure.** The "Criminal Disclosure" section
14 of the loan originator license renewal application consists of eight questions.
15 Respondent answered "no" to the following questions on the "Criminal Disclosure" section of his loan
16 originator license application:

- 17 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a
18 domestic, foreign, or military court to any felony?

19 Respondent was obligated by statute to answer questions on the loan originator license application
20 truthfully and to provide the Department with complete details of all events or proceedings. Respondent
21 did not do so.

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

23 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I
24 above, Respondent fails to meet the requirements of RCW 31.04.251, RCW 31.04.247(1)(d) and WAC
25 208-620-710(4)(c) by having been convicted of, or having pled guilty or nolo contendere to, a felony in a

³ Respondent was also charged with two enhancements related to bail that are not relevant to this Statement of Charges. These were dismissed when Respondent plead guilty to the [REDACTED] charge.

1 domestic, foreign, or military court: (i) during the seven-year period preceding the date of the application
2 for licensing and registration; or (ii) at any time preceding the date of application, if the felony involved
3 an act of fraud, dishonesty, breach of trust, or money laundering.

4 **2.2 Requirement to Provide Information on License Application.** Based on the Factual
5 Allegations set forth in Section I above, Respondent fails to meet the requirements of RCW 31.04.251,
6 RCW 31.04.241(2) and RCW 31.04.027(8) by failing to provide an accurate and complete license
7 application in the form prescribed by the Director.

8 **2.3 Requirement to Demonstrate Financial Responsibility, Character, and General Fitness.**
9 Based on the Factual Allegations set forth in Section I above, Respondent fails to meet the requirements
10 of RCW 31.04.251, RCW 31.04.247(1)(e) and WAC 208-620-710 by failing to demonstrate financial
11 responsibility, character, and general fitness such as to command the confidence of the community and to
12 warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently
13 within the purposes of the Act.

14 III. AUTHORITY TO IMPOSE SANCTIONS

15 **3.1 Authority to Deny Renewal Application for Loan Originator License.** Pursuant to RCW
16 31.04.251, RCW 31.04.247(2), the Director shall not issue a mortgage loan originator license if the
17 director finds the conditions of RCW 31.04.247 have not been met.

18 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6), the Director may issue
19 an order removing from office or prohibiting from participation in the affairs of any licensee, or both any
20 officer, principal, employee, or loan originator, or any person subject to the act.

21 //

22 //

23 //

24 //

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

2 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set
3 forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions,
4 constitute a basis for the entry of an Order under RCW 31.04.165, RCW 31.04.205, and RCW 31.04.247.
5 Therefore, it is the Director's intention to ORDER that:

- 6 **4.1** Respondent Kenneth Marc Moss's application for a loan originator license be denied; and
7 **4.2** Respondent Kenneth Marc Moss be prohibited from participation in the conduct of the affairs of a
8 licensed consumer loan company until November 19, 2017.

9 **V. AUTHORITY AND PROCEDURE**

10 This Statement of Charges is issued pursuant to the provisions of RCW 31.04.165, RCW
11 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW, the
12 Administrative Procedure Act. Respondent may make a written request for a Brief Adjudicative
13 Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
14 BRIEF ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

15
16 Dated this 19th day of January 2011
17 _____

18 **DEBORAH BORTNER**
19 Director
20 Division of Consumer Services
21 Department of Financial Institutions

22 Presented by: _____
23 **MARNIE SHEERAN**
24 Financial Legal Examiner

25 Approved by: _____
FATIMA BATIE
Financial Legal Examiner Supervisor

