

# Terms Completed

## ORDER SUMMARY – Case Number: C-13-1380

**Name:** Russell Roger Henry d/b/a Home Finance

**Order Number:** C-13-1380-14-CO01

**Effective Date:** December 18, 2014

**License Number:** DFI: 73538 NMLS ID: 362697

**Or NMLS Identifier [U/L]**

**License Effect:** None

**Not Apply Until:** N/A

**Not Eligible Until:** N/A

**Prohibition/Ban Until:** N/A

<b>Investigation Costs</b>	\$500	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12/16/2014
<b>Fine</b>	\$3,000	Due: STAYED	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$1,100	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12/16/2014
<b>Judgment</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>	<input type="checkbox"/> Y <input type="checkbox"/> N			
No. of Victims:	2			

Comments: \$3,000 fine stayed for two years based on compliance with order. Cease and Desist violations of RCW

19.146.0201.

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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:

No.: C-13-1380-14-CO01

CONSENT ORDER

RUSSELL ROGER HENRY, d/b/a HOME  
FINANCE, Mortgage Broker, NMLS #362697,

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his  
designee Deborah Bortner, Division Director, Division of Consumer Services, and Russell Roger  
Henry (Respondent), Mortgage Broker, 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  
Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges  
No. C-13-1380-14-SC01 (Statement of Charges), entered May 28th, 2014, (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, Respondent hereby agrees to the Department's entry of this  
Consent Order and further agrees 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. Respondent is agreeing not to contest the Statement  
of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

CONSENT ORDER  
C-13-1380-14-CO01  
RUSSELL ROGER HENRY

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

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

3       **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a  
4 hearing before an administrative law judge, and hereby waives his right to a hearing and any and all  
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached  
6 herein. Accordingly, Respondent, by his signature below, withdraws his appeal to the Office of  
7 Administrative Hearings.

8       **C. Agreement to Cease and Desist.** It is AGREED that Respondent shall Cease and Desist  
9 from violations of RCW 19.146.0201.

10       **D. Stayed Fine.** It is AGREED THAT Respondent is subject to a fine of \$3,000. It is  
11 further AGREED that said fine shall be stayed for a period of two (2) years. It is further AGREED  
12 that if the Department does not seek to lift the stay and impose the fine within the two (2) year period,  
13 said fine will be deemed withdrawn without further action being required by either party.

14       **E. Lifting of Stay and Imposing Fine.** It is AGREED that:

- 15           1. If the Department determines that Respondent has not complied with the terms of  
16 this Consent Order to a degree sufficient to warrant imposition of a fine, and the  
17 Department accordingly seeks to lift the stay and impose the fine set forth in  
18 section C above, the Department will first notify Respondent in writing of its  
19 determination.
- 20           2. The Department's notification will include:
- 21               a) A description of the alleged noncompliance;
- 22               b) A statement that because of the noncompliance, the Department seeks  
23 to lift the stay and impose the fine;
- 24               c) The opportunity for Respondent to contest the Department's  
determination of noncompliance in an administrative hearing before an  
Administrative Law Judge (ALJ) of the Office of Administrative  
Hearings (OAH); and

- 1 d) A copy of this Consent Order. The notification and hearing process  
2 provided in this Consent Order applies only to this Consent Order. It is  
3 solely provided in the event Respondent chooses to contest the  
4 Department's determination of noncompliance.
- 5 3. Respondent will be afforded ten (10) business days from the date of receipt of the  
6 Department's notification to submit a written request to the Department for an  
7 administrative hearing to be held before an ALJ from the OAH.
- 8 4. Respondent, in addition to its request for hearing, may provide a written response  
9 to include any information pertaining to the alleged noncompliance.
- 10 5. The administrative hearing shall be expedited and follow the timing and processes  
11 described in this Consent Order.
- 12 6. If requested, the hearing will be held within 15 business days (or as soon as the  
13 schedule of the ALJ permits) from the due date for Respondent's request for  
14 hearing or from the date of receipt of Respondent's timely request for hearing,  
15 whichever is sooner. The parties will accommodate the prompt scheduling of the  
16 hearing.
- 17 7. The scope and issues of the hearing are limited solely to whether or not  
18 Respondent is in violation of the terms of this Consent Order to a degree sufficient  
19 to warrant imposition of a fine.
- 20 8. At the conclusion of the hearing, the ALJ will issue an initial decision. Either  
21 party may file a Petition for Review with the Director of the Department.
- 22 9. If Respondent does not request the hearing within the stated time, the Department  
23 will impose the fine and pursue whatever action it deems necessary to enforce the  
24 fine.

17 **F. Restitution.** It is AGREED that Respondent has paid restitution in the amount of \$600 to  
18 borrower R.L. and in the amount of \$500 to borrower P.M. as specified in the attached Statement of  
19 Charges.

20 **G. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an  
21 investigation fee of \$500, in the form of a cashier's check made payable to the "Washington State  
22 Treasurer," upon entry of this Consent Order.

1           **H. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to  
2 abide by the terms and conditions of this Consent Order may result in further legal action by the  
3 Director. In the event of such legal action, Respondent may be responsible to reimburse the Director  
4 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

5           **I. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this  
6 Consent Order, which is effective when signed by the Director's designee.

7           **J. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read  
8 this Consent Order in its entirety and fully understands and agrees to all of the same.

9 **RESPONDENT:**

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11  
12 RUSSELL ROGER HENRY  
Mortgage Broker

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24 Date

12-10-14


DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 18<sup>th</sup> DAY OF December, 2014.




  
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

  
ROBERT E. JONES  
Financial Legal Examiner

Approved by:

  
CHARLES E. CLARK  
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:  
  
RUSSELL ROGER HENRY, d/b/a HOME  
FINANCE, Mortgage Broker, NMLS #362697,  
  
Respondent.

No. C-13-1380-14-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO SUSPEND LICENSE, ORDER  
RESTITUTION, 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 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 Respondent Russell Roger Henry d/b/a Home Finance (Respondent Henry)** was licensed  
by the Department of Financial Institutions of the State of Washington (Department) to conduct  
business as a mortgage broker on or about May 25, 2012, and continues to be licensed to date.

**1.2 First Consumer Complaint.** The Department received a complaint from a borrower, R.L.,  
on May 7, 2013. R.L. applied for a residential mortgage loan through Respondent Henry on or about  
March 13, 2013. Respondent Henry erroneously represented to borrower R.L. that the closing costs  
for the residential mortgage loan would only be approximately \$66. The actual closing costs were  
approximately \$1,800. Upon discovery of the error by R.L., Respondent Henry agreed to refund

1 \$600 to R.L. after the loan closed. Respondent Henry represented to R.L. that he had sent the refund  
2 on or about April 30, 2013. However, Respondent Henry never paid the refund.

3 **1.3 Second Consumer Complaint.** The Department received a consumer complaint from  
4 borrower P.M. on October 15, 2013. Borrower P.M. applied for a residential mortgage loan through  
5 Respondent Henry on or about May 10, 2013. Borrower P.M. instructed Respondent Henry to lock  
6 his interest rate, and Respondent Henry provided a Washington one page disclosure form showing  
7 that borrower P.M.'s interest rate was locked on or about May 12, 2013. Borrower P.M. paid \$500  
8 for a real estate appraisal. Ultimately, Respondent Henry was unable to obtain a residential mortgage  
9 loan for borrower P.M., because he had actually failed to lock the rate. Respondent Henry  
10 represented to borrower P.M. that he would refund the cost of the real estate appraisal, but  
11 Respondent Henry never paid the refund.

12 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the  
13 Act by Respondent continues to date.

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

15 **2.1 Definition of Borrower.** Pursuant to RCW 19.146.010(3) and WAC 208-660-006,  
16 "Borrower" means any person who consults with or retains a mortgage broker or loan originator in an  
17 effort to obtain or seek advice or information on obtaining or applying to obtain a residential  
18 mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the  
19 person actually obtains such a loan.

20 **2.2 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent  
21 is in apparent violation of RCW 19.146.0201(1), (2), (3), and (7) for directly or indirectly employing  
22 a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, engaging in an  
23 unfair or deceptive practice toward any person, obtaining property by fraud or misrepresentation, and

1 making in any manner, any false or deceptive statement or representation with regard to the rates,  
2 points, or other financing terms or conditions for a residential mortgage loan.

3 **2.3 Failure to Uphold Fiduciary Duty.** Based on the Factual Allegations set forth in Section I  
4 above, Respondent is in apparent violation of RCW 19.146.095(1)(a) and (d) for failing to act in the  
5 borrower's best interest and in the utmost good faith toward borrowers and for failing to use  
6 reasonable care in performing duties.

### 7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Authority to Suspend License.** Pursuant to RCW 19.146.220(2), the Director may suspend  
9 licenses for any violation of the Act.

10 **3.2 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order  
11 restitution against licensees or other persons subject to the Act for any violation of the Act.

12 **3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines  
13 against a licensee or other persons subject to the Act for any violation of the Act.

14 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-  
15 520(9) and (11), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per  
16 hour for an examiner's time devoted to an investigation of a licensee or other person subject to the  
17 Act.

### 18 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

23 **4.1** Respondent Russell Roger Henry's license to conduct the business of a mortgage  
24 broker be suspended for a period of 90 days.

1           **4.2**   Respondent Russell Roger Henry pay a fine. As of the date of this Statement of  
2           Charges, the fine totals \$3,000.

3           **4.3**   Respondent Russell Roger Henry pay restitution in the amount of \$600 to borrower  
4           R.L. and in the amount of \$500 to borrower P.M.

5           **4.4**   Respondent Russell Roger Henry pay an investigation fee. As of the date of this  
6           Statement of Charges, the investigation fee totals \$2,054.40.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW  
3 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter  
4 34.05 RCW (the Administrative Procedure Act). Respondent may make a written request for a  
5 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR  
6 HEARING accompanying this Statement of Charges.

7  
8 Dated this 28<sup>th</sup> day of May, 2014.



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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 ROBERT E. JONES  
Financial Legal Examiner

Approved by:

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20 CHARLES E. CLARK  
21 Enforcement Chief