

**ORDER SUMMARY – Case Number: C-18-2427**

**Name:** Banesa Kemp Chindavong, a/k/a Bane Sa Chindavong

**Order Number:** C-18-2427-18-FO01

**Effective Date:** 9/27/18

**License Number:** 513260  
**Or NMLS Identifier [U/L]**

**License Effect:** Application Denied

**Prohibition/Ban:** Banesa Kemp Chindavong is prohibited from participating in the affairs of any licensed mortgage broker or any person subject to the Act for a period of seven years.

<b>Investigation Costs</b>	\$N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	\$ N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$ N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$ N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$ N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed? N/A</b>	<input type="checkbox"/> Y <input type="checkbox"/> N			
	No. of Victims:			

**Comments:**

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

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IN THE MATTER OF INVESTIGATING  
the loan originator license application under the  
Mortgage Broker Practices Act of Washington by:

BANESA KEMP CHINDAVONG, A/K/A  
BANE SA CHINDAVONG, NMLS #513260,

Respondent.

No.: C-18-2427-18-FO01

FINAL ORDER

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I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through her designee, Consumer Services Division Director Charles E. Clark (Director's designee), pursuant to RCW 34.05.440(1). On August 6, 2018, the Director, through the Director's designee, issued a Statement of Charges, Notice of Intent to Enter an Order to Deny Application for License, Prohibit from the Industry, and Recover Costs and Expenses for Prosecution (Statement of Charges) against Banesa Kemp Chindavong a/k/a Bane Sa Chindavong (Respondent). A copy of the Statement of Charges is attached and incorporated into this order. The Statement of Charges was accompanied by a cover letter dated August 7, 2018, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent (collectively, accompanying documents).

On August 7, 2018, the Department served Respondent with the Statement of Charges and accompanying documents by United States Postal Service First-Class mail and by Federal Express overnight delivery. On August 8, 2018, the documents sent by Federal Express overnight delivery were delivered. The documents sent by 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 the Notice of Opportunity to Defend and Opportunity for Hearing, as provided  
3 for in WAC 208-08-050(2).

4 B. Record Presented. The record presented to the Director's designee for his review and  
5 for entry of a final decision included the following: Statement of Charges, cover letter dated August  
6 7, 2018, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for  
7 Adjudicative Hearing 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  
12 being otherwise fully advised, NOW, THEREFORE:

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent Banesa Kemp Chindavong's application for a loan originator license  
15 is denied.
- 16 2. Respondent Banesa Kemp Chindavong is prohibited from participating in the  
17 affairs of any licensed mortgage broker or any person subject to the Act for a  
18 period of seven years.

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

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  
11 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of  
12 service attached hereto.

13 DATED this 27<sup>th</sup> day of September, 2018.

14 STATE OF WASHINGTON  
15 DEPARTMENT OF FINANCIAL INSTITUTIONS

16 /s/  
17 CHARLES E. CLARK  
18 Director, Division of Consumer Services

1 **STATE OF WASHINGTON**  
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
3 **DIVISION OF CONSUMER SERVICES**

4 IN THE MATTER OF INVESTIGATING  
the loan originator license application under the  
Mortgage Broker Practices Act of Washington by:

5 BANESA KEMP CHINDAVONG, A/K/A  
6 BANE SA CHINDAVONG, NMLS #513260,

Respondent.

No.: C-18-2427-18-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO ENTER  
AN ORDER TO DENY APPLICATION FOR  
LICENSE, PROHIBIT FROM THE  
INDUSTRY, and RECOVER COSTS AND  
EXPENSES FOR PROSECUTION

7 **INTRODUCTION**

8 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of  
9 Financial Institutions of the State of Washington (Director) is responsible for the administration of  
10 chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). After having conducted an  
11 investigation pursuant to RCW 19.146.310, and based upon the facts available as of the date of this  
12 Statement of Charges, the Director, through her designee, Division of Consumer Services Director  
13 Charles E. Clark, institutes this proceeding and finds as follows:

14 **I. FACTUAL ALLEGATIONS**

15 **1.1 Respondent Banesa Kemp Chindavong, a/k/a Bane Sa Chindavong, (Respondent)**

16 submitted an application to the Department of Financial Institutions of the State of Washington  
17 (Department) for a loan originator license under M & M Mortgage, a mortgage broker licensed under  
18 the Act. The license application was received through the Nationwide Mortgage Licensing System  
19 on or about March 21, 2018. At this time, the loan originator license application is pending.

20 **1.2 Prior Criminal Conviction.** On or about May 13, 2016, in the Fourth Judicial District,  
21 District Court, in Hennepin County, Minnesota, Respondent pled guilty to one count of a felony  
22 crime of dishonesty. Under the plea agreement, Respondent was sentenced within the limits of a  
23 gross misdemeanor, and under Minnesota law, the conviction is deemed a gross misdemeanor.

1 **1.3 Failure to Disclose Criminal Conviction.** Respondent’s loan originator license application  
2 required the submission of a Uniform Individual Mortgage License/Registration & Consent Form  
3 (MU4 Form), which included the following question F(1): “Have you ever been convicted of or pled  
4 guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?”  
5 Respondent answered “No” to this question on or about March 21, 2018. Respondent’s MU4 Form  
6 also included the following question H(1): “Have you ever been convicted of or pled guilty or nolo  
7 contendere ("no contest") in a domestic, foreign, or military court to committing or conspiring to  
8 commit a misdemeanor involving: (i) financial services or a financial services related business, (ii)  
9 fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi)  
10 perjury, (vii) forgery, (viii) counterfeiting, or (ix) extortion?” Respondent answered “No” to this  
11 question on or about March 21, 2018.

12 **1.4 Termination due to an [REDACTED].** On or about January 8, 2016, Respondent’s  
13 employment was terminated due to an allegation that Respondent [REDACTED]. This allegation  
14 resulted in the criminal case discussed in Section 1.2 and Respondent’s former employer was the  
15 victim in that case.

16 **1.5 Failure to Disclose Termination due to an [REDACTED].** Respondent’s MU4 Form  
17 included the following questions Q(1) & (2): “Have you ever voluntarily resigned, been discharged,  
18 or permitted to resign after allegations were made that accused you of: (1) violating statute(s),  
19 regulation(s), rule(s), or industry standards of conduct? (2) fraud, dishonesty, theft, or the wrongful  
20 taking of property?” Respondent answered “No” to both questions on or about March 21, 2018.

21 **1.6 Statutory Obligations.** Respondent was obligated by statute to answer all questions on the  
22 MU4 Form truthfully and to provide the Department with complete details of all relevant events or  
23 proceedings for all events relevant to the above stated questions.

1 **1.7 False Attestation.** On or about March 21, 2018, Respondent attested, under penalty of  
2 perjury, that the information and statements contained within the MU4 Form are “current, true,  
3 accurate, and complete[.]” On or about April 13, 2018, Respondent updated his answer to question  
4 H(1) regarding conviction of a misdemeanor crime to “Yes.” To date, Respondent’s MU4 Form has  
5 not been updated to disclose he was terminated by a former employer due to an [REDACTED].

6 **1.8 On-Going Investigation.** The Department’s investigation into the alleged violations of the  
7 Act by Respondent continues to date.

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

9 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section  
10 I above, Respondent fails to meet the requirements for a loan originator license under RCW  
11 19.146.310(1)(d) and WAC 208-660-350(2)(c) because Respondent pled guilty to one count of a  
12 gross misdemeanor crime of dishonesty within seven years of the filing of the present application.

13 **2.2 False Statements and Omissions of Material Facts.** Based on the Factual Allegations set  
14 forth in Section I above, Respondent violated RCW 19.146.0201(8) and WAC 208-660-500(3)(h) by  
15 negligently making false statements or knowingly and willfully making omissions of material facts  
16 in connection with his application for a loan originator license.

17 **2.3 Requirement of Character and Fitness.** Based on the Factual Allegations set forth in  
18 Section I above, Respondent fails to meet the requirements for a loan originator license in RCW  
19 19.146.310(1)(g) and WAC 208-660-350(2)(a) by failing to demonstrate character and general fitness  
20 such as to command the confidence of the community and to warrant a belief that the business will be  
21 operated honestly and within the purposes of the Act.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Deny Application for Loan Originator License.** Pursuant to RCW  
3 19.146.220(1), the Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2),  
4 if the Director does not find the conditions of RCW 19.146.310(1) have been met, the Director shall  
5 not issue the loan originator license and shall notify the loan originator applicant of the denial.

6 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(4), the Director may  
7 issue orders prohibiting any person subject to the Act from participating in the affairs of any  
8 licensed mortgage broker or any person subject to the Act for any violation of the Act.

9 **3.3 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director  
10 may recover the state’s costs and expenses for prosecuting violations of the Act.

11 **IV. NOTICE OF INTENT TO ENTER ORDER**

12 Respondent’s violations of chapter 19.146 RCW and chapter 208-660 WAC, described in the  
13 above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute  
14 a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, RCW  
15 19.146.230, and RCW 19.146.310. Therefore, it is the Director’s intent to ORDER that:

- 16 **4.1** Respondent Banesa Kemp Chindavong’s application for a loan originator license be  
17 denied.
- 18 **4.2** Respondent Banesa Kemp Chindavong be prohibited from participating in the affairs of  
19 any licensed mortgage broker or any person subject the Act for a period of seven  
20 years.
- 21 **4.3** Respondent Banesa Kemp Chindavong pay the Department’s costs and expenses for  
22 prosecuting violations of the Act in an amount to be determined at hearing or by  
23 declaration with supporting documentation in event of default by Respondent.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is issued pursuant to the provisions of RCW 19.146.220, RCW  
3 19.146.221, RCW 19.146.223, RCW 19.146.230, and RCW 19.146.310, and is subject to the  
4 provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a  
5 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY FOR  
6 ADJUDICATIVE HEARING AND TO DEFEND accompanying this Statement of Charges.

7 Dated this 6<sup>th</sup> day of August, 2018.

8  
9 /s/  
10 CHARLES E. CLARK  
11 Director, Division of Consumer Services  
Department of Financial Institutions

12 Presented by:

13 /s/  
14 KENDALL FREED  
Financial Legal Examiner

15 Approved by:

16  
17 /s/  
18 STEVEN C. SHERMAN  
Enforcement Chief