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

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

TRINTY WEST FINANCIAL , Inc. and
LUPE FOX, Secretary and Manager,
Respondents.

NO. 97-141-05-CO01

CONSENT ORDER
ROCHELLE FOX, aka Lupe Fox

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Chuck Cross, Division Director, Division of Consumer Services, and Respondent Rochelle Fox, aka Lupe Fox (Respondent), and finding that the issues raised in the 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 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. 97-087-C01 (Statement of Charges), entered August 19, 1997, (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.

Based upon the foregoing:

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

CONSENT ORDER
Rochelle Fox, aka Lupe Fox

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 **B. Waiver of Hearing.** It is AGREED that the Respondent has been informed of her right to a hearing
2 before an administrative law judge, and that she has waived her right to a hearing and any and all administrative
3 and judicial review of the issues raised in this matter, or of the resolution reached herein.

4 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the Statement of
5 Charges and agree that Respondent does not admit to any wrongdoing by its entry. Respondent does not admit
6 that she has violated any laws as alleged in the Statement of Charges (No. 97-087-C01).

7 **D. Participation in the Mortgage Broker Industry and Compliance with the Law.** Respondent
8 AGREES to fully and completely comply with the Mortgage Broker Practices Act and the rules adopted
9 there under, and any and all other relevant statutes and regulations.

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

14 **F. Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into
15 this Consent Order, which is effective when signed by the Director's designee.

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

18 **H. Consent to Be Bound By Order.** It is AGREED that the parties shall be bound by the terms and
19 conditions of this Consent Order as set forth herein.

20 **RESPONDENT:**

21 **Rochelle Fox, aka Lupe Fox**

22 By:

23 

24 Rochelle Fox

7-8-05

Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 13th DAY OF July, 2005.



A handwritten signature in black ink, appearing to read "Chuck Cross", written over a horizontal line.

CHUCK CROSS
Director
Division of Consumer Services
Department of Financial Institutions

CONSENT ORDER
Rochelle Fox, aka Lupe Fox

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

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2 STATE OF WASHINGTON
3 DEPARTMENT OF FINANCIAL INSTITUTIONS
4 DIVISION OF CONSUMER SERVICES

4 In The Matter Of Determining Whether There)
5 Has Been A Violation Of The Mortgage)
6 Practices Act By:)
7 Trinity West Financial, Inc., Rudy Diligencia,))
8 Owner and President, and Lupe Fox,)
9 Secretary and Manager)
10 Respondents)
11)

No. 97-087-C01

STATEMENT OF CHARGES AND
NOTICE OF INTENTION TO
ENTER AN ORDER TO CEASE AND
DESIST

11 **I. STATEMENT OF CHARGES**

12 Pursuant to RCW 19.146.220, the Director of the Department of Financial Institutions
13 ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker
14 Practices Act ("Act"). After having conducted an investigation, and based upon the facts available
15 as of August 19, 1997, the Director institutes this proceeding and finds as follows:
16

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18 **II. FACTUAL FINDINGS**

19 A. In June 1994, the Department issued a Mortgage Broker license pursuant to chapter
20 19.146 RCW to JE Mortgages, Inc., located at 13401 Bel-Red Road, #B-6, Bellevue, Washington
21 98005. Rudy S. Diligencia ("Diligencia") was the owner and designated broker of JE Mortgages,
22 Inc.
23

24 B. On October 31, 1996, the Department received a letter from Diligencia indicating that
25 he had changed the name of the corporation from JE Mortgages, Inc. to Trinity West Financial,
26 Ltd. By letter dated November 4, 1996, the Department notified Diligencia that mortgage broker

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licenses are not transferable and that due to the apparent change in control, Diligencia was required to submit a new application pursuant to WAC 208-660-110. The letter also informed Diligencia that the Department considers it a violation of the Act for non-exempt brokers to originate, or solicit for origination, single family residential mortgages without a valid license. The Department also provided a current copy of the Act and an application package.

C. On December 9, 1996, the Department received a mortgage broker application in the name of Trinity West Financial, Inc. ("Trinity"). The application indicated Trinity would operate from the same address as JE Mortgages. The application identified Diligencia as the President and Chief Executive Operator of Trinity.

D. By letter dated January 8, 1997, the Department notified Diligencia that the Trinity application package was incomplete. Among other things, the letter noted the application contained no information regarding the identity of the designated broker. The letter also informed Diligencia that pursuant to RCW 19.146.200(1) the Department considers it a violation of the Act for non-licensed, non-exempt mortgage brokers to originate, or solicit for origination single-family residential mortgages. On or about February 6, 1997, the Department received a second license application package from Rudy Diligencia. Lupe Fox ("Fox") was identified in Trinity's Articles of Incorporation as the corporation's secretary, and in the application package as operations manager.

E. On or about February 4, 1997, the Department received a copy of a Mortgage Broker License purporting to be issued to Trinity West, Inc., as licensee and dated "this 26th day of

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November 12, 1996." The license appeared to be an altered version of the license previously issued to JE Mortgages, Inc.

F. On February 7, 1997, the Department received information from Weyerhaeuser Mortgage, a mortgage company located in Woodland Hills, California, that Trinity had produced a license for approval as a Weyerhaeuser broker and had been submitting loans to Weyerhaeuser for underwriting review.

G. On April 1, 1997, the Department received from Weyerhaeuser Mortgage four mortgage loan applications that Trinity had submitted to Weyerhaeuser Mortgage for underwriting review and approval. The first was dated January 28, 1997, and identified Diligencia as the interviewer and listed Trinity as the employer. The second was signed by the loan applicant on December 18, 1996, and listed Pauline Ferber as the interviewer and Trinity as the employer. The third, dated January 28, 1997, identified Fox as the interviewer and Trinity as her employer. The fourth was signed by Fox as the interviewer and identified Trinity as her employer.

H. By letter dated March 6, 1997, Diligencia's attorney, Gregory L. Ursich, notified the Department that Diligencia wished to withdraw the application for mortgage broker license.

III. GROUND FOR ENTRY OF ORDER

A. Pursuant to RCW 19.146.200, it is unlawful for a person subject to the Act's licensing requirements to engage in the business of a mortgage broker without first obtaining and maintaining a license. Respondents violated this provision when on or after October 1, 1996, Respondents held themselves out as being able to make a residential mortgage loan or assist a

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person in obtaining or applying to obtain a residential mortgage loan on behalf of Trinity. The information received from Weyerhaeuser Mortgage indicates Respondents violated RCW 19.146.200 on at least four occasions.

B. Pursuant to RCW 19.146.220(2)(a), the Director may deny applications for licenses for any violation of RCW 19.146.0201(1) through (9). RCW 19.146.0201(1) provides that it is unlawful for a loan originator or mortgage broker required to be licensed under this chapter to directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person. Pursuant to RCW 19.146.0201(2) it is unlawful for a loan originator or mortgage broker required to be licensed under the Act to engage in any unfair or deceptive practice toward any person. Respondents violated RCW 19.146.0201(1) and (2) when they provided a falsified mortgage broker license to Weyerhaeuser Mortgage, thereby misrepresenting that they were authorized to engage in the business of a mortgage broker in the state of Washington.

C. Pursuant to WAC 208-660-160(1)(f), (j) and (n), the Director may deny a license application if the applicant or any principal or designated broker of the applicant has omitted, misrepresented or concealed material facts in obtaining a license; aided or abetted an unlicensed person to practice in violation of the Act; or performed an Act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or profession. Respondents' conduct described above constitutes grounds to deny Trinity's license pursuant to WAC 208-660-160(1)(f),(j) and (n).

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D. Pursuant to RCW 19.146.220(2)(d), the Director may issue an order directing a licensee to cease and desist from conducting business in a manner that violates any provision of the Act. Respondents originated loans or assisted others in applying for residential mortgage loans when Trinity was not properly licensed. Respondents' conduct constitutes grounds for issuance of a cease and desist order directing that Respondents cease engaging in the business of a mortgage broker until they are properly licensed.

E. Pursuant to RCW 19.146.220(2)(e), the Director may issue an order removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this Act for violations of RCW 19.146.0201(1) through (9) or (13). Diligencia and Fox violated RCW 19.146.0201(1) and (2) when they provided a falsified mortgage broker license to Weyerhaeuser Mortgage and when they engaged in the business of a mortgage broker without a license.

F. Pursuant to RCW 19.146.220(3), each days continuance of a violation or failure to comply with any directive or order of the Director is a separate and distinct violation. WAC 208-660-160 provides that each violation subjects a person to a fine of up to \$100.00 per day per violation. Pursuant to RCW 19.146.220(2)(c), the Director may impose fines for any violations of RCW 19.146.0201(1), (2) or RCW 19.146.200. Each violation alleged above constitutes grounds to assess a civil penalty of \$100.00 per day for each violation.

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IV. NOTICE OF INTENTION TO ENTER AN ORDER

Respondents violations of the Act as set forth above constitute the basis for the entry of an order under RCW 19.146.220. Therefore, it is the Director's intention to ORDER:

A. That Respondents cease and desist from engaging in the business of a mortgage broker unless they first obtain a license pursuant to the Act;

B. That Trinity's pending application for a mortgage broker license be denied;

C. That Respondents pay a fine of \$16,700.00 calculated as follows:

1. \$8,000.00 for four violations of RCW 19.146.200, originating loans without a license, calculated at \$100.00 per day per violation for twenty days, counted from the date of the Department's notification, January 8, 1997, to the date of at least two of the originated loans, January 28, 1997; and

2. \$8,700.00 for one violation of RCW 19.146.0201, prohibited practices as discussed in this order, calculated at \$100.00 per day for eighty seven days, counted from the date of the falsified license, November 12, 1996, to the date of the Department's discovery of the falsified license, February 7, 1997.

D. That Respondents, their officers, employees, and agents shall not remove from their Washington places of business, nor mutilate, destroy, or secrete any books, records, computer records, or other information relating to Respondents mortgage broker business;

E. That Respondents be prohibited from participation in the conduct of the affairs of a licensed mortgage broker for at least seven years; and


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F. That Respondents pay an examination fee of \$360.00 for 8.0 hours of examination/investigation at \$45.00 per hour.

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist is entered pursuant to RCW 19.146.220, RCW 19.146.230 and chapter 34.05 RCW. The Respondents may make a written request for hearing as set forth in the Notice of Opportunity to Defend and Opportunity for Hearing accompanying this Statement of Charges and Notice of Intent to Enter an Order.

DATED this 19th day of August, 1997.


MARK THOMSON
Assistant Director
Division of Consumer Services
Department of Financial Institutions

