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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-07-060-08-FO01

AMERICAN LENDING CORPORATION,  
SHAWN D. KONECKY, President,  
SCOTT H. KONECKY, Vice President, and  
LISA A. HILL, Secretary,

FINAL ORDER

AMERICAN LENDING CORPORATION, and  
SHAWN D. KONECKY

Respondents.

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) pursuant to RCW 34.05.440(2). On September 26, 2007, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Impose Fine, Prohibit from Industry, and Collect Investigative Fee (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 October 1, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A. Hill. The

1 Department served the Statement of Charges, cover letter dated October 1, 2007, Notice of  
2 Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing  
3 for American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A. Hill on  
4 Respondents on October 1, 2007, by first class mail and by Federal Express overnight delivery. The  
5 documents sent to American Lending Corporation by Federal Express overnight delivery were  
6 delivered on October 2, 2007. The documents sent to American Lending Corporation by first class  
7 mail were not returned by the U.S. Post Office as undeliverable. No Application for Adjudicative  
8 Hearing was filed for American Lending Corporation.  
9

10 On October 2, 2007, Respondent Hill filed an Application for Adjudicative Hearing.  
11 Respondent Hill subsequently entered into a Consent Order with the Department on February 20,  
12 2008. On October 17, 2007, Respondent Scott H. Konecky filed an Application for Adjudicative  
13 Hearing. Respondent Scott H. Konecky subsequently entered into a Consent Order with the  
14 Department on March 2, 2008. On October 19, 2007, Respondent Shawn D. Konecky filed an  
15 Application for Adjudicative Hearing. On January 11, 2008, the Department made a request to the  
16 Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule  
17 and conduct a hearing on the Statement of Charges. On January 30, 2008, ALJ Craig Davenport  
18 issued a Notice of Prehearing Telephone Conference scheduling a prehearing conference on Friday,  
19 February 29, 2008, at 11:00 a.m. That Order contained the following instructions to the parties: **"You**  
20 **must provide the Office of Administrative Hearings with a telephone number** where you can be  
21 **reached at that time."** **"To register an appearance you must telephone the Office of**  
22 **Administrative hearings by calling locally 509-575-2147 or toll free 1-800-843-3491, ten (10)**  
23 **minutes before the scheduled conference time, to provide a telephone number where you can be**  
24

1 **reached.**” That Order also noted “If you fail to appear or participate in the prehearing conference,  
2 hearing, or any other scheduled stage of these proceedings, you may lose your right to a hearing as  
3 described in RCW 34.05.440 and RCW 18.27.270.”

4 On February 29, 2008, the prehearing conference was convened by ALJ Davenport at 11:00  
5 a.m. Respondents Shawn D. Konecky and American Lending Corporation failed to provide any  
6 telephone numbers where they could be reached and failed to appear or otherwise participate in the  
7 prehearing conference. The Department moved for an order of default based on Respondents’ failure  
8 to appear. On March 11, 2008, ALJ Davenport issued an Order on Prehearing Conference finding  
9 Respondent Shawn D. Konecky in default and sent the Order to the address in Respondent Shawn D.  
10 Konecky’s Applications for Adjudicative Hearing. On April 30, 2008, ALJ Davenport entered an  
11 Order of Clarification finding both Respondent Shawn D. Konecky and Respondent American  
12 Lending Corporation in default and sent the Order to the address in Respondent Shawn D. Konecky’s  
13 Applications for Adjudicative Hearing.

14 Pursuant to RCW 34.05.440(3), Respondents Shawn D. Konecky and American Lending  
15 Corporation had seven (7) days from the date of service of the Order on Prehearing Conference to file  
16 a written motion with OAH requesting that the Order be vacated, and stating the grounds relied upon.  
17 Respondents Shawn D. Konecky and American Lending Corporation did not make a request to vacate  
18 during the statutory period. Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents Shawn D.  
19 Konecky and American Lending Corporation had twenty (20) days from the date of service of the  
20 Order on Prehearing Conference to file a Petition for Review of the Order with the Director.  
21 Respondents Shawn D. Konecky and American Lending Corporation did not file a Petition for Review  
22 during the statutory period.



1  
2 5. Respondents American Lending Corporation and Shawn D. Konecky shall maintain  
3 records in compliance with the Act and provide the Department with the location of  
4 the books, records, and other information relating to Respondents' mortgage broker  
business, and the name, address, and telephone number of the individual responsible  
for maintenance of such records in compliance with the Act.

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

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

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

18 D. Judicial Review. Respondents have the right to petition the superior court for  
19 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements  
20 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

21 E. Non-compliance with Order. If you do not comply with the terms of this order, the  
22 Department may seek its enforcement by the Office of Attorney General to include the collection of the  
23 fines and fees imposed herein. Financial obligations must be paid within 30 days of this Order.  
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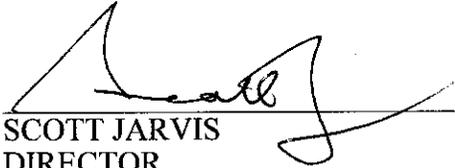
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F. Service. For purposes of filing a Petition for Reconsideration or a Petition for  
Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
attached hereto.

DATED this 18<sup>th</sup> day of June, 2008.



STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

  
SCOTT JARVIS  
DIRECTOR

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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-07-060-07-SC01

AMERICAN LENDING CORPORATION,  
SHAWN D. KONECKY, President,  
SCOTT H. KONECKY, Vice President, and  
LISA A. HILL, Secretary,

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO CEASE AND DESIST, IMPOSE  
FINE, PROHIBIT FROM INDUSTRY, AND  
COLLECT INVESTIGATION FEE

Respondents.

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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)<sup>1</sup>. 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 Respondents.**

A. **American Lending Corporation (American Lending)** of La Grande, Oregon, is registered with the Washington Secretary of State as a for-profit corporation incorporated in the State

<sup>1</sup> RCW 19.146 (1994)

1 of Oregon. American Lending has never been licensed as a mortgage broker in the State of  
2 Washington, and American Lending does not qualify for any exemption from the Act.

3       **B. Shawn D. Konecky (Shawn Konecky)** is President of American Lending Corporation  
4 and has never been licensed as a mortgage broker in the State of Washington.

5       ~~C. **Scott H. Konecky** is Vice President of American Lending Corporation and has never~~  
6 ~~been licensed as a mortgage broker in the State of Washington.~~

7       **D. Lisa A. Hill** is Secretary of American Lending Corporation and has never been licensed  
8 as a mortgage broker in the State of Washington.

9  
10 **1.2 Unlicensed Location.** Respondents are known to have conducted the business of a mortgage  
11 broker from 1202 Adams Avenue, La Grande, Oregon 97850. To date, Respondents have never  
12 applied for or received a license from the Department to conduct the business of a mortgage broker  
13 from that or any other location.

14 **1.3 Unlicensed Activity.** Between July 1, 2005, and August 1, 2005, Respondent American  
15 Lending assisted at least one (1) borrower in applying to obtain a residential mortgage loan on  
16 property located in the State of Washington from the unlicensed locations discussed in paragraph 1.2.

17 **1.4 Failure to Respond to Directives.** On October 17, 2006, the Department served a directive on  
18 Respondents American Lending and Shawn Konecky by Federal Express Overnight Delivery and by  
19 first class mail. This Directive required Respondents to provide a list of all residential mortgage loans  
20 made by American Lending for borrowers in the State of Washington, and several specific loan  
21 documents for each file. The deadline for providing these documents was on or before October 31,  
22 2006. Respondent Shawn Konecky telephoned the Department on October 17, 2006, and confirmed  
23 receipt of the Directive, but Respondents did not provide the required documents.  
24  
25

1 On January 10, 2007, the Department served a subpoena on Respondents American Lending  
2 and Shawn Konecky demanding production of the same documents requested in the Department's  
3 Directive of October 17, 2006. On January 12, 2007, Respondent Shawn Konecky telephoned the  
4 Department, confirmed receipt of the subpoena, and requested clarification of the specific documents  
5 the Department wanted. The Department provided this information, but Respondents did not provide  
6 the required documents. To date, Respondents have not provided the documents required by these  
7 directives.

8 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the  
9 Act by Respondents continues to date.

## 11 II. GROUNDS FOR ENTRY OF ORDER

12 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-  
13 010(29), "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of  
14 compensation or gain (a) makes a residential mortgage loan or assists a person in obtaining or  
15 applying to obtain a residential mortgage loan or (b) holds himself or herself out as being able to make  
16 a residential mortgage loan or assist a person in obtaining or applying to obtain a residential mortgage  
17 loan.

18 **2.2 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in  
19 Section I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the  
20 business of a mortgage broker without first obtaining and maintaining a license under the Act.

21 **2.3 Requirement to Comply with Directives.** Based on the Factual Allegations set forth in  
22 Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to comply with  
23 two directives issued by the Department.  
24  
25

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(2)(d)(i), the  
3 Director may issue orders directing a licensee, its employee or loan originator, or other person subject to  
4 the Act to cease and desist from conducting business in a manner that is injurious to the public or violates  
5 any provision of the Act.

6 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-  
7 165, the Director may impose fines on a licensee, employee or loan originator of the licensee, or other  
8 person subject to the Act for any violations of RCW 19.146.200 or failure to comply with a directive  
9 or order of the Director.

10 **3.3 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the  
11 Director may issue orders removing from office or prohibiting from participation in the conduct of the  
12 affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of  
13 any licensed mortgage broker or any person subject to licensing under the Act for any violation of  
14 RCW 19.146.200 or failure to comply with a directive or order of the Director.

15 **3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-  
16 060(4), and WAC 208-660-061, upon completion of any investigation of any person subject to the Act,  
17 the Department is entitled to collect an investigation fee calculated at the rate of forty-seven dollars and  
18 seventy-eight cents (\$47.78) per hour 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  
3 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose  
4 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and  
5 RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

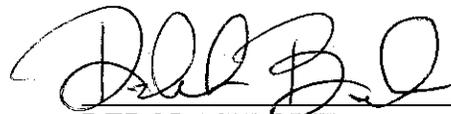
- 6 **4.1** Respondents American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A.  
7 Hill cease and desist conducting the business of a mortgage broker in the State of Washington;
- 8 **4.2** Respondents American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A.  
9 Hill jointly and severally pay a fine of \$9,000;
- 10 **4.3** Respondent American Lending Corporation be prohibited from participation in the conduct of the  
11 affairs of any mortgage broker subject to licensure by the Director, in any manner, for a period of  
12 five (5) years; and
- 13 **4.4** Respondent Shawn D. Konecky be prohibited from participation in the conduct of the affairs of  
14 any mortgage broker subject to licensure by the Director, in any manner, for a period of five (5)  
15 years; and
- 16 **4.5** Respondent Scott H. Konecky be prohibited from participation in the conduct of the affairs of any  
17 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;  
18 and
- 19 **4.6** Respondent Lisa A. Hill be prohibited from participation in the conduct of the affairs of any  
20 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;  
21 and
- 22 **4.7** Respondents American Lending Corporation, Shawn D. Konecky, Scott H. Konecky, and Lisa A.  
23 Hill jointly and severally pay an investigation fee in the amount of \$668.92 calculated at \$47.78  
24 per hour for the fourteen (14) staff hours devoted to the investigation; and
- 25 **4.8** Respondents maintain records in compliance with the Act and provide the Department with the  
location of the books, records and other information relating to Respondent American Lending  
Corporation's mortgage broker business, and the name, address and telephone number of the  
individual responsible for maintenance of such records in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist,  
3 Impose Fine, Prohibit from Industry, and Collect Investigation Fee (Statement of Charges) is entered  
4 pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and  
5 RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative  
6 Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF  
7 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
8 Statement of Charges.  
9

10 Dated this 26<sup>th</sup> day of September, 2007.  
11

12 

13 DEBORAH BORTNER  
14 Director  
15 Division of Consumer Services  
16 Department of Financial Institutions

17 Presented by:

18 

19 STEVEN C. SHERMAN  
20 Financial Legal Examiner



21 Approved by:

22 

23 JAMES R. BRUSSELBACK  
24 Enforcement Chief  
25