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

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

SHERMAN LEWIS UTLEY,
Respondent.

NO. C-07-126-08-FO01

FINAL ORDER

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 his designee, Consumer Services Division Director Deborah Bortner, pursuant to RCW 34.05.440(1). On December 17, 2007, 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 Application 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 December 18, 2007, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing. The Department served the Statement of Charges, cover letter dated December 18, 2007, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent on December 18, 2007, by first class mail and by Federal Express overnight delivery. On December 20, 2007, 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 as undeliverable.

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 Statement of Charges, cover letter dated December 18, 2007,
6 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative
7 Hearing, with documentation of 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

11 II. FINAL ORDER

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

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondent Sherman Lewis Utley's application for a loan originator license is denied;
16 and
- 17 2. Respondent Sherman Lewis Utley is banned from participation in the conduct of the
18 affairs of any mortgage broker subject to licensure by the Director, in any manner,
through December 12, 2013.

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 150
22 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
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1 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
2 Reconsideration a prerequisite for seeking judicial review in this matter.

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

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

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

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

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16 DATED this 28th day of February, 2008.



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18 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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21 DEBORAH BORTNER
22 DIRECTOR
23 DIVISION OF CONSUMER SERVICES

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

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

SHERMAN LEWIS UTLEY,

Respondent.

NO. C-07-126-07-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE APPLICATION
AND PROHIBIT FROM INDUSTRY

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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)¹. After having conducted an investigation pursuant to RCW 19.146.310, 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondent Sherman Lewis Utley (Respondent Utley) submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a loan originator license under Mortgage lending, Inc., a mortgage broker licensed under the Act. The on-line application was received by the Department on or about December 12, 2006.

1.2 Prior Criminal Acts. On or about August 23, 1994, Respondent Utley pled guilty in the Supreme Court of New York to the felony crime of Criminal Sale of a Controlled Substance.

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¹ RCW 19.146 (Amended 2006; Effective January 1, 2007)

1 **1.3 Responses to Application Questions.** The “Criminal Disclosure” section of the loan originator license
2 application consists of eight questions, and includes the following instruction:

3 “If the answer to any of the following is “YES”, provide complete details of all events or proceedings”
4 Respondent Utley answered “no” to the following question on the “Criminal Disclosure” section of his loan
5 originator license application:

- 6 • 1-Have you ever been convicted of or plead guilty or nolo contendere (“no contest”) in a
7 domestic, foreign, or military court to any felony?

8 Respondent Utley was obligated by statute to answer questions on the loan originator license application
9 truthfully and to provide the Department with complete details of all events or proceedings.

10 II. GROUNDS FOR ENTRY OF ORDER

11 **2.1 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent Utley
12 is in apparent violation of RCW 19.146.0201(8) and WAC 208-660-500(3)(i) for negligently making any false
13 statement or willfully making any omission of material fact in connection with any application or any
14 information filed by a licensee in connection with any application, examination or investigation conducted by
15 the Department.

16 **2.2 Requirement to Provide Information on License Application.** Based on the Factual Allegations set
17 forth in Section I above, Respondent Utley fails to meet the requirements of RCW 19.146.300(1) and (2) and
18 RCW 19.146.310(1)(b) by failing to provide an accurate and complete license application in the form
19 prescribed by the Director.

20 **2.3 Requirement to Demonstrate Character and General Fitness.** Based on the Factual Allegations set
21 forth in Section I above, Respondent Utley fails to meet the requirements of RCW 19.146.310(1)(g) and WAC
22 208-660-350(2)(a) by failing to demonstrate character and general fitness such as to command the confidence of
23 the community and to warrant a belief that the business will be operated honestly and fairly within the purposes
24 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 19.146.220(1), the
3 Director may deny licenses to loan originators. Pursuant to RCW 19.146.310(2) and WAC 208-660-350(7), the
4 Director shall not issue a loan originator license if the conditions of RCW 19.146.310(1) have not been met by
5 the applicant, and shall notify the loan originator applicant and any mortgage brokers listed on the application
6 of the denial.

7 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5)(a), the Director may issue
8 orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed
9 mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker
10 or any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9).

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

12 Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
13 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
14 for the entry of an Order under RCW 19.146.220, RCW 19.146.221, RCW 19.146.223, and RCW 19.146.310.

15 Therefore, it is the Director's intention to ORDER that:

16 **4.1** Respondent Sherman Lewis Utley's application for a loan originator license be denied.

17 **4.2** Respondent Sherman Lewis Utley be prohibited from participation in the conduct of the affairs of any
18 mortgage broker subject to licensure by the Director, in any manner, through December 12, 2013.

19 **V. AUTHORITY AND PROCEDURE**

20 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and
21 Prohibit from Industry (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220,
22 RCW 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
23 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in
24 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
25 Statement of Charges.

1 Dated this 17th day of December, 2007.

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4 DEBORAH BORTNER
5 Director
6 Division of Consumer Services
7 Department of Financial Institutions

8 Presented by:
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11 STEVEN C. SHERMAN
12 Financial Legal Examiner



13 Approved by:
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16 FATIMA BATHIE
17 Financial Legal Examiner Supervisor

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