

TERMS COMPLETE

CONSENT ORDER SUMMARY - Case Number: C-09-065

Name(s) Ameripath Mortgage Corporation

Order Number C-09-065-10-CO01

Effective Date April 22, 2010

License Number DFI: 24315 NMLS ID: 2907

License Effect Department accepts voluntary surrender

Not Apply until April 22, 2015

Prohibition/Ban until April 22, 2015

Investigation Costs	\$1,242.18	Due	Paid Y	Date: 4/21/2010
----------------------------	------------	-----	--------	-----------------

Assessment(s)	\$	Due	Paid Y N	Date
----------------------	----	-----	----------	------

Monetary Penalty	\$48,757.82	Due	Paid Y	Date: 4/21/2010
-------------------------	-------------	-----	--------	-----------------

Other Restitution of \$2,315.69 paid

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

NO. C-09-065-10-CO01

AMERIPATH MORTGAGE CORPORATION,

CONSENT ORDER

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Ameripath Mortgage Corporation (hereinafter Respondent), 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 31.04 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-09-065-09-SC01 (Statement of Charges), entered August 3, 2009, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan 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. Respondent is agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

CONSENT ORDER
AMERIPATH MORTGAGE CORPORATION
C-09-065-10-CO01

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Based upon the foregoing:

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

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

C. **No Admission of Liability.** It is AGREED that the parties intend this Consent Order to fully resolve the Statement of Charges and that Respondent does not admit to any wrongdoing by its entry. This Consent Order shall not be considered by the Department in processing any license application by any principal or officer of Respondent.

D. **License Surrender.** It is AGREED that the Department will accept Respondent's voluntary surrender of its license to conduct business as a consumer loan company.

E. **Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$48,757.82 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

F. **Prohibition from Industry.** It is AGREED that Respondent is prohibited from participating in the conduct of the affairs of any consumer loan company licensed by the Department or subject to licensing by the Department, in any manner, for five years from the date of entry of this Consent Order.

G. **Restitution.** It is AGREED that Respondent has paid restitution to borrower W.K., loan #X0003182, in the amount of \$2,315.69, and has provided the Department with proof of payment.

1 **H. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an
2 investigation fee of \$1,242.18 in the form of a cashier's check made payable to the "Washington State
3 Treasurer" upon entry of this Consent Order. Respondent may pay both the fine and investigation fee in
4 the form of a single cashier's check made payable to the "Washington State Treasurer" upon entry of this
5 Consent Order.

6 **I. Authority to Execute Order.** It is AGREED that Respondent's Chief Executive Officer has
7 represented and warranted that he has the full power and right to execute this Consent Order on behalf of
8 the Respondent.

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

14 **K. Voluntarily Entered.** It is AGREED that Respondent's Chief Executive Officer has
15 voluntarily entered into this Consent Order on behalf of Respondent, which is effective when signed by
16 the Director's designee.

17 **L. Completely Read, Understood, and Agreed.** It is AGREED that Respondent's Chief
18 Executive Officer has read this Consent Order in its entirety and fully understands and agrees to all of the
19 same on behalf of Respondent.

20 //
21 //
22 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RESPONDENT:

Ameripath Mortgage Corporation

By:

[Redacted Signature]

Kirk Redding
Chief Executive Officer

4/15/2010
Date

[Redacted Signature]

Joel Watkins, WSBA #10957
Mikkelborg Broz Wells & Fryer PLLC
Attorney at Law
Attorney for Respondent

4/19/2010
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 22nd DAY OF April, 2010.



[Redacted Signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted Signature]

STEVEN C. SHERMAN
Financial Legal Examiner

Approved by:

[Redacted Signature]

JAMES R. BRUSSELBACK
Enforcement Chief

1
2
3
4
5
6
7
8

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

9
10
11
12
13
14

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

15
16
17
18
19
20

AMERIPATH MORTGAGE
CORPORATION,

21
22
23
24
25

Respondent.

NO. C-09-065-09-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE OR SUSPEND
LICENSE, PROHIBIT FROM INDUSTRY,
IMPOSE FINE, ORDER RESTITUTION,
AND COLLECT INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, 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. Ameripath Mortgage Corporation (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on May 7, 2003, and has continued to be licensed to date. Respondent is licensed to conduct business as a Consumer Loan Company from one location at 6104 Oak Canyon, Suite 200, Irvine, California.

1.2 Reports of Examination. From January 12 through January 16, 2009, the Department conducted an examination of Respondent's business practices. The Department's examiners reviewed 57 residential mortgage loan files.

1 **1.3 Failure to Properly Provide Good Faith Estimate Disclosures.** In 25 loans, Respondent did
2 not provide Good Faith Estimate Disclosures within three business days of receiving an application
3 from borrowers.¹ In two of these loans, Respondent did not properly complete the Good Faith
4 Estimate Disclosure and listed Respondent's broker fee at line 801. Failure to timely provide Good
5 Faith Estimate Disclosures is a repeat violation from Respondent's previous examination in 2005,
6 which Respondent had previously acknowledged.

7 **1.4 Failure to Provide Accurate Truth in Lending Act Disclosures.** In ten loans, Respondent
8 did not provide Truth-in-Lending Act Disclosures within three business days of receiving an
9 application from borrowers.² This is a repeat violation from Respondent's previous examination in
10 2005, which Respondent had previously acknowledged.

11 **1.5 Charging Unlawful Fees.** In two loans, Respondent charged an "Admin Fee" on junior lien
12 mortgage loans. In two other loans, Respondent charged a loan origination fee in excess of the
13 amount permitted by the Act.

14 **1.6 Failure to Provide One-Page Disclosure Summary.** In each of the 11 reviewed loans
15 Respondent originated after June 12, 2008, Respondent did not provide the one-page disclosure
16 summary required by chapter 19.144 RCW.

17 **1.7 Failure to Properly Provide RESPA Servicing Disclosures.** In 16 loans, Respondent did not
18 provide a RESPA Servicing Disclosure within three business days of receiving a borrower's
19 application. In one additional loan, Respondent did not date the RESPA Servicing Disclosure, and in
20 another loan, Respondent either did not provide the disclosure or did not maintain a copy of the
21 disclosure in the file.

23 ¹ In 24 of these loans, three business days was measured from the date of the credit report.

24 ² Three business days measured from the date of the credit report.

1 **1.8 On-Going Investigation.** The Department's investigation into the alleged violations of the
2 Act by Respondent continues to date.

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

4 **2.1 Requirement to Provide Timely and Accurate Good Faith Estimate Disclosures and**
5 **Truth-in-Lending Disclosures.** Based on the Factual Allegations set forth in Section I above,
6 Respondent is in apparent violation of RCW 31.04.027(2), (6), and (10), RCW 31.04.102(2) and (3),
7 WAC 208-620-510, 24 C.F.R. Section 3500.21(b)(1) [Regulation X], and 12 C.F.R. Section 226.5b
8 [Regulation Z] for failing to provide timely and accurate Good Faith Estimate Disclosures and Truth-
9 in-Lending Disclosures.

10 **2.2 Charging Unlawful Fees.** Based on the Factual Allegations set forth in Section I above,
11 Respondent is in apparent violation of RCW 31.04.027(2) and (3) and RCW 31.04 105(2) for charging
12 "Admin Fees" on junior mortgages.

13 **2.3 Requirement to Provide One-Page Disclosure Summary.** Based on the Factual Allegations
14 set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2) and (6) for
15 failing to provide the one-page disclosure summary required by Chapter 19.144 RCW.

16 **2.4 Requirement to Properly Provide RESPA Servicing Disclosures.** Based on the Factual
17 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2),
18 (6), and (10) and 24 C.F.R. §3500.21(b)(1) [Regulation X], for failing to properly provide RESPA
19 Servicing Disclosures.

20 **2.5 Requirement to Retain Records.** Based on the Factual Allegations set forth in Section I
21 above, Respondent is in apparent violation of RCW 31.04.155 for failing to maintain records for at
22 least 25 months after making the final entry in the loan.

1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Revoke or Suspend License.** Pursuant to RCW 31.04.093(3)(b), the Director
3 may revoke or suspend a license for either knowingly or without the exercise of due care violating any
4 provision of the Act or the rules adopted thereunder.

5 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), the Director
6 may issue an order prohibiting from participation in the affairs of any licensee, any officer, principal,
7 employee, or any other person subject to the Act for any violation of RCW 31.04.027.

8 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
9 up to one hundred dollars per day upon the licensee, its employee, or any other person subject to the
10 Act for any violation of the Act.

11 **3.4 Authority to Order Restitution.** Pursuant to RCW 31.04.093(5), the Director may issue an
12 order directing a licensee, its employee, or any other person subject to the Act to make restitution to a
13 borrower or other person who is damaged as a result of a violation of the Act.

14 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-
15 590, every licensee investigated by the Director or the Director's designee shall pay for the cost of the
16 investigation, calculated at the rate of \$69.01 per staff hour devoted to the investigation.

17 //

18 //

19 //

20 //

21 //

22 //

23 //

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

2 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 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 31.04.093, RCW 31.04.165, and RCW
5 31.04.205. Therefore, it is the Director's intention to ORDER that:

6 **4.1** Respondent Ameripath Mortgage Corporation's license to conduct business as a consumer loan
7 company in Washington be revoked or suspended;

8 **4.2** Respondent Ameripath Mortgage Corporation be prohibited from participation in the conduct of
9 the affairs of any licensed consumer loan company, in any manner, for a period of five years;

10 **4.3** Respondent Ameripath Mortgage Corporation pay a fine which as of the date of these charges
11 totals \$50,000;

12 **4.4** Respondent Ameripath Mortgage Corporation pay restitution to borrower J.K., loan #X0003182,
13 in the amount of \$2,315.69;

14 **4.5** Respondent Ameripath Mortgage Corporation pay an investigation fee which as of the date of
15 these charges totals \$1,242.18, calculated at \$69.01 per hour for 18 staff hours devoted to the
16 investigation to date; and

17 **4.6** Respondent Ameripath Mortgage Corporation maintain records in compliance with the Act and
18 provide the Director with the location of the books, records, and other information relating to
19 Respondent's consumer loan company business, and the name, address, and telephone number of the
20 individual responsible for maintenance of such records in compliance with the Act.

21 //

22 //

23 //

24 //

25 //

//

//

//

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke or Suspend
3 License, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee
4 (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165,
5 RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The
6 Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in
7 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
8 accompanying this Statement of Charges.

9
10 Dated this 3rd day of August, 2009.

11 
12 DEBORAH BORTNER
13 Director
14 Division of Consumer Services
15 Department of Financial Institutions

16 Presented by:

17 
18 STEVEN C. SHERMAN
19 Financial Legal Examiner



20 Approved by:

21 
22 JAMES R. BRUSSELBACK
23 Enforcement Chief