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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 Consumer Loan Act of Washington by:

No.: C-10-428-11-FO01

FINAL ORDER

KENNETH MARC MOSS,

Respondent.

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I. DIRECTOR'S CONSIDERATION

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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 January 19, 2011, 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 Renewal, 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 January 19, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Respondent Kenneth Marc Moss (Respondent). The Department served the Statement of Charges, cover letter, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent by Federal Express overnight delivery and United States Postal Service First-Class mail (First-Class mail). On January 20, 2011, 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.

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 following: Statement of Charges, cover letter, Notice of  
6 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing  
7 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 being  
12 otherwise fully advised, NOW, THEREFORE:

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent Kenneth Marc Moss' application for a license to conduct the business  
15 of an Loan Originator is denied; and
- 16 2. Respondent Kenneth Marc Moss be prohibited from participation in the conduct of  
the affairs of a licensed consumer loan company until November 19, 2017.

17 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a  
18 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition  
19 must be filed in the Office of the Director of the Department of Financial Institutions by courier at  
20 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,  
21 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The  
22 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for  
23 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 Judicial  
11 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
12 attached hereto.

13 DATED this 7th day of March, 2011



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16 STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

17   
18 DEBORAH BORTNER  
19 Director  
20 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  
Consumer Loan Act of Washington by:

NO. C-10-428-10-SC01

KENNETH MARC MOSS,

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO DENY LICENSE  
RENEWAL AND PROHIBIT FROM INDUSTRY

Respondent.

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**INTRODUCTION**

Pursuant to 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 31.04.247, 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 Kenneth Marc Moss (Respondent)** was licensed by the Department as a mortgage loan originator on or about July 16, 2010. Respondent applied to renew his license on or about November 19, 2010. However, Respondent's license expired on December 31, 2010.

**1.2 Prior Criminal Acts.** On or about April 11, 2007, Respondent was charged under California State, Orange County Court Cause No. 07HF0766 with one count of Possession of a Controlled Substance<sup>1</sup>, a felony pursuant to California Health and Safety Code Section 11377(a).

**1.3** On or about April 17, 2007, Respondent was charged under California State, Orange County Court Cause No. 07HF0776 with one count of Possession of a Controlled Substance<sup>2</sup>, a felony pursuant to California Health and Safety Code Section 11377(a).

<sup>1</sup> Respondent was also charged with two misdemeanors that are not relevant to this Statement of Charges.

<sup>2</sup> Respondent was also charged with an enhancement related to bail that is not relevant to this Statement of Charges and was dismissed when Respondent was convicted of the possession charge.

1 **1.4** On or about April 25, 2007, Respondent was charged under California State, Orange County  
2 Court Cause No. 07HF0884 with one count of Possession of a Controlled Substance<sup>3</sup>, a felony pursuant to  
3 California Health and Safety Code Section 11377(a).

4 **1.5** On or about June 21, 2007, Respondent was convicted under California State, Orange County  
5 Court Cause No. 07HF0766 of one count of Possession of a Controlled Substance. See paragraph 1.2  
6 above.

7 **1.6** On or about June 21, 2007, Respondent was convicted under California State, Orange County  
8 Court Cause No. 07HF0776 of one count of Possession of a Controlled Substance. See paragraph 1.3  
9 above.

10 **1.7** On or about June 21, 2007, Respondent was convicted under California State, Orange County  
11 Court Cause No. 07HF0884 of one count of Possession of a Controlled Substance. See paragraph 1.4  
12 above.

13 **1.8 Failure to Disclose in Renewal Application for Licensure.** The "Criminal Disclosure" section  
14 of the loan originator license renewal application consists of eight questions.  
15 Respondent answered "no" to the following questions on the "Criminal Disclosure" section of his loan  
16 originator license application:

- 17 • 1-Have you ever been convicted of or plead guilty or nolo contendere ("no contest") in a  
18 domestic, foreign, or military court to any felony?

19 Respondent was obligated by statute to answer questions on the loan originator license application  
20 truthfully and to provide the Department with complete details of all events or proceedings. Respondent  
21 did not do so.

## 22 **II. GROUNDS FOR ENTRY OF ORDER**

23 **2.1 Requirement of No Prior Convictions.** Based on the Factual Allegations set forth in Section I  
24 above, Respondent fails to meet the requirements of RCW 31.04.251, RCW 31.04.247(1)(d) and WAC  
25 208-620-710(4)(c) by having been convicted of, or having pled guilty or nolo contendere to, a felony in a

<sup>3</sup> Respondent was also charged with two enhancements related to bail that are not relevant to this Statement of Charges. These were dismissed when Respondent plead guilty to the possession charge.

1 domestic, foreign, or military court: (i) during the seven-year period preceding the date of the application  
2 for licensing and registration; or (ii) at any time preceding the date of application, if the felony involved  
3 an act of fraud, dishonesty, breach of trust, or money laundering.

4 **2.2 Requirement to Provide Information on License Application.** Based on the Factual  
5 Allegations set forth in Section I above, Respondent fails to meet the requirements of RCW 31.04.251,  
6 RCW 31.04.241(2) and RCW 31.04.027(8) by failing to provide an accurate and complete license  
7 application in the form prescribed by the Director.

8 **2.3 Requirement to Demonstrate Financial Responsibility, Character, and General Fitness.**  
9 Based on the Factual Allegations set forth in Section I above, Respondent fails to meet the requirements  
10 of RCW 31.04.251, RCW 31.04.247(1)(e) and WAC 208-620-710 by failing to demonstrate financial  
11 responsibility, character, and general fitness such as to command the confidence of the community and to  
12 warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently  
13 within the purposes of the Act.

### 14 III. AUTHORITY TO IMPOSE SANCTIONS

15 **3.1 Authority to Deny Renewal Application for Loan Originator License.** Pursuant to RCW  
16 31.04.251, RCW 31.04.247(2), the Director shall not issue a mortgage loan originator license if the  
17 director finds the conditions of RCW 31.04.247 have not been met.

18 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6), the Director may issue  
19 an order removing from office or prohibiting from participation in the affairs of any licensee, or both any  
20 officer, principal, employee, or loan originator, or any person subject to the act.

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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 set  
3 forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions,  
4 constitute a basis for the entry of an Order under RCW 31.04.165, RCW 31.04.205, and RCW 31.04.247.

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

6 **4.1** Respondent Kenneth Marc Moss's application for a loan originator license be denied; and

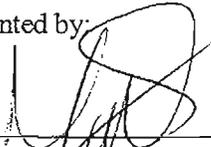
7 **4.2** Respondent Kenneth Marc Moss be prohibited from participation in the conduct of the affairs of a  
8 licensed consumer loan company until November 19, 2017.

9 **V. AUTHORITY AND PROCEDURE**

10 This Statement of Charges is issued pursuant to the provisions of RCW 31.04.165, RCW  
11 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW, the  
12 Administrative Procedure Act. Respondent may make a written request for a Brief Adjudicative  
13 Proceeding as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR  
14 BRIEF ADJUDICATIVE PROCEEDING accompanying this Statement of Charges.

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16 Dated this 19<sup>th</sup> day of January 2011

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18 DEBORAH BORTNER  
19 Director  
20 Division of Consumer Services  
21 Department of Financial Institutions

22 Presented by:   
23 MARNIE SHEERAN  
24 Financial Legal Examiner

25 Approved by:   
FATIMA BATIE  
Financial Legal Examiner Supervisor

