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OFFICE OF  
INSURANCE COMMISSIONER

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OIC HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

BEFORE THE STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of	)	Docket No: 14-0023
	)	
<b>STEVEN W. LUSA,</b>	)	OIC HEARING MEMORANDUM
	)	
Applicant.	)	
_____	)	

**I. FACTS**

1. On January 16, 2014, the Insurance Commissioner ("OIC") informed STEVEN W. LUSA ("Mr. Lusa") via e-mail that his application for a Washington resident insurance producer's license had been denied. The denial was based upon two disciplinary actions that were taken against Mr. Lusa by the Department of Financial Institutions ("DFI"). The DFI actions resulted in the revocation of Mr. Lusa's escrow agent license and the denial of Mr. Lusa's application for a loan originator license, respectively. The DFI revocation and denial and the underlying facts thereof are the basis for OIC's denial of Mr. Lusa's license. The facts of the DFI actions, as set forth in DFI's adjudicative decisions, are summarized below.

2. VINTAGE ESCROW d/b/a BELLEVUE ESCROW ("Vintage") was licensed by DFI to conduct business as an escrow agent on May 17, 1996, and was licensed until December 31, 2007, when its license expired. Mr. Lusa was also the licensed Designated Escrow Officer for Vintage until his license expired on May 17, 2007. DFI examined Vintage's books and records, ultimately determining that Vintage operated without a licensed Designated Escrow Officer from May 17, 2007, through March 13, 2008.

3. DFI determined that Vintage received four Notices of Insufficient Funds and/or Overdraft from its bank between January and July 2006, and that Mr. Lusa failed to ensure that deposits were at least equal to disbursements on one of the agency's trust accounts. Furthermore, two of the trust accounts were not reconciled monthly, and Mr. Lusa and Vintage never provided the bank statements for the accounts despite DFI's request for the same. Also, DFI's examination uncovered \$6,000 in trust funds that had not been disbursed as of late February 2008, even though Vintage stopped taking new business when its license expired December 31, 2007. At the same time, following up on a previous citation, DFI determined that Mr. Lusa did not adequately explain Vintages' failure to immediately disburse trust funds from a previous escrow transaction in February 2007.



1 4. DFI presented its case at hearing before an administrative law judge (“ALJ”) of  
2 the Office of Administrative Hearings. Mr. Lusa appeared and represented himself and  
3 Vintage. The ALJ made numerous findings of fact and conclusions of law that substantiated  
4 DFI’s allegations, and revoked the licenses of both Mr. Lusa and Vintage while imposing a  
5 substantial fine in an Initial Order of May 20, 2011. DFI’s Director issued the agency’s Final  
6 Decision on April 17, 2012, modifying and upholding the ALJ’s decision.

7 5. In DFI’s Final Decision, at Finding of Fact 26, the Director found that  
8 “the Department concluded that **Respondents’ violations were serious ones,**  
9 **since they reflect breaches in the fiduciary duties entrusted to escrow agents**  
10 **and escrow officers, duties that are set forth in detail in the Act. For example,**  
11 **practicing without a designated escrow officer license is a violation that can**  
12 **be prosecuted as a misdemeanor. The Department further concluded that there**  
13 **were a number of such violations over a significant period of time that reflect**  
14 **Respondents’ failure to properly manage the trust bank accounts, and**  
15 **therefore were not one-time errors or lapses in judgment. And though the**  
16 **Department acknowledges that Respondents’ violations do not reflect any fraud or**  
17 **deceptive practice, the nature of Respondents’ conduct represents a breach in**  
18 **the trust placed in escrow agents and officers, which is codified in the Act.**  
19 **Finally, the fact that there was a \$6,000.00 remaining in one of Respondents’**  
20 **escrow accounts, which should have been promptly disbursed upon closing**  
21 **raised the question of Respondents’ competence to perform as escrow agents**  
22 **and officers.”**

23 [OIC Exhibit 1-A, page 9, para. 4.8] (emphasis added).

24 6. Ultimately, DFI’s Final Decision revoked the licenses of both Mr. Lusa and  
25 Vintage, banned them from the escrow agent industry for five years, and imposed on them both  
26 a \$27,000 fine and more than \$17,000 in examination and investigation fees, which remain  
unpaid. Although the Final Decision explicitly stated Mr. Lusa’s right to petition for  
reconsideration or for judicial review, Mr. Lusa did not do so.

7. Mr. Lusa was also investigated by DFI for conduct relating to his operation of  
Western States Mortgage Corp. (“WSMC”). Mr. Lusa was the owner and the licensed  
mortgage broker of WSMC.

8. At hearing based upon a Statement of Changes filed by DFI in 2009, an ALJ  
found that Mr. Lusa had solicited loan originators by stating in a September 2006 email that no  
Washington license was required to work for WSMC. Furthermore, the ALJ determined that  
Mr. Lusa and WSMC knowingly withheld information during DFI’s investigation of the  
erroneous email exchange, and that the email itself constituted an unfair or deceptive practice.

9. The ALJ also found that Mr. Lusa’s company, WSMC, through loan originator  
Troy Bowers, Mr. Lusa’s employee, had not provided required documents and disclosures to  
WSMC borrower Carol Wade in 2005. In particular, WSMC did not disclose a yield spread  
premium nor provide the required Truth-in-Lending Disclosure Statement. Moreover, while

1 Ms. Wade had requested that WSMC obtain her a fixed-rate loan without prepayment  
2 penalties, WSMC instead signed her up for a variable rate loan that was subject to prepayment  
3 penalties without disclosing the discrepancy to Ms. Wade. Furthermore, WSMC, through Mr.  
4 Bowers, arranged a second mortgage on Ms. Wade's property without her consent and without  
5 any Good Faith Estimate or Trust-in-Lending disclosures. As a result, Ms. Wade was forced to  
6 refinance her mortgages, incurring an \$8,360.96 prepayment penalty, on top of an increased  
7 loan origination fee and an appraisal fee, which were not disclosed to her. When DFI  
8 investigated Ms. Wade's complaint, WSMC and Mr. Lusa denied any wrongdoing and did not  
9 provide an adequate response to DFI's 2006 request for documents from Ms. Wade's loan file.

10 10. The ALJ further found that WSMC, d/b/a Residential Capital Corp., arranged a  
11 loan for WSMC borrower Carole Schroeder, instructing Ms. Schroeder to make payments to  
12 WSMC. However, WSMC sold Ms. Schroeder's loan to Countrywide Home Loans, Inc.  
13 ("Countryside"), without ever informing Ms. Schroeder of the sale or telling her to make her  
14 payments to Countryside. Accordingly, Ms. Schroeder made her loan payments to WSMC for  
15 several months, and WSMC cashed each of her checks without forwarding any payments to  
16 Countryside. Ms. Schroeder only learned of the error when her credit report showed  
17 delinquencies to Countryside, despite having made each monthly payment as instructed by  
18 WSMC. While Mr. Lusa and WSMC admitted in correspondence with the Better Business  
19 Bureau and Countryside that the payments were not forwarded, Mr. Lusa and WSMC never  
20 responded to DFI's February 2009 directive requiring the production of Ms. Schroeder's loan  
21 file and documents for DFI's investigation.

22 11. The ALJ's October 12, 2010, Initial Order denied a loan originator's license to  
23 Mr. Lusa, banned WSMC and Mr. Lusa from practicing in the mortgage broker industry for  
24 five years, imposed fines and investigative fees on both in the amount of \$37,500 and  
25 \$3,504.00, respectively, and ordering Mr. Lusa and WSMC to pay restitution to Ms. Wade in  
26 the amount of \$16,638.40.

12. Upon review, the Director of DFI found that Mr. Lusa had adequate notice and  
opportunity to be heard, and that no evidence in the record supported Mr. Lusa's claims of  
failing to receive the notice of hearing or of substantive error by the ALJ. Accordingly, the  
Director entirely affirmed the ALJ's findings and decision, and upheld the denial, prohibition  
from practice as a mortgage broker, fines imposed, and restitution to Ms. Wade required in his  
Final Decision of December 5, 2010. Although the Final Decision explicitly stated Mr. Lusa's  
right to petition for reconsideration or for judicial review, Mr. Lusa did not do so.

## II. ARGUMENT AND AUTHORITY

### A. Statutory Authority For Denial of License

OIC denied Mr. Lusa's domestic insurance producer license application pursuant to  
RCW 48.17.530(1)(i) and RCW 48.17.530(1)(h). OIC expects the evidence at hearing to  
amply support the denial of Mr. Lusa's license under either alternative ground.

1           1.       RCW 48.17.530(1)(i).

2           RCW 48.17.530(1)(i) gives OIC the authority to deny an application if the applicant  
3 has had an insurance producer's license, or its equivalent, denied, suspended, or revoked in any  
4 state. OIC properly denied Mr. Lusa's application pursuant to RCW 48.17.530(1)(i) because  
5 DFI had previously revoked Mr. Lusa's escrow agent license, and denied Mr. Lusa's  
6 application for a loan originator license, respectively, which are "equivalent" to an insurance  
7 producer's license.

8           2.       RCW 48.17.530(1)(h).

9           RCW 48.17.530(1)(h) gives OIC the authority to deny an application if the applicant  
10 used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence,  
11 untrustworthiness, or financial irresponsibility in this state or elsewhere. OIC properly denied  
12 Mr. Lusa's application because Mr. Lusa's conduct, and that of the employees he was  
13 responsible for supervising, which were the bases for DFI's revocation and denial of his  
14 escrow agent and loan originator/mortgage broker licenses, demonstrate at least incompetence,  
15 untrustworthiness and/or financial irresponsibility.

16       **B.    Argument**

17           1.       Loan Originator and Escrow Agent Licenses Are "Equivalent" to An Insurance  
18 Producer's License Under RCW 48.17.530(1)(i).

19           There are many similarities in the licensing and regulation of loan originators, who are  
20 mortgage brokers regulated by Chapter 19.146 RCW, escrow agents, regulated by Chapter  
21 18.44 RCW, and insurance producers, regulated under Chapter 48.17 RCW. Like loan  
22 originators and escrow agents, insurance producers must be licensed to practice their  
23 profession. RCW 48.17.060; RCW 18.44.021; RCW 19.146.200. Escrow agents and  
24 mortgage brokers, like insurance producers, must carefully manage funds in a fiduciary  
25 capacity, prevent commingling, and promptly pay such funds to the person that is entitled to  
26 them. RCW 18.44.400; RCW 19.146.050; RCW 48.17.480; RCW 48.17.600. Insurance  
27 producers must keep careful records, and respond to requests by OIC concerning said records.  
28 RCW 48.17.470-.475. Similarly, mortgage brokers and escrow agents must keep accurate and  
29 detailed records, and make them available to the Director of DFI. RCW 19.146.060; RCW  
30 18.44.400. Most importantly, each profession involves extensive dealings with consumers and  
31 involves a vital public interest. RCW 19.146.005; RCW 18.44.450; RCW 48.01.030. Given  
32 the similarities between the professions and the regulation thereof, the licenses revoked by DFI  
33 are the "equivalent" of an insurance producer license under Chapter 48.17 RCW.

34           2.       Mr. Lusa is Legally Responsible for the Conduct of his Employees.

35           Mr. Lusa argues that RCW 48.17.530(1)(h) does not apply to him because the conduct  
36 relied on by DFI was allegedly done by his employees, and not Mr. Lusa personally. However,  
37 by statute, Mr. Lusa is responsible for the conduct of his employees that gave rise to the two

1 DFI actions. Pursuant to RCW 19.146.245, “[a] licensed mortgage broker is liable for any  
2 conduct violating this chapter by the designated broker, a loan originator, or other licensed  
3 mortgage broker while employed or engaged by the licensed mortgage broker.” Similarly, a  
4 designated escrow officer, like Mr. Lusa, “shall bear responsibility for supervision of all other  
5 licensed escrow officers or other persons performing escrow transactions at a branch escrow  
6 office.” RCW 18.44.071. Additionally, “[t]he designated escrow officer shall be responsible  
7 for that agent’s handling of escrow transactions, management of the agent’s trust account, and  
8 supervision of all other licensed escrow officers employed by the agent.” *Id.* Thus, even if  
9 Mr. Lusa was “not personally involved” in the transactions, his employees undisputedly were  
10 involved, and therefore, as their employer and supervisor, he is fully liable for their conduct  
under the governing statutes. Moreover, Mr. Lusa states that he does “accept responsibility for  
Mr. Bower’s actions because he was WSMC’s employee.” (OIC Exhibit 4, page 5.) Given  
this concession, along with the statutory authority, Mr. Lusa’s failure to ensure that his  
employees followed the law in his previous occupations of mortgage broker and escrow agent,  
along with the refusal to take the responsibility for his employees’ actions, provides a valid and  
sufficient basis to uphold the denial of Mr. Lusa’s insurance producer’s license on the grounds  
of untrustworthiness, financial irresponsibility, and/or incompetence. *See* RCW 48.17.530(h).

11 3. The Conduct of Mr. Lusa and His Employees Demonstrates Incompetence,  
12 Untrustworthiness, and Financial Irresponsibility as Contemplated by RCW 48.17.530(1)(h).

13 The conduct for which DFI denied Mr. Lusa a loan originator license and revoked his  
14 escrow agent license, respectively, establishes at least his incompetence, untrustworthiness or  
15 financial irresponsibility. In both actions, DFI entered detailed factual findings establishing the  
16 basis for its actions against Mr. Lusa and his companies, which are also the basis for OIC’s  
17 decision in this matter. As Mr. Lusa could have, but did not, appeal the final agency order in  
either DFI case, he should not be allowed to re-litigate or otherwise contest the determinations  
made by DFI for either order now.<sup>1</sup>

18 In his capacity as escrow agent, Mr. Lusa and his employees mismanaged trust fund  
19 accounts to a degree that the violations “were serious ones, since they reflect breaches in the  
20 fiduciary duties entrusted to escrow agents and escrow officers,” and thus “were not one-time  
21 errors or lapses in judgment.” (OIC Exhibit 1A, page 9, para. 4.8.) Similarly, “practicing  
22 without a designated escrow officer license is a violation that can be prosecuted as a  
misdemeanor.” *Id.* Furthermore, the failure to properly disburse trust funds caused DFI to  
directly question Mr. Lusa’s “competence.” *Id.* Thus, DFI’s findings about Mr. Lusa’s  
conduct of his escrow agent business demonstrates at least the requisite incompetence,  
untrustworthiness or financial irresponsibility for denying him a license here.

23 While acting as a mortgage broker, Mr. Lusa and his employees at WSMC also  
24 demonstrated incompetence, financial irresponsibility, and untrustworthiness. His company

25 <sup>1</sup> “Res judicata applies to the quasi-judicial decision of an administrative tribunal,” precluding re-  
26 litigation when the decision has become final. *In re Marriage of Aldrich*, 72 Wn. App. 132, 138 (1993) (citations  
omitted); *see also* RCW 34.05.542(2) (decision final 30 days after party does not appeal an agency’s final order).

1 sold Ms. Schroeder's loan without telling her to make payments to the new debt holder,  
2 Countryside. Instead, WSMC cashed checks and kept funds it was not entitled to for months,  
3 which was only discovered when the resulting loan delinquencies so damaged Ms. Schroeder's  
4 credit rating that she independently investigated the matter. Furthermore, WSMC arranged a  
5 second mortgage for Ms. Wade that she did not consent to, arranged the first mortgage on  
6 terms Ms. Wade did not agree to, and did not provide the disclosures required by state and  
7 federal law, which resulted in prepayment penalties and other damage when Ms. Wade was  
8 forced to refinance. Moreover, Mr. Lusa misled loan originators when he stated a Washington  
9 license was not required to work for WSMC, based on a proposed rule that was not in effect on  
10 the date he sent the email in question.

11 Moreover, there is little mitigating evidence to counterbalance Mr. Lusa's history of  
12 financial mismanagement. In Mr. Lusa's Demand for Hearing, Mr. Lusa claimed that he has  
13 practiced in the area of "WA Real Estate Broker," "OR Real Estate Broker," "Escrow Officer,"  
14 "WA Mortgage Broker," and "WA Consumer Lending," and notes that "verification of each  
15 can be found on the website of the agency overseeing each." (OIC Exhibit 4, pages 5-6.)  
16 However, a simple search of the applicable agency websites for Washington and Oregon,  
17 documented in OIC Exhibit 5, demonstrates that none of the professional licenses are still in  
18 effect. As noted above, his escrow officer license was revoked, his loan originator license was  
19 denied, his Washington real estate broker license was apparently cancelled in 2011, and no  
20 other records of any other Washington or Oregon licensure appear on the respective websites.  
21 Mr. Lusa's own practice record shows that he is no longer licensed in any of the professions he  
22 identified as being relevant to his license. This fact further supports OIC's decision to not  
23 issue Mr. Lusa yet another license with similar regulatory and supervision requirements.

### 24 **III. CONCLUSION**


25 Mr. Lusa violated the law and regulatory standards in his former occupations as  
26 mortgage broker/loan originator and escrow agent, causing actual financial harm to consumers  
in the process. His conduct was sufficiently inappropriate that DFI revoked or denied him the  
ability to practice either profession. However, he currently denies that customers were harmed  
and erroneously claims that certain violations should not be considered here because his  
employees performed some of the misconduct in question. Given the pattern of serious  
misconduct identified by DFI, and taking into account Mr. Lusa's failure to take responsibility  
for his prior actions and failure to supervise his employees, OIC respectfully requests that  
OIC's denial of his insurance producer's license be upheld and that no probationary license be  
issued to Mr. Lusa.

### 27 **IV. EVIDENCE TO BE PRESENTED**

- 28 Exhibit 1A Department of Financial Institutions, Final Decision, 2009-DFI-0040,  
29 No. C-08-245, 15 pages, 04/17/2012.  
30 Exhibit 1B Department of Financial Institutions, Initial Order 2009-DFI-0040/ No. C-08-  
31 245-08-SC01, 19 Pages, 05/20/2011.  
32 Exhibit 1C Department of Financial Institutions, Statement of Charges, 7 pages, 01/07/2009.

- 1 Exhibit 1D Lusa Correspondence Re: Escrow Operation , 2 pages, undated.  
2 Exhibit 2A Department of Financial Institutions Final Decision & Order 2009-DFI-0045/  
3 No. C-08-066-08-SC01, 10 pages, 12/08/2010.  
4 Exhibit 2B Office of Administrative Hearings, Initial Order, 2009-DFI-0045, 20 pages,  
5 10/12/2010.  
6 Exhibit 2C Lusa Correspondence Re: DFI Issues against Western States Mortgage Corp  
7 and Mr. Lusa, 2 pages, undated.  
8 Exhibit 3 Penn email to Lusa Re: License Denial, 2 pages, 01/16/2014.  
9 Exhibit 4 Lusa Demand for Hearing, 12 pages, 2/18/2014.  
10 Exhibit 5 Web Search Documents Re: Lusa Licensure in Oregon and Washington, 8  
11 pages, created 3/20/2014.

12 Respectfully Submitted this 24<sup>th</sup> day of March 2013.

13   
14 Darryl E. Colman  
15 Staff Attorney  
16 Legal Affairs Division  
17 Office of the Insurance Commissioner  
18 (360) 725-7118; DarrylC@oic.wa.gov  
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OIC HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

*In The Matter of*

Steven W. Lusa,

Applicant.

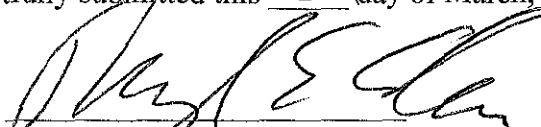
ORDER NO. 14-0023

EXHIBIT LIST

Exhibit No.	Date of Document	Document Description	Number of Pages
Exhibit 1-A	04/17/2012	Department of Financial Institutions, Final Decision, 2009-DFI-0040, No. C-08-245	15
Exhibit 1-B	05/20/2011	Department of Financial Institutions, Initial Order 2009-DFI-0040/ No. C-08-245-08-SC01	19
Exhibit 1-C	01/07/2009	Department of Financial Institutions, Statement of Charges	7
Exhibit 1-D	Undated	Lusa Correspondence Re: Escrow Operation	2
Exhibit 2-A	12/08/2010	Department of Financial Institutions, Final Decision & Order, 2009-DFI-0045/No. C-08-066-08-SC01	10
Exhibit 2-B	10/12/2010	Office of Administrative Hearings, Initial Order, 2009-DFI-0045	20
Exhibit 2-C	Undated	Lusa Correspondence Re: DFI Issues against Western States Mortgage Corp and Mr. Lusa	2
Exhibit 3	01/16/2014	Penn Email to Lusa Re: License Denial	2
Exhibit 4	02/18/2014	Lusa Demand for Hearing	12
Exhibit 5	03/20/2014	Web Search Documents Re: Lusa Licensure in Oregon and Washington	8

Respectfully submitted this 24<sup>th</sup> day of March, 2014.

By

  
Darryl E. Colman, OIC Staff Attorney  
Legal Affairs Division



CERTIFICATE OF MAILING

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The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing MEMORANDUM, OIC EXHIBIT LIST, AND EXHIBITS on the following individuals via e-mail and Hand Delivery at the below indicated addresses:

**Via Email:** sch113@gmail.com, Counsel representing Steven W. Lusa

**Hand Delivery:**  
OIC Hearings Unit  
Office of Insurance Commissioner  
5000 Capitol Blvd.  
Tumwater, WA 98502

**SIGNED** this \_\_\_\_ day of March, 2014, at Tumwater, Washington.

  
Darryl E. Colman, Staff Attorney  
OIC Legal Affairs Division

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CHIEF PRESIDING OFFICER

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PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 1-A



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:

OAH NO. 2009-DFI-0040

VINTAGE ESCROW INC., d/b/a  
BELLEVUE ESCROW, and STEVEN  
WILLIAM LUSA, Co-Owner and  
Designated Escrow Officer;

DFI NO. C-08-245-12-FO01

Respondents.

FINAL DECISION AND ORDER  
MODIFYING INITIAL ORDER OF  
ADMINISTRATIVE LAW JUDGE

THIS MATTER having come before SCOTT JARVIS, Director ("Director") of the Washington State Department of Financial Institutions ("Department"), on the Division of Consumer Services' Petition for Review ("Division's Petition") dated June 1, 2011, from the Initial Decision and Order ("Initial Order") dated May 20, 2011, of Administrative Law Judge Anita T. Davidson ("ALJ Davidson") of the Office of Administrative Hearings; the Presiding Officer having fully considered the entire record on review, including, without limitation, all pleadings, testimony and recorded oral and written argument before ALJ Davidson, together with the Initial Order and the Division's Petition;

NOW, THEREFORE, the Director issues the following Final Decision and Order:

Respondents, VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA (respectively hereinafter, "Respondent, Vintage Escrow" and "Respondent Lusa"; collectively, the "Respondents"), timely requested an Administrative Hearing to contest

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 1

the Statement of Charges and Notice of Intent to Revoke or Suspend Licenses, Prohibit from Industry, Impose Fine, and Collect Investigation and Examination Fees ("Statement of Charges") entered against Respondents by the Division of Consumer Services ("Division") dated January 7, 2009. This matter was assigned to the Office of Administrative Hearings ("OAH"), which designated ALJ Davidson to hear the case. Respondents were represented *pro se* by Respondent Lusa. The Division was represented by Assistant Attorney General Charles Clark ("Division's Counsel"). An in-person hearing on the matter was held by ALJ Davidson on November 16, 2010, at the OAH Seattle office.

In the course of that hearing, ALJ Davidson considered whether the Department's Statement of Charges and Notice of Intent dated January 7, 2009 should be affirmed; the questions presented were whether:

- 1) The licenses of Respondent Vintage Escrow and Respondent Lusa to conduct the business of an escrow agent be revoked or suspended;
- 2) Respondents should be prohibited from the industry of an escrow agent for a period of five (5) years;
- 3) Respondent Lusa, specifically, should be prohibited from the industry of an escrow agent for a period of five (5) years;
- 4) Respondents jointly and severally should pay a fine of Twenty-Seven Thousand Dollars (\$27,000.00);
- 5) Respondents jointly and severally should pay examination and investigation fees of Seventeen Thousand One Hundred Eighty-Seven Dollars and Fifty Cents (\$17,187.50) and Seven Hundred Fifty Dollars (\$750.00), respectively; and

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 2

6) Respondents should maintain records in compliance with the Escrow Agent Registrations Act, chapter 18.44 RCW and chapter 208-680 WAC, and provide the Department with location of the books, records, and other information relating to Respondent Vintage Escrow's escrow agent business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

After considering the record and presiding over the Administrative Hearing, ALJ Davidson issued an Initial Order on May 20, 2010, finding that:

1) It was proper to revoke or suspend Respondent Vintage Escrow's license to conduct the business of an escrow agent;

2) It was proper to revoke or suspend Respondent Lusa's Designated Escrow Officer's license, beginning January 7, 2009;

3) Respondent Vintage Escrow was prohibited from the industry of an escrow agent for a period of five years, beginning January 7, 2009;

4) Respondent Lusa was prohibited from the industry for a period of five (5) years;

5) Respondents jointly and severally shall pay a fine, totaling Twenty-Seven Thousand Dollars (\$27,000.00);

6) Respondents jointly and severally shall pay examination and investigation fees, totaling Seventeen Thousand Nine Hundred Thirty-Seven Dollars and Fifty Cents (\$17,937.50), representing \$17,187.50 in examination fees and \$750.00 in investigation fees; and

7) Respondents must maintain records in compliance with the Escrow Agent Registrations Act and provide the Department with the location of the books, records, and other information relating to Respondent Vintage Escrow's escrow agent business, and the

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DF1-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 3

name, address, and telephone numbers of the individuals responsible for maintenance of such records in compliance with the Act.

The Initial Order contains Findings of Fact (hereinafter, "FOF"), Conclusions of Law (hereinafter, "COL"), and an Order section.

The Division, by and through Division Counsel, timely filed a Petition for Review of Initial Order on June 1, 2011 (the "Division's Petition"). Respondent never filed a response to the Petition for Review, nor did Respondents submit their own Petition for Review.

The Director subsequently ordered, received and has now considered the entire OAH Record. This Final Decision and Order are based upon a consideration of the entire OAH Record, including, without limitation, the following:

1. Statement of Charges;
2. Application for Adjudicative Hearing;
3. Record of Adjudicative Hearing;
4. Department's Exhibits Offered at Adjudicative Hearing;
5. Respondent's Exhibits Offered at Adjudicative Hearing;
6. Initial Order; and
7. Division's Petition.

This record is hereinafter referred to collectively as "Record on Review."

1.0. Summary of the Case. This case comes before the Director on the ultimate issue of whether the Respondents' escrow agent licenses should be revoked or suspended and whether Respondents should be banned from the escrow agent industry for a period of five years. Additionally, the Respondents have been ordered jointly pay a fine totaling \$27,000.00, and

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 4

examination and investigation fees totaling \$17,937.50. The Division's Petition This issue revolves around the following undisputed facts and questions of law:

2.0 Preliminary Considerations.

2.1 Proper Consideration by Director Absent Petition for Review from Respondent. Respondent did not file a petition for review contesting the Initial Order. However, even when a party has *not* filed a petition for review, the Director still has the authority and duty, prior to entering a Final Decision and Order, to consider whether any part of the Initial Order is *not* supported by the record<sup>1</sup> and whether confirmation of the Initial Order, without modification, would be an error of law. Indeed, with regard to the COL as contained in the Initial Order, the Director is obliged, in the manner of a reviewing court, to consider the statutes and implementing regulations of the Division under the error of law standard, which permits the Director to substitute his judgment for that of the Division's Statement of Charges and the Administrative Law Judge's Initial Order.<sup>2</sup>

3.0 Director's Consideration of Findings of Fact ("FOF") and Conclusions of Law ("COL"). After due consideration of the entire Record on Review, the Director is of the view that certain conclusions of law contained in the Initial Order should be eliminated as error or otherwise modified.

3.1 Error in FOF 27 and COL 24 of the Initial Order. The Director concurs with the Division's Petition for Review that ALJ Davidson committed error in FOF 27 and COL 24 of the Initial Order by deciding that the responsibility for setting the effective dates of prohibition

<sup>1</sup> See RCW 34.05.464(4); see also *Northwest Steelhead v. Washington State Department of Fisheries*, 78 Wn. App. 778, 896 P.2d 1292 (1995); see also *Toyle v. Department of Fish and Wildlife*, 94 Wn. App. 196, 971 P.2d 591 (1999).

<sup>2</sup> See *Aponte v. Dep't of Soc. & Health Servs.*, 92 Wn. App. 604, 616-17, 965 P.2d 626 (1998), review denied, 137 Wn.2d 1028 (1999).

falls to the ALJ themselves, on the theory that the Respondents "faced substantial obstacles to participation in the escrow business since the date the Department issued the Statement of Charges. The Department stated in their Statement of Charges in Section for that it was their "*intention* to ORDER" (emphasis added) that "Respondent Vintage Escrow Inc. dba Bellevue Escrow be prohibited from the industry of an escrow agent for a period of 5 years; and Respondent Steven William Lusa be prohibited from the industry of an escrow agent for a period of 5 years." The Director is persuaded that this stated *intention* to order the prohibition dates necessarily refers to an act in the future, specifically, the entry of a final order. Upon receipt of the Statement of Charges, the Respondents filed an Application for an Adjudicative Hearing, exercising their due process rights; the Department would have violated the Respondents' due process rights by imposing a prohibition prior to such hearing. The only procedure available to the Department to take such action prior to a hearing is by entry of a Temporary Cease and Desist Order, pursuant to RCW 31.04.093(7)(I) in this case, however, the Department took no such action and the Respondent was not prohibited from the industry during the course of the adjudicative proceedings. As it would be a violation of Respondent's due process rights to retroactively apply the date of prohibition to the time the original Statement of Charges was filed, the Director finds that the date of prohibition must begin with the date of entry of the final order and modifies both FOF 27 and COL 24 as follows below.

4.0 Findings of Fact. Now, therefore, the Director re-affirms and otherwise modifies FOF 1 through FOF 48, inclusive, at pages 2-10 of the Initial Order.

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RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FOOJ

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 6



4.1 FOF 1, 3-5, 7-14, 17-21, 23, 25, 28-30, 32-43, 45-48 of the Initial Order. FOF 1, 3-5, 7-14, 17-21, 23, 25, 28-30, 32-43, and 45-48 of the Initial Order are hereby re-affirmed in their entirety and without modification.

4.2 FOF 2 of the Initial Order. Based on the evidence presented during the hearing (See Ex. D1 at 4), FOF 2 is modified as follows:

Vintage Escrow Inc. d/b/a Bellevue Escrow ("Respondent Vintage") was licensed by the Washington State Department of Financial Institutions to conduct business as an escrow agent from May 17, 1996 through December 31, 2007, when its escrow agent license expired.

4.3 FOF 6 of the Initial Order. Based on the information contained within Exhibit D1 at page 4, FOF 6 contains a typographical error and is modified as follows:

Kate Dixon, a Department financial examiner, was assigned to examine Respondents' books and records. Beginning February 2, 2008, Ms. Dixon conducted an examination of the Respondents' books and records at Respondent Lusa's residence. Respondent Lusa reported that he had moved out of his office at the end of December 2007, and closed the business on January 15, 2008. Ex. D1, p.4

4.4 FOF 15 of the Initial Order. To clarify that reconciled bank statements concern the Respondents' trust accounts, FOF 15 is modified as follows:

To date, Respondents have not submitted to the Department reconciled bank statements for those trust accounts that were not reconciled.

4.5 FOF 16 of the Initial Order. To correct a typographical error, FOF 16 is modified so that the reference to "WAC 208-680D-050" reads "WAC 208-680D-060".

4.6 FOF 22 of the Initial Order. To correct a typographical error, FOF 22 is modified by changing the reference to "Ms. Davis's" to "Ms. Dixon's".

4.7 FOF 24 of the Initial Order. To correct a typographical error regarding the hourly rate for examination fees, FOF 24 is modified by changing the reference to "\$62.00" to

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 7

“\$62.50”. Thus, \$62.50 times 275 hours accrued during the course of the examination equals the total examination fee of \$17,187.50.

4.8 FOF 26 of the Initial Order. FOF 26 is modified as follows:

In this case, the Department concluded that Respondents’ violations were serious ones, since they reflect breaches in the fiduciary duties entrusted to escrow agents and escrow officers, duties that are set forth in detail in the Act. For example, practicing without a designated escrow officer license is a violation that can be prosecuted as a misdemeanor. The Department further concluded that there were a number of such violations over a significant period of time that reflect Respondents’ failure to properly manage the trust bank accounts, and therefore were not one-time errors or lapses in judgment. And though the Department acknowledges that Respondents’ violations do not reflect any fraud or deceptive practice, the nature of Respondents’ conduct represents a breach in the trust placed in escrow agents and officers, which is codified in the Act. Finally, the fact that there was a \$6,000.00 remaining in one of Respondents’ escrow accounts, which should have been promptly disbursed upon closing raised the question of Respondents’ competence to perform as escrow agents and officers.

The first change describes the license at issue with more precision, as it was Respondent Lusa’s designated escrow officer license that expired prior to concluding the business, not the company’s escrow agent license. The second change is consistent with the ALJ’s discussion of “breaches of fiduciary duties” discussed in the first sentence of FOF 26.

4.9 FOF 27 of the Initial Order. Based on the foregoing discussion regarding the starting date of Respondents’ five year prohibition period, FOF 27 is modified as follows:

The Department maintains that the five-year period should begin on the date of the entry of a final order.

This change is necessary to address ALJ Davidson’s error as discussed in Section 3.1 of this Final Order.

4.10 FOF 31 of the Initial Order. To accurately reflect the record, as noted in FOF 17, FOF 31 is modified as follows:

In calculating the \$27,000.00 fine the Department also considered that Respondents were conducting an escrow business without a licensed designated escrow officer

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FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 8

from May 17, 2007 until the end of business operations on December 31, 2007, 289 days.

4.11 FOF 44 of the Initial Order. To accurately reflect the record, FOF 44 is modified as follows:

According to Respondent Lusa, in spring 2007 one of the examiners returned to Respondent Lusa's office to review the items that were to be completed. The examiner reported that "everything was okay."

The added language, "According to Respondent Lusa," is necessary to accurately reflect the record. The hearsay statement attributed to the unnamed examiner is based upon Mr. Lusa's testimony only and there is no other evidence providing that the quoted statement was made.

5.0 Conclusions of Law. Now, therefore, the Director re-affirms and otherwise modifies COL 1 through COL 27, at pages 11-17 of the Initial Order, as follows:

5.1 COL 1-4, 7-17, 19-23, and 25-28 of the Initial Order. COL 1-4, 7-17, 19-23, and 25-28 of the Initial Order are hereby re-affirmed in their entirety and without modification.

5.2 COL 5 of the Initial Order. To correct typographical errors (see FOF 17), COL 5 is modified as follows:

Respondent Lusa engaged in business as an escrow officer from May 17, 2007, when his license expired, until the closure of his business February 29, 2008 is the correct date of closure, rather than December 31, 2007 or January 31, 2008, because the company's trust accounts remained open and an employee was charged with taking care of the remaining matters until that date.

5.3 COL 6 of the Initial Order. To correct typographical errors (see FOF 17), COL 6 is modified as follows:

In light of the requirement that every escrow agency must have a licensed escrow officer responsible for overseeing the agency operations, Respondent Lusa should have been aware that his license expired on May 17 each year. Though he may have always relied on his staff to renew his annual license, he is ultimately responsible for ensuring

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FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 9

that his license is maintained. He was therefore in violation of this provision of the Act from Many 17, 2007 until February 29, 2008.

5.4 COL 18 of the Initial Order. While ALJ Davidson concedes that a violation of WAC 208-680C-045 occurred, no legal basis is provided for the ALJ's conclusion that such violation alone cannot support the penalties of denial of license and prohibition from practice.

Therefore, COL 18 is modified as follows:

Respondent Lusa should have been aware of the required protocol set forth in WAC 208-680C-045 for notifying the Department of office closure within 24 hours, and should have submitted his licenses within five days. Where he failed to comply with ~~WAC-208-680C-045, he violated the Act.~~

5.5 COL 24 (and Footnote 3) of the Initial Order. Pursuant to the discussion in Section 3.1 above regarding the starting date of a prohibition period, COL 24 is modified as follows:

Regarding the five-year prohibition from the escrow industry, the undersigned concludes that the five-year prohibition should begin upon the entry of a final order by the Director.

Footnote 3 is stricken in its entirety.

6.0 Final Order. Having made certain revisions to the Findings of Fact and Conclusions of Law of the Initial Order as set forth in Sections 4.0 and 5.0 above, IT IS HEREBY ORDERED AS FOLLOWS:

6.1 Revised Findings of Fact and Conclusions of Law. The Findings of Fact and Conclusions of Law of the Initial Order, as modified to the extent of Sections 4.0 and 5.0 above, are affirmed.

6.2 Respondent VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW's License. Respondent VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW's license to conduct the business of an escrow agent is revoked.

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE - 10

6.3 Respondent STEVEN WILLIAM LUSA's License. Respondent STEVEN WILLIAM LUSA's Designated Escrow Officer license is revoked:

6.4 Prohibition. Respondents, VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA, are prohibited from the industry of an escrow agent for a period of five (5) years, beginning on the date of execution of this final order.

6.5 Fines. Respondents, VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA, jointly and severally shall pay to the Washington State Department of Financial Institutions a fine, which totals Twenty-Seven Thousand Dollars (\$27,000.00).

6.6 Examination and Investigation Fees. Respondents, VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA, jointly and severally shall pay to the Washington State Department of Financial Institutions examination and investigation fees totaling Seventeen Thousand Nine Hundred Thirty-Seven Dollars and Fifty Cents (\$17,937.50); representing a \$17,187.50 examination fee and a \$750.00 investigation fee.

6.7 Compliance with the Escrow Agent Registration Act. Respondents, VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA, shall maintain records in compliance with the Washington Escrow Agent Act, chapter 18.44 RCW and chapter 208-680 WAC, and shall provide the Department with the location of the books, records, and other information relating to Respondent Vintage's escrow agent business, and the name, address, and telephone number of the individuals responsible for maintenance of such records in compliance with the act.

6.8 Reconsideration. Pursuant to RCW 34.05.470, Respondents, VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA have the right

to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of this Final Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

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

6.10 Judicial Review. Respondents VINTAGE ESCROW INC., d/b/a BELLEVUE ESCROW and STEVEN WILLIAM LUSA have the right to petition the superior court for judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

6.11 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.

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-J2-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE : 12

6.12 Effectiveness and Enforcement of Final Order. Pursuant to the Administrative Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective immediately upon deposit in the United States Mail.

Dated at Tumwater, Washington, on this 17<sup>th</sup> day of April, 2017.

WASHINGTON STATE DEPARTMENT  
OF FINANCIAL INSTITUTIONS

By: 

Scott Jarvis, Director

RE: VINTAGE ESCROW, INC., d/b/a BELLEVUE ESCROW, and STEVEN WILLIAM LUSA, OAH Docket No. 2009-DFI-0040, DFI No. C-08-245-12-FO01

FINAL DECISION AND ORDER MODIFYING INITIAL ORDER OF ADMINISTRATIVE LAW JUDGE

**ORDER SUMMARY – Case Number: C-08-245**

Name(s): Vintage Escrow Inc dba Bellevue Escrow  
Steven William Lusa

Order Number: C-08-245-12-FO01

Effective Date: April 17, 2012

License Number: DFI: 18745 -Vintage; DFI: 21065-Lusa

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)  
 If applicable, you must specifically note the ending dates of terms.

License Effect: Revoked

Not Apply Until: \_\_\_\_\_

Not Eligible Until: \_\_\_\_\_

Prohibition/Ban Until: April 17, 2017

Investigation Costs	\$750	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$27,000	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input type="checkbox"/> N			
No. of Victims:				

Comments: Exam Fees: \$17,187.50 -Not Paid



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PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 1-B

RECEIVED

MAY 25 2011

ENFORCEMENT UNIT  
DIVISION OF CONSUMER SERVICES  
DEPT OF FINANCIAL INSTITUTIONS

STATE OF WASHINGTON  
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Escrow Agent Registration Act of  
Washington by:

Docket No. 2009-DFI-0040

No. C-08-245-08-SC01

VINTAGE ESCROW INC., d/b/a  
BELLEVUE ESCROW, and STEVEN  
WILLIAM LUSA, Co-owner and  
Designated Escrow Officer,

INITIAL ORDER

Division of Consumer Services

Respondents

An in-person hearing in this matter was held by Administrative Law Judge Anita T. Davidson on November 16, 2010 at the Seattle offices of the Washington State Office of Administrative Hearings. The Washington State Department of Financial Institutions (the "Department") was represented by Assistant Attorney General Charles Clark. The Department witnesses were Kate Dixon, William Halstead and James Brusselback. Respondents Vintage Escrow, Inc and Steven William Lusa were represented by Steven William Lusa. Respondent witness was Susan Lusa. The proceedings were transcribed by Mary Green, Yamaguchi Obien Mangio.

STATEMENT OF THE CASE

Whether the Department's Statement of Charges and Notice of Intent dated January 7, 2009 should be affirmed:<sup>1</sup>

Whether the licenses of Respondents Vintage Escrow, Inc., dba Bellevue Escrow and Steven W. Lusa ("Respondents") to conduct the business of an escrow agent be revoked or suspended; and

Whether Respondents should be prohibited from the industry of an escrow agent for a period of five years; and

<sup>1</sup> The Department's Statement of Charges and Notice of Intent included an intention to order restitution in an amount to be determined at hearing. Statement of Charges, page 5. At the hearing, however, the Department declared it was not seeking restitution.

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INITIAL ORDER

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Whether Respondent Steven W. Lusa should be prohibited from the industry of an escrow agent for a period of five years; and

Whether Respondents jointly and severally should pay a fine of \$27,000.00; and

Whether Respondents jointly and severally should pay examination and investigation fees of \$17,187.60 and \$750.00, respectively; and

Whether Respondents should maintain records in compliance with the Escrow Agent Registrations Act and provide the Department with the location of the books, records, and other information relating to Respondent Vintage Escrow Inc. dba Bellevue Escrow, escrow agent business, and the name, address, and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

#### FINDINGS OF FACT:

1. The findings below are made under a clear, cogent and convincing standard of proof.
2. Vintage Escrow Inc. dba Bellevue Escrow ("Respondent Vintage") was licensed by the Washington State Department of Financial Institutions to conduct business as an escrow agent from May 17, 1996 through December 31, 2008, when its escrow agent license expired.
3. Respondent Vintage was co-owned by Steven W. Lusa ("Respondent Lusa") and Susan Lusa. Respondent Lusa was the licensed Designated Escrow Officer (DEO) for Respondent Vintage until his designated escrow officer license expired May 17, 2007.
4. The Department of Financial Institutions administers the Washington Escrow Agent Registration Act (the "Act"), chapter 18.44 RCW and chapter 208-680 WAC. The Act regulates the escrow agent industry and its primary policy of the Act is to protect consumers. To this end, escrow agents and officers are highly regulated. See Chapter 18.44 RCW and Chapter 208-680 WAC.
5. The Department conducts financial examinations for the purposes of determining compliance with chapter 18.44 RCW and chapter 208-680 WAC to ensure the escrow agent has fulfilled the fiduciary duties as set forth in the Act, and to ensure that escrow accounts are accurate, complete and kept current. WAC 208-680G-010(1).
6. Kate Dixon, a Department financial examiner, was assigned to examine Respondents' books and records. Beginning February 25, 2008 Ms. Dixon conducted an examination of the Respondents' books and records at Respondent Lusa's residence. Respondent Lusa reported that he had moved out of his office at the end of December 2007, and closed the business on January 15, 2010. Exh. D1, p. 4.

7. The examination ultimately covered the time period from January 1, 2006 through February 29, 2008. Ms. Dixon gathered information from Respondent Lusa through his answers to a questionnaire and from Respondents' records and concluded there were a number of irregularities in the handling of escrows and monitoring trust accounts. Exh. D1, p. 6.

8. Ms. Dixon concluded Respondents violated the Act by (1) operating the agency without a licensed Designated Escrow Officer; (2) failing to maintain sufficient account balances in the company trust account; (3) failing to timely deposit and disburse funds; (4) failing to reconcile the trust accounts monthly; (5) failing to properly disburse payments; (6) failing to report in a timely manner closure of the company's office; (7) failing to file timely quarterly reports; and (8) failing to receipt funds prior to the disbursement of funds from the trust account.

Operating without a licensed designated escrow officer (DEO).

9. Respondent Lusa's designated escrow officer license expired on May 17, 2007. The license must be renewed each year. Ms. Dixon concluded that Respondents operated without a licensed designated escrow officer from May 17, 2007 through March 13, 2008, the date the Department received Respondents's Escrow Agent Office Closure Form, dated March 10, 2008. She concluded Respondents violated RCW 18.44.171 when Respondent Lusa continued to act as a licensed escrow officer after the expiration of his license. Exh. D1, p. 5.

Failure to maintain sufficient account balances in the agency trust account.

10. From January 2006 through July 2006 Respondents received four Notices of Insufficient Funds and/or Overdraft from its bank. All the checks were written from one trust account:

Trust Account	Overdrawn Amount	Date
[REDACTED]	\$176,520.77	1/4/06
[REDACTED]	\$127,413.41	1/17/06
[REDACTED]	\$ 94,229.67	7/28/06
[REDACTED]	\$ 85,267.39	7/31/06

Exh. D1, p. 6.

11. Ms. Dixon concluded that Respondent Lusa failed to ensure that deposits were at least equal to disbursements on one of the agency's four trust accounts, a responsibility of the agency and the designated escrow officer, and a violation of RCW 18.44.400(3). *Id.*

Failure to timely deposit and disburse funds.

12. According to Respondents' records, a wire deposit in the amount of \$250,364.50 was to be deposited into the trust account ending in 2545 on July 10, 2006. On July 11, 2006 Respondents issued check numbers 1808 through 1822 to disburse the funds in the account. However, the deposit was directed to, and the disbursements were drawn from a different trust account, ending in 3222. In addition, the September 2006 trust account reconciliation indicated that the outstanding deposit and checks from the trust account ending in 2545 were cleared from the account without any notation or explanation. Exh. D1, pp. 6-7.

13. Ms. Dixon concluded that the irregularities set forth above demonstrated that Respondents failed to timely deposit and disburse trust funds, as required under WAC 208-680D-050. *Id.*

Failure to reconcile the trust accounts monthly.

14. Ms. Dixon reviewed Respondents' monthly trial reconciliations and found that after February 2006 the trust accounts with the last four numbers ending in 7704 and 3222<sup>2</sup> were not reconciled monthly, as required. Because Respondents have the responsibility to reconcile all trust accounts monthly, she concluded that Respondents violated WAC 208-680E-011(9). Exh. D1, p. 7.

15. To date, Respondents have not submitted to the Department reconciled bank statements for those statements that were not reconciled.

Failure to properly disburse payments.

16. Ms. Dixon also discovered that one of Respondents' trust accounts held about \$6,000 in trust funds that had not yet been disbursed at the time of her examination. She concluded this was a violation of WAC 208-680D-050, which requires the escrow agent to perform all acts required of the escrow agent as expeditiously as possible and within any time period identified in the escrow instructions. Intentional or negligent delay in such performance is considered a violation of RCW 18.44.430. Exh. D, pp. 7-8.

Failure to report closure of Agent's office.

17. Respondent Lisa first reported his company was closed on or about December 31, 2007. Although Respondents did not take in any new business after December 31, the company did not close the trust accounts because Respondent Lisa wanted to ensure that all

<sup>2</sup> It is uncontroversial that these two trust accounts are the "inactive" accounts that were closed to thwart losses due to identity theft.

previously issued checks cleared. In addition, an employee was charged with staying on to "clean up" any other matters. The employee completed that task on or about February 28, 2008.

18. The Department received Respondents' Escrow Agent Office Closure Form dated March 10, 2008 on March 13, 2008. Respondents were required to follow a specific protocol set forth in the Act, which requires notifying the Department of the office closure within 24 hours, and surrendering dated and signed licenses within five days. Because Respondents did not notify the Department within 24 hours of closure, and did not submit its licenses within five days, Ms. Dixon concluded they had violated WAC 208-680C-045, which sets forth the protocol for closure of an escrow agent. Exh. D1, pp.8-9.

19. Respondent Vintage's license expired December 31, 2007.

Failure to file timely quarterly reports.

20. Respondents failed to file the fourth quarter 2007 quarterly report by January 30, 2008, that is, within 30 days following the end of each fiscal quarter, as required under WAC 208-680E-025(1)-(3). Ms. Dixon concluded the failure to file the report within the time period in the regulation was a violation of RCW 18.44.430. Exh.D1, pp.9-10.

Failure to receipt funds prior to the disbursement of funds from the trust account.

21. Ms. Dixon reviewed a February 2007 examination of Respondents by the Department, in which the previous examiner cited Respondents for failing to receive funds prior to disbursement of trust funds on a particular escrow. At the time of the February 2007 investigation Respondents indicated the deficiency was due to several unusual circumstances, one of which was a last-minute substitution of the lender funding the loan. Ms. Dixon concluded that Respondents' response did not adequately explain the irregularities in the escrow closing, and therefore violated WAC 208-680D-060, which requires immediate disbursement of trust funds upon closing an escrow transaction. *Id.*

Statement of Charges and Notice of Intent.

22. In receipt of Ms. Davis's February 29, 2008 examination report, the Department issued the Statement of Charges and Notice of Intent To Revoke or Suspend Licenses, Prohibit From Industry, Impose Fine, and Collect Investigation and Examination Fees ("Statement of Charges") dated January 7, 2009. Exh. 2.

23. The Statement of Charges does not set forth all the violations cited in the examination report. Rather, the Statement of Charges provides notice of the Department's intent to order:

- (A) The revocation or suspension of Respondent Vintage's license to conduct the business of an escrow agent and the revocation or suspension of Respondent Lusa's designated escrow officer license;
- (B) Respondent Vintage to be prohibited from the industry of an escrow agent for a period of five years;
- (C) Respondent Lusa to be prohibited from the industry of an escrow agent for a period of five years;
- (D) Respondents to jointly and severally pay a fine totaling \$27,000.00;
- (E) Respondents to jointly and severally pay examination and investigation fees totaling \$17,937.50 (\$17,187.50 examination fee and \$750 investigation fee); and
- (F) Respondents to maintain records in compliance with the Act and provide the Department with the location of the books, records, and other information relating to Respondent Vintage Escrow Inc. dba Bellevue Escrow, escrow agent business, and the name, address, and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

Examination and investigation fees.

24. Regarding the examination and investigating fees, the Department has the authority to conduct a financial examination of an escrow agent to ensure compliance with the Act. The Department submitted to this tribunal an Examination Hours Recapitulation documenting on-site and off-site hours spent on examining Respondents records and accounts: 275 hours at the designated rate of \$62.00 per hour; a total of \$17,187.50. The Department's financial legal examiner reported 12 hours of time spent on investigating this matter, at \$62.50 per hour; a total of \$750.00. Payment of the Examination and investigation fees and expenses is due within 30 days of the date of the Department's invoice.

Department's consideration of appropriate penalties.

25. The Department considers several factors in determining sanctions for violations of the Act: (1) the conduct involved; (2) the duration and number of violations; (3) the seriousness of the violations; (4) the experience of the designated escrow agent or other responsible party; and (5) the amount of money involved.

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26. In this case, the Department concluded that Respondents' violations were serious ones, since they reflect breaches in the fiduciary duties entrusted to escrow agents and escrow officers, duties that are set forth in detail in the Act. For example, practicing without a designated escrow agent license is a violation that can be prosecuted as a misdemeanor. The Department further concluded that there were a number of such violations over a significant period of time that reflect Respondents' failure to properly manage the trust bank accounts, and therefore were not one-time errors or lapses in judgment. And though the Department acknowledges that Respondents' violations do not reflect any fraud or deceptive practice, the nature of Respondents' conduct represents a break in the trust placed in escrow agents and officers, which is codified in the Act. Finally, the fact that there was \$6,000.00 remaining in one of Respondents' escrow accounts, which should have been promptly disbursed upon closing, raised the question of Respondents' competence to perform as escrow agents and officers.

27. The Department also took into consideration the unusual situation that even three years after the close of business, Respondents have not paid the examination fees in this case.

The Department's decision to prohibit for five years Respondent Lusa's participation in the escrow business is based on its conclusion that revoking Respondent Lusa's license is not a sufficient sanction. That is because there are ways for individuals to participate in the escrow business without a license, such as silent partnerships. Moreover, when the Department concludes that violations are so serious that prohibition is warranted, five years is a standard period of prohibition. The Department in the past has called for prohibition for less than five years, but that decision is typically made in the context of a settlement. The Department maintains that the five-year period should begin on the date of the Statement of Charges, if unappealed, or the date of this Initial Order.

29. The Department seeks an order to require Respondents to retain its records for six years because the retention of records for six years is required under the Act. In addition, over the last eight years, the Department has received about 10 requests requiring the Department to access archived records under a number of scenarios, such as when a reconveyance was not filed, or proof of payment or disbursement must be researched, or a refund was paid in the incorrect amount.

30. The Department has the authority under RCW 18.44.430(3) and WAC 208-680G-040(3) to fine Respondents up to \$100.00 per day for each violation of the Act, which allows the Department to fine more than \$100.00 per day in the case of multiple violations. The \$27,000.00 fine reflects a fine of \$100.00 per day for 270 days. Here, the Department settled on a fine of \$27,000.00. It considers this amount "conservative" in light of Respondents' multiple violations that continued over a significant period of time, and the fact that Respondents' trust accounts remained out of compliance with the Act up until the time of the hearing in this matter.



31. In calculating the \$27,000.00 fine the Department also considered that Respondents were conducting an escrow business without a licensed designated escrow officer from May 17, 2007 until the end of business operations on February 29, 2008, 289 days.

32. Respondents timely appealed the Department's Statement of Charges and Notice of Intent.

33. Respondents argue:

(1) They were not at fault for the overdrafts, which represent the unfortunate result of closing two "original" trust accounts and opening two "new" trust accounts in an effort to thwart identity theft.

(2) Respondents' monthly reconciliations were provided by Jonelle Wheeler of ACS Northwest. Respondent Lusa was therefore unaware of the existence of the unreconciled bank statements (which were from the "inactive" trust accounts). When Ms. Dixon alerted him to the oversight, he promptly took care of it.

(3) The approximately \$6,000 remaining in a trust account at the time of Ms. Dixon's investigation was not a failure to properly distribute trust funds, but a result of uncashed (and unclaimed) disbursements in small check amounts. Respondents issued and reissued these checks, but the \$6,000.00 remained outstanding. Respondent Lusa also explains that his escrow staff assured him that all funds were disbursed from the two "inactive" accounts.

(4) All these issues were addressed in a prior Department examination, and all irregularities were deemed cleared.

(5) None of the violations cited by the Department involve fraud or deceptive practices; rather, they are a result of the pressures inherent in winding down and closing a business; moreover, the violations should be considered in the context of Respondent Lusa's unblemished performance over the entire 15 years he has been in the escrow business, and therefore

(6) The penalties ordered by the Department are too severe, especially the five-year prohibition from participating in the escrow business, since Respondent Lusa has already been unable to secure a license or associate with any individual with a license for three years. He argues that if this tribunal upholds the Department's five-year prohibition, these three years should count toward the five-year penalty.

Respondents' explanation: thwarting identity theft.

34. In fall 2005 Respondent Lusa learned that Vintage Escrow and Bellevue Escrow (a company Respondents bought in 2004) experienced what Respondent Lusa refers to as

identity theft. According to Respondent Lusa, "someone got an escrow check, washed it, and reproduced checks," forged the signature of Respondents' Limited Practice Officer, and then deposited the checks in fictional accounts. Although the attempted theft was discovered before any of the deposited funds were actually withdrawn, the police advised Respondent Lusa to close the "original" escrow accounts and open "new" ones.

35. Respondents took the police's advice, and at the beginning of 2006 Respondents had two escrow accounts - the Believe Escrow Trust Account and the Vintage Escrow Trust Account, and each trust account had an "inactive" account adjoined to a "new" account.

36. According to Respondent Lusa the overdrafts occurred because checks were mistakenly drawn on an inactive account, when the available funds were actually in the new account.

At the hearing, he stated there were two overdrafts reflecting four checks: two were written in January 2007 but were "paid immediately" because the money was available in the "inactive" account. Two were written in July 2007, also because the check was drawn on the "inactive" account.

#### Unreconciled bank accounts.

37. Respondent Lusa acknowledges that the two trust accounts that were closed to thwart identity theft were not reconciled after February 2006. But he was unaware that the company was still receiving bank statements from these accounts because he delegated the monthly reconciliation of trust accounts to Jonelle Wheeler of ACS Northwest. Once alerted to the problem, he quickly responded.

#### Failure to properly disburse payments.

38. In the hearing Ms. Dixon stated that one trust account had approximately \$6,000 in undistributed trust funds, which she concluded was the result of Respondents' failure to properly disburse escrow payments.

39. Ms. Dixon concluded that the funds belonged to someone, and should have been disbursed immediately upon closing. If there were unclaimed funds, those funds should have been promptly submitted to the Department of Revenue for disposition instructions in accordance with the Unclaimed Property Act of 1993.

40. Respondent Lusa reports that the \$6,000.00 were held in one of the inactive accounts and were promptly disbursed in small check amounts, but the disbursed checks were not cashed or claimed. Respondent Vintage issued new checks, but checks were still returned. Respondents forwarded the unclaimed funds in December 2008 to be processed as unclaimed property.

Prior examination.

41. In fall 2006 a Department examiner came to Respondents' office. There were some irregularities revealed during the initial examination, and upon learning of the irregularities, Respondent Lusa replaced his limited practice officer who he had hired only three weeks before. Respondent Lusa did not provide evidence as to what irregularities were discovered.

42. The first examiner called in a second to help with the examination. The examiners left a list of items to be completed by Respondents' new limited practice officer. Respondent Lusa did not provide information about what items were to be completed.

Because of business reasons Respondents moved from a 15,000 square foot office to a 3,000 square foot office in January or March 2007. (The record contains conflicting moving dates.)

44. In spring 2007 one of the examiners returned to Respondent Lusa's office to review the items that were to be completed. The examiner reported that "everything was okay."

Expired Designated Escrow Officer License

45. Respondent Lusa's license, which required annual renewal, expired on May 17, 2007. Respondent Lusa had no idea that his license expired at that time, in part, because he was in the process of closing his business. He had reduced his staff (who in the past were responsible for renewing his license) and was overloaded with work. Consequently, "things fell through the cracks."

Closure of business.

46. Respondents closed the business on December 31, 2007, that is, they stopped accepting new business, but did not close bank accounts at that time to ensure that all issued checks were cleared. In addition, Respondent Lusa assigned an employee to "clean up" any remaining matters, a task that was completed on or about February 29, 2008.

47. Respondent Lusa was aware that he was required under the Act to follow a specific protocol relative to closing the office, but was unaware of the requirements to notify the Department within 24 hours of closure, and to submit his licenses within five days.

48. Respondents timely submitted the Escrow Agent Office Closure Form and the Escrow Agent Closure of Office Escrow Trust Funds Responsibility Form. Exhibit D7, pages 1-2.

## CONCLUSIONS OF LAW:

1. Pursuant to 34.05 RCW (the Administrative Procedure Act) and RCW 18.44.011 (the Escrow Agent Registration Act), the Statement of Charges issued in this matter is appealable to an administrative law judge. RCW 18.44.270. The decision of the administrative law judge is an initial order, subject to review by the Department in accordance with RCW 34.05.464 and WAC 10-08-211. The Respondents' appeal rights are set forth at the end of this Initial Order.

2. In the absence of a specific statute or regulation that applies to the Department in this matter, the standard of proof to be applied in this hearing, governed by the Washington State Administrative Procedure Act, is preponderance of the evidence. The Department has requested that the undersigned apply a higher standard of proof, that is, a standard of clear, cogent and convincing evidence, in light of certain appeal decisions that call for a higher standard of proof in cases involving the revocation of a professional license. As stated above, the undersigned has applied the clear, cogent and convincing standard to the findings in this matter in the event that this matter is appealed and a higher standard of proof applies.

### Engaging in business without a license.

3. According to RCW 18.44.021 it is unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(4) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter.

4. RCW 18.44.171 provides that

[a]ny person required by this chapter to obtain a license who . . . willfully continues to act as an escrow agent or licensed escrow officer after . . . expiration . . . of his or her license, is guilty of a misdemeanor punishable by imprisonment for not more than ninety days, or by a fine of not more than one hundred dollars per day for each day's violation, or by both such fine and imprisonment.

5. Respondent Lusa engaged in business as an escrow agent from May 17, 2007, when his license expired, until the closure of his business. February 28, 2008 is the correct date of closure, rather than December 31, 2007 or January 31, 2008, because the company's trust accounts remained open and an employee was charged with taking care of the remaining matters until that date.

6. In light of the requirement that every escrow agency must have a licensed escrow officer responsible for overseeing the agency operations, Respondent Lusa should have been aware

that his license expired on May 17 each year. Though he may have always relied on his staff to renew his annual license, he is ultimately responsible for ensuring that his license is maintained. He was therefore in violation of this provision of the Act from May 17, 2007 until February 28, 2008.

Failure to maintain sufficient funds in Trust Account.

7. A review of the Act reveals that escrow agencies and their designated escrow officers are highly regulated. Their responsibilities are spelled out in detail because of the large amounts of money involved in transactions requiring escrow accounts, and the risk of great harm to consumers.

8. RCW 18.44.400(3) sets forth the responsibilities of a licensed escrow agent regarding the segregation and disbursements of trust funds, and for adequate record keeping.

An escrow agent shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements.

RCW 18.44.400(3).

9. Respondents violated RCW 18.44.400(3), evidenced by the four Notices of Insufficient Funds and/or Overdraft sent by Respondents' bank to the Respondents. The undersigned recognizes that Respondents argue the overdrafts and other consequences of the overdrafts were a result of the need to open up "adjoining" accounts because of the forged checks drawn on its trust accounts in fall 2005. But Respondents presented no evidence that the overdrafts were the result of bank error. Rather, the record demonstrates that the overdrafts were the result of Respondents' poor management of these accounts. Moreover, the overdrafts occurred in one of Respondents' new accounts, not an inactive one as Respondent Lusa maintains, which underscores the Department's concerns that Respondents' trust accounts were not being properly monitored.

Failure to reconcile trust accounts monthly.

10. WAC 208-680E-011(9) states:

The agent shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account receipts and disbursement records. The reconciliation will be signed by the designated escrow officer or branch designated escrow officer. Such reconciliations are to be retained as permanent records.

11. Respondent Lusa failed to reconcile the trust account bank statements on two of the accounts, which he identifies as the inactive accounts that were closed when he discovered the check forging. But he offers as explanation the fact that his primary reconciler was ACS Northwest, and that monthly reconciliations were completed by Jonelle Wheeler. Ms. Wheeler presented him each month after February 2006 only two reconciliation reports, which he signed as required. He was unaware that there were still funds in the inactive trust accounts.

12. Although Respondent Lusa delegated the task of reconciling his agency's trust accounts monthly, he is ultimately responsible for performing that task:

The designated escrow officer shall be responsible for [the agent's] handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent.

RCW 18.44.071. The designated escrow officer also bears responsibility for supervising all other persons performing escrow transactions. Respondent Lusa should have been aware that there were two other trust accounts holding funds that had not yet been disbursed. His failure to do so represents a violation of WAC 208-680E-011(9).

Failure to file timely quarterly reports.

13. WAC 208-680E-025(1), (2) and (3) state:

(1) For purposes of determining compliance with chapter 18.44 RCW and chapter 208-680WAC, each escrow agent shall file with the director, within thirty days following the end of each fiscal quarter, a report concerning its operations and trust account administration and reconciliation. The report shall be on a form provided by the director and shall include exhibits as specified therein.

(2) As to trust account matters, the designated escrow officer of the escrow agent shall certify under penalty of perjury, in a manner consistent with RCW 9A.72.085, that he or she has reviewed the report and any exhibits filed with it and that the information contained in the report and in all exhibits is true and correct. The chief executive officer or chief financial officer of the escrow agent, or other knowledgeable person acceptable to the director, may certify the information on the report not related to trust account matters.

(3) Failure to file the report within the time period specified in this rule shall be considered a violation of RCW 18.44.430.

14. RCW 18.44.430 sets forth the actions the director may take to deny, suspend, decline to renew, or revoke the license of any escrow agent or escrow officer who violates any of the

provisions in chapter 18.44 RCW or any lawful rules made by the director pursuant to this chapter.

15. In this case, Respondents failed to file the fourth quarter 2007 report by the required deadline of January 30, 2008, since the Department received the report on March 13, 2008. In the hearing in this matter Respondent Lusa did not provide any explanation for why the report was not timely filed. Since he was aware of his responsibilities to file quarter reports, and aware of the requirement to file with 30 days of the end of the quarter, Respondents are in violation of WAC 208-680E-025 (1)-(3).

Failure to report closure of Agent's office.

16. The designated escrow officer, owner of the firm or other controlling person is responsible for following a particular protocol when an office is closed: (1) the Department must be notified within 24 hours of closure; (2) all original escrow licenses for the office being closed must be dated and signed and returned to the Department within five days; (3) an itemized accounting of funds held in trust at the time of closure must be submitted to the Department within 30 days; (4) the name, residence address and telephone number of the person responsible for the Agent's records must be submitted to the Department within 24 hours of closure; (5) the street address where the records are located must be submitted to the Department within 30 days of closure; (6) all responsible persons are jointly and severally obliged to notify the Department within 30 days of any change in the person responsible for the records or the place the records are maintained. WAC 208-680C-045.

17. Respondent Lusa submitted the Escrow Agent Office Closure Form dated March 10, 2008 (which includes the information required under WAC 208-680C-045) to the Department, and it was received on March 13, 2008. On the form, Respondent Lusa indicated that the effective date of closure was January 31, 2008. In the hearing, however, he explained that the agency's trust accounts were not closed by January 31, 2008, and that an employee was charged with "closing out" operations, which was completed on or about February 29, 2008.

18. Respondent Lusa should have been aware of the required protocol set forth in WAC 208-680C-045 for notifying the Department of his office closure within 24 hours, and should have submitted his licenses within five days. He has therefore violated the letter of the Act. But the undersigned does not consider this violation - especially in light of his timely submission of his closure forms - to rise to same level as the failures of a fiduciary nature described above. This violation alone cannot support the penalties of denial of license and prohibition from practice.

Penalties

19. The Director may suspend or revoke the license of any escrow agent or escrow officer for violating any provisions of the Act. RCW 18.44.430(1) and WAC 208.680G-040.

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20. The Director may prohibit any escrow officer from participating in the affairs of any licensed escrow agent for violating any provisions of the Act, and may impose fines for violating any provisions of the Act:

(3) In addition to or in lieu of a license suspension, revocation, or denial, the director may assess a fine of up to one hundred dollars per day for each day's violation of this chapter or rules adopted under this chapter and may remove and/or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer.

RCW 18.44.430(3). See also WAC 208-680G-040.

21. The Director may collect the expenses of an investigation and an examination from the person being examined. RCW 18.44.121 and WAC 208-680G-050. Payment of the invoiced amount is due within 30 days. WAC 208-680G-050(3). The Department has provided sufficient documentary and testimonial evidence relative to the hours spent on the financial examination and investigation in this matter.

#### Appropriateness of Penalties.

22. Respondent Lusa argues that the penalties sought by the Department are harsh and excessive, and that any irregularities in Respondents' fiduciary duties are outweighed by his respectable performance in the 15 years he has been in the escrow business.

23. But the Department's sanctions are reasonable in light of the nature of Respondents' conduct - multiple violations of the fiduciary responsibilities placed on agents and officers under the Act. Respondents lost track of two out of four trust accounts, overlooked monthly reconciliations, and left at least \$6,000.00 in trust funds undischursed. Though Respondent Lusa maintains that he has an unblemished record of 15 years in the escrow business, the record here reveals a pattern of poor management of trust accounts and "things falling in the cracks" beginning January 2006. Even at the hearing in this matter, Respondent Lusa believed that the four bank overdrafts were mistakenly drawn on an inactive trust account, though the evidence demonstrates that the four overdrafts were issued to a "new" account. And though Respondent Lusa's staff may have misled him as to the status of several matters, he is ultimately responsible for supervision of the staff and for compliance with the Act under RCW 18.44.071.

24. Regarding the five-year prohibition from the escrow industry, the Department maintains that the appropriate start for the prohibition in this matter is the date of this Initial Order. That date is appropriate since this is the date when the prohibition would first go into effect. In this matter, however, a significant period of time has passed since the Department issued the Statement of Charges dated January 7, 2009. Although Respondents have not been formally

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subject to the prohibition since January 7, 2009, Respondents have faced substantial obstacles to participation in the escrow business since that date. The Department's intent to order Respondents' prohibition from the industry meant that Respondents would have to consider an eventual bar and would have to disclose that possibility to escrow agents or escrow officers they might approach. Under these circumstances, the undersigned concludes that the five-year prohibition should begin on the date of the Statement of Charges, January 7, 2009.<sup>3</sup>

25. The undersigned is unaware of any statute, regulation or policy that permits an administrative law judge to challenge the Department's decisions regarding fees, fines and other sanctions, if the decisions are not arbitrary and capricious. The Department's decisions regarding the prohibition from participation in the escrow industry, the \$27,000.00 fine for violations of the Act, and its calculation of examination and investigation fees, are not arbitrary and capricious.

26. Rather, the Department's decisions on these matters are conservative, providing some consideration for the difficulties that might arise when a business is closing. For example, the Department could have fined Respondents \$200.00 per day in light of the fact that several of the violations occurred on the same day (operating without a DEO license and failing to reconcile "inactive" trust accounts, for example), but did not do so. The Department could have fined Respondents \$100.00 per day for every day from May 17, 2007 and March 13, 2008, but did not do so.

27. The undersigned also recognizes the Respondent Lusa may have faced personal difficulties as his business was winding down in 2006 and 2007. But the Act contains no provisions for a "good cause" defense to the responsibilities of escrow agents and officers under the Act.

28. Regarding the maintenance of the company's records, such maintenance even after a business has closed is required under WAC 208-6800-030, and the Department provided sufficient examples of the rationale behind the requirements.

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<sup>3</sup> The undersigned intended to begin the five-year period of prohibition on the date Respondents learned of the Department's intent to order that sanction. Though the Statement of Charges is signed on January 7, 2009, there is no evidence in the record as to when the Statement of Charges was served on Respondents. And though it appears that Respondents mailed the appeal on April 13, 2009, there is no evidence as to when the appeal was received by the Department. Since neither party has raised jurisdictional issues, the undersigned has determined the five-year prohibition shall begin on January 7, 2009.

27. The undersigned has considered all Respondents' arguments set forth in Paragraph 21 in the above Findings of Fact. Those not specifically addressed are deemed without merit in light of the above conclusions.

#### ORDER

Respondent Vintage's license to conduct the business of an escrow agent is revoked or suspended; and

Respondent Lusa's Designated Escrow Officers's license is revoked or suspended beginning January 7, 2009; and

Respondents Vintage is prohibited from the industry of an escrow agent for a period of five years beginning January 7, 2009; and

Respondent Lusa is prohibited from the industry of an escrow agent for a period of five years; and

Respondents Vintage and Lusa jointly and severally shall pay a fine, which totals \$27,000; and

Respondents Vintage and Lusa jointly and severally shall pay examination and investigation fees, totaling \$17,937.50 (\$17,187.50 examination fee; and \$750 investigation fee); and

Respondents Vintage and Lusa shall maintain records in compliance with the Act and provide the Department with the location of the books, records, and other information relating to Respondent Vintage Escrow Inc. dba Bellevue Escrow escrow agent business, and the name, address, and telephone number of the individuals responsible for maintenance of such records in compliance with the Act.

SERVED on the date of mailing.

  
Anita T. Davidson  
Administrative Law Judge

#### NOTICE OF APPEAL RIGHTS

Pursuant to RCW 34.05.464 and WAC 10-08-211, any party to this proceeding may file a petition for review of this initial order. You must file your petition for review with the Director of the Department of Financial Institutions, PO Box 41200, Olympia, WA 98501-1200 (mailing address) or Department

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Seattle, WA 98101-3120  
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of Financial Institutions, 150 Israel Rd SW, Tumwater, WA 98501 (physical address). The petition for review must be mailed within twenty (20) days from the date this initial order was mailed to you. A copy of the petition for review must be sent to all parties of record. Your petition for review must specify the portions of the initial order with which you disagree, and must refer to the evidence in the record which supports your position.

Any party to this proceeding may file a reply to a petition for review. The reply must be filed with the Director of the Department of Financial Institutions at the address(es) above within ten (10) days from the date the petition for review was mailed, and copies of the reply shall be mailed to all other parties or their representatives at the time the reply is mailed.

ATD:ipi

A copy was mailed to the following:

**Appellant:**

Steven William Lusa  
Vintage Escrow, Inc. dba Bellevue Escrow  
9511 - 172nd St SE  
Snohomish, WA 98296

**Department Representative:**

Charles Clark, Assistant Attorney General  
Attorney General of Washington  
PO Box 40100  
Olympia, WA 98504

**Department Contact:**

James Brusselback, Chief  
Department of Financial Institutions  
PO Box 41200  
Olympia, WA 98504

STATE OF WASHINGTON )

COUNTY OF KING )

I hereby certify that I have this day served a copy of this document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

DATED at Seattle, Washington, this 20<sup>th</sup> day of May 2011

  
Representative, Office of Administrative Hearings

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INITIAL ORDER

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PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 1-C

STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Escrow Agent Registration Act of Washington  
by:

VINTAGE ESCROW INC. dba BELLEVUE  
ESCROW, and STEVEN WILLIAM LUSA,  
Co-owner and Designated Escrow Officer,

Respondents.

NO. C-08-245-08-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO REVOKE OR  
SUSPEND LICENSES, PROHIBIT FROM  
INDUSTRY, IMPOSE FINE, AND  
COLLECT INVESTIGATION AND  
EXAMINATION FEES

INTRODUCTION

Pursuant to RCW 18.44.410 and RCW 18.44.430, the Director of the Department of Financial Institutions (Director) is responsible for the administration of chapter 18.44 RCW, the Escrow Agent Registration Act (Act). After having conducted an investigation pursuant to RCW 18.44.420, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Deborah Bortner, Division Director, Division of Consumer Services, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Vintage Escrow Inc. dba Bellevue Escrow (Respondent Vintage) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as an escrow agent on May 17, 1996, and was licensed through December 31, 2007, when its license expired. Respondent Vintage was co-owned by Steven William Lusa and Susan Lusa.

B. Steven William Lusa (Respondent Lusa) was a co-owner and the licensed Designated Escrow Officer (DEO) for Respondent Vintage until his license expired on May 17, 2007.

1.2 Examination. On February 25, 2008, the Department conducted an examination of the books and records of the Respondents. The Department's examination covered a time frame from January 1, 2006, through February

STATEMENT OF CHARGES  
C-08-245-08-SC01  
VINTAGE ESCROW INC. dba BELLEVUE ESCROW,  
and STEVEN WILLIAM LUSA

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Janet Rd SW  
PO Box 41200  
Olympia, WA 98504-1200

1 29, 2008. The scope of the examination included analysis, inquiry and testing of Respondent Vintage's financial  
2 records and escrow account records. As a result of the examination, the Department discovered violations of the  
3 Act as outlined below.

4 **1.3 Failure to Operate with a Licensed Designated Escrow Officer.** Respondent Lusa's DEO license  
5 expired on May 17, 2007, but Respondent Vintage continued to conduct business, without a DEO, through March  
6 13, 2008, when it submitted closure forms to the Department.

7 **1.4 Failure to Maintain Sufficient Account Balances in the Company Trust Account.** Respondents did not  
8 maintain sufficient account balances and allowed its trust account, ending in 6521, to be overdrawn 4 times from  
9 January 4, 2006, through July 31, 2006. The overdrawn amounts are as follows:

Trust Account	Overdrawn Amount	Date
Ending in 6521	\$176,520.77	1/4/06
Ending in 6521	\$127,413.41	1/17/06
Ending in 6521	\$ 94,229.67	7/28/06
Ending in 6521	\$ 93,267.39	7/31/06

13  
14 **1.5 Failure to Reconcile Trust Accounts on a Monthly Basis.** Respondents did not reconcile trust accounts  
15 ending in 7704 and 3222 on a monthly basis. Respondent Lusa informed the Department, during the examination,  
16 that the two trust accounts had not been reconciled since February 2006.

17 **1.6 Failure to Report Closure of Agent's Office.** Respondents did not timely notify the Department of the  
18 closure of Respondent Vintage within 24 hours of closure. In addition, the Respondents did not deliver all original  
19 escrow licenses to the Department within 5 working days from office closure.

20 **1.7 Failure to Timely File Quarterly Reports.** Respondents did not file the 2007 4<sup>th</sup> quarter report by the  
21 January 30, 2008, deadline. The Respondents filed the report on March 13, 2008.

22 **1.8 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by  
23 Respondents continues to date.

24 //

25 //

STATEMENT OF CHARGES  
C-08-243-04-SCM1  
VINTAGE ESCROW INC. dba BELLEVUE ESCROW,  
and STEVEN WILLIAM LUSA

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
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1 **II. GROUNDS FOR ENTRY OF ORDER**

2 **2.1 Definition of Escrow.** Pursuant to RCW 18.44.011(4), "Escrow" means any transaction wherein any  
3 person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance,  
4 or lease of real or personal property to another person or persons, delivers any written instrument, money,  
5 evidence of title to real or personal property, or other thing of value to a third person to be held by such third  
6 person until the happening of a specified event or the performance of a prescribed condition or conditions, when  
7 it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to  
8 a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee  
9 thereof.

10 **2.2 Definition of Escrow Agent.** Pursuant to RCW 18.44.011(5) "Escrow Agent" means any person engaged  
11 in the business of performing for compensation the duties of the third person referred to in RCW 18.44.011(4).

12 **2.3 Requirement to Obtain and Maintain License.** Based on the factual allegations set forth in Section I  
13 above, Respondent Lusa is in apparent violation of RCW 18.44.081 and RCW 18.44.171 for engaging in business  
14 as an escrow officer by performing escrows or any of the functions of an escrow agent within this state or with  
15 respect to transactions that involve personal property or real property located in this state without first obtaining  
16 and maintaining a license.

17 **2.4 Requirement to Maintain Sufficient Funds in Trust Account.** Based on the factual allegations set  
18 forth in Section I above, Respondents are in apparent violation of RCW 18.44.400(3) for making disbursements  
19 from an escrow account without first receiving deposits directly relating to the account in amounts at least equal to  
20 the disbursements.

21 **2.5 Requirement to Reconcile Trust Accounts Monthly.** Based on the factual allegations set forth in  
22 Section I above, Respondents are in apparent violation of WAC 206-680E-011(9) for not preparing a monthly trial  
23 balance of the client's ledger with the trust account bank statements and the trust account receipts and disbursement  
24 records.  
25

1 **2.6 Requirement to File Timely Quarterly Reports.** Based on the factual allegations set forth in Section I  
2 above, Respondents are in apparent violation of WAC 208-680E-025(1), (2), and (3), for not filing with the  
3 director, within 30 days following the end of each fiscal quarter, a report concerning its operations, a report  
4 concerning the trust account administration, and a one-page summary of the three-way reconciliation from the last  
5 month of the quarter.

6 **2.7 Requirement to Notify Department of Significant Events.** Based on the factual allegations set forth in  
7 Section I above, Respondents are in apparent violation of WAC 208-680C-045, for not notifying the Department of  
8 office closure within 24 hours of closure and for not returning the original licenses to the Department within 5  
9 working days of office closure.

10 **2.8 Requirement to File Quarterly Reports.** Based on the factual allegations set forth in Section I above,  
11 Respondents are in apparent violation of WAC 208-680E-025, for not filing a quarterly report with the Department,  
12 within 30 days following the end of the fiscal quarter.

13 **III. AUTHORITY TO IMPOSE SANCTIONS**

14 **3.1 Authority to Revoke or Suspend Licenses.** Pursuant to RCW 18.44.430(1) and WAC 208-680G-040,  
15 the Director may suspend or revoke the license of any escrow agent or escrow officer for violating any  
16 provisions of this Act.

17 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040, the  
18 Director may prohibit any escrow officer from participation in the affairs of any licensed escrow agent for violating  
19 any provisions of this Act.

20 **3.3 Authority to Impose Fines.** Pursuant to RCW 18.44.430(3) and WAC 208-680G-040(3), the Director  
21 may impose fines for violating any provisions of this Act.

22 **3.4 Authority to Collect Investigation and Examination Fees.** Pursuant to RCW 18.44.121 and WAC  
23 208-680G-050, the Director may collect the expenses of an investigation and an examination from the person  
24 being examined.

25 //

STATEMENT OF CHARGES  
C-08-245-08-SC01  
VINTAGE ESCROW INC, dba BELLEWUE ESCROW,  
and STEVEN WILLIAM LISA

4  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Laurel Rd SW  
PO Box 41260  
Olympia, WA 98504-1200  
(360) 903-5763



1 IV. NOTICE OF INTENTION TO ENTER ORDER

2 Respondents' violations of the provisions of chapter 18.44 RCW as set forth in the above Factual  
3 Allegations, Grounds For Entry Of Order, and Authority to Impose Sanctions constitute a basis for the entry of an  
4 Order under RCW 18.44.410, RCW 18.44.430, RCW 18.44.301, and WAC 208-6800-030 which authorize the  
5 Director to enforce all laws, rules, and regulations related to the registration of escrow agents and licensing of  
6 escrow officers. Therefore, it is the Director's intention to ORDER that:

- 7 4.1 Respondents' Vintage Escrow Inc. dba Bellevue Escrow and Steven William Lusa's licenses to  
8 conduct the business of an escrow agent be revoked or suspended; and
- 9 4.2 Respondent Vintage Escrow Inc. dba Bellevue Escrow be prohibited from the industry of an  
10 escrow agent for a period of 5 years; and
- 11 4.3 Respondent Steven William Lusa be prohibited from the industry of an escrow agent for a  
12 period of 5 years; and
- 13 4.4 Respondents Vintage Escrow Inc. dba Bellevue Escrow and Steven William Lusa, jointly and  
14 severally, pay a fine, which as of the date of this document totals \$27,000; and
- 15 4.5 Respondents Vintage Escrow Inc. dba Bellevue Escrow and Steven William Lusa, jointly and  
16 severally, pay restitution in an amount to be determined at hearing; and
- 17 4.6 Respondents Vintage Escrow Inc. dba Bellevue Escrow and Steven William Lusa, jointly and  
18 severally pay examination and investigation fees, which at the time of this document total  
19 \$17,937.50 (\$17,187.50 examination fee and \$750 investigation fee); and
- 20 4.7 That Respondents Vintage Escrow Inc. dba Bellevue Escrow, maintain records in compliance  
21 with the Act and provide the Department with the location of the books, records, and other  
22 information relating to Respondent Vintage Escrow Inc. dba Bellevue Escrow escrow agent  
23 business, and the name, address, and telephone number of the individual responsible for  
24 maintenance of such records in compliance with the Act.

25 //  
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STATEMENT OF CHARGES  
C-08-243-08-SC01  
VINTAGE ESCROW INC. dba BELLEVUE ESCROW,  
and STEVEN WILLIAM LUSA

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200  
(360) 502-5703

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**V. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intent to Revoke or Suspend Escrow Agent, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation and Examination Fees is entered pursuant to the provisions of RCW 18.44.410 and RCW 18.44.430, and is subject to the provisions of chapter 34.05 RCW. Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

DATED this 21<sup>st</sup> day of January, 2009.

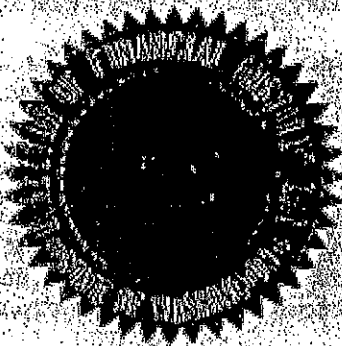


**DEBORAH BORTNER**  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:



**WILLIAM J. HALSTEAD**  
Financial Legal Examiner



Approved by:



**JAMES R. BRUSSELBACK**  
Enforcement Chief

STATEMENT OF CHARGES  
COR-345-08-8001  
VINTAGE ESCROW INC. dba BELLEVUE ESCROW,  
and STEVEN WILLIAM LUSA

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200  
(360) 902-8700

**FILED**

2014 MAR 24 P 5:04

DIG HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 1-D

To whom it may concern;

The issues in the Escrow Divisions complaint regarding Escrow operation against Vintage Escrow/Bellevue Escrow were heard without Vintage Escrow/Bellevue Escrow or myself having any legal representation. I wasn't in a position financially to hire an attorney so I went to the hearing myself and failed to establish a sufficient legal defense.

The closure of the Mortgage, Escrow, and Real Estate companies at the end of 2007 brought to light some operational issues and loose ends which were tended to as soon I became aware of them.

Sincerely;

Steven W. Lusa

---

**FILED**

2014 MAR 24 P 5: 04

OIC HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 2-A



State of Washington  
 DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:

OAH Docket No. 2009-DFI-0045  
 DFI No. C-08-066-08-SC01

WESTERN STATES MORTGAGE CORP.,  
 d/b/a RESIDENTIAL CAPITAL CORP., and  
 STEVEN WILLIAM LUSA, Owner,  
 Designated Broker and Loan Originator  
 Applicant, and TROY BOWERS, Loan  
 Originator,

FINAL DECISION & ORDER

Respondents.

THIS MATTER has come before the Director (hereinafter, "Director") of the Department of Financial Institutions (hereinafter, "Department") in the above-enumerated administrative action pursuant to the Amended, Corrected Findings of Fact, Conclusions of Law, and Initial Order (hereinafter "Initial Order") based upon a Statement of Charges and Notice of Intention to Enter an Order to Deny Loan Originator License Application, Prohibit from Industry, Impose Fine, Order Restitution, and Collect Investigation Fee (hereinafter, "Statement of Charges") issued by the Division of Consumer Services (hereinafter, "Division") on or about April 28, 2009, under the authority of the Mortgage Broker Practices Act, Ch. 19.146 RCW (hereinafter, "MBPA"). 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, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative hearing for Respondent Steven William Lusa (hereinafter "Respondent"), and was served on the Respondent on April 28, 2009, by United States Postal Service First-Class mail (First-Class mail) and Federal Express Overnight Delivery.

On May 13, 2009, the Respondent timely requested an Administrative Hearing to contest the Statement of Charges, and this matter was assigned to the Office of Administrative

RE: Steven William Lusa, OAH Docket No. 2009-DFI-0045, DFI No. C-08-066-08-SC01

FINAL ORDER - 1

1 Hearings (hereinafter, "OAH") on August 12, 2009. On September 2, 2009, the OAH  
2 designated Administrative Law Judge Anita J. Davidson to hear the case. Administrative Law  
3 Judge Davidson was replaced by Administrative Law Judge Lisa Groeneveld-Meijer, who  
4 conducted a telephonic pre-hearing conference on January 19, 2010. All parties attended the  
5 telephonic pre-hearing conference. On January 27, 2010, Administrative Law Judge  
6 Groeneveld-Meijer issued a prehearing order setting a hearing date of August 24, 2010 and  
7 stating: "Parties who fail to attend or participate in the hearing or other stage of the adjudicative  
8 proceeding may be held in default." On May 17, 2010, the case was reassigned one final time  
9 to Administrative Law Judge Thomas Rack (hereinafter, "Administrative Law Judge"), who  
10 issued an additional Notice of In-Person hearing on that date, stating that the hearing would be  
11 convened on August 24, 2010.

12  
13 The Administrative Law Judge convened the hearing on August 24, 2010. The  
14 Department, through the Attorney General's Office, appeared at the hearing. The Respondent  
15 did not appear. The Administrative Law Judge took evidence, and then on September 27, 2010,  
16 issued an Initial Order affirming the statement of charges. The order was followed by a  
17 corrected Initial Order on October 8, 2010, and an amended and corrected Initial Order on  
18 October 12, 2010. The Initial Order contains Findings of Fact (hereinafter, "FOF") and  
19 Conclusions of Law (hereinafter, "COL"). Respondent had seven (7) days to file a motion with  
20 the Administrative Law Judge providing grounds to vacate the order. He did not do so, instead  
21 filing an Appeal of the Initial Order and Petition for Review with the Director on October 15,  
22 2010, within the twenty (20) day deadline to request such review.

23 Accordingly, the Director subsequently ordered, received and has now considered the  
24 entire OAH Record. This Final Decision and Order are based upon a consideration of the  
25 entire OAH Record, including, without limitation, the following:

- 26 1. Statement of Charges;
- 27 2. Application for Adjudicative Hearing; and
- 28 3. Respondent's Appeal of the Initial Order and Petition for Review (hereinafter,  
29 "Respondent's Appeal and Petition");
- 30 4. The Division's Reply (hereinafter, "Division's Reply");
- 31 5. Initial Order (including the amended, corrected version which is herein relied upon);
- 32 and
- 33
- 34

1 6. Letter from Thomas P. Rack, dated November 15, 2010 (hereinafter "the Rack  
2 Letter").

3 This record is hereinafter referred to collectively as "Record on Review."

4 1.0 Summary of the Case

5 This case involves essentially two sets of allegations by the Respondent, one procedural  
6 and one substantive. In the procedural allegation, the Respondent argues that he was not  
7 provided adequate notice of his administrative hearing as required by RCW 34.05.434 (1) due  
8 to confusing communications between the Respondent and the OAH. Respondent makes four  
9 substantive allegations: 1) that Respondent's loan officer solicitations were not violations of the  
10 MBPA; 2) that Respondent was not involved in one of the transactions that led to one set of the  
11 charges against him; 3) that Respondent fully responded to all directives from the Department;  
12 and 4) when one of the complaints that led to a charge was brought to the Respondent's  
13 attention, that he immediately corrected the situation.  
14

15 The Department, though the Attorney General's Office, filed a reply addressing the  
16 Petition and Appeal on October 25, 2010.

17 2.0 Preliminary Considerations

18 Reviewing officials do not usually seek information not included in the record when  
19 reviewing administrative law decisions. The Administrative Procedures Act (herein "APA") at  
20 RCW 34.05.464(5) states: "The reviewing officer shall personally consider the whole record or  
21 such portions of it as may be cited by the parties." This has been interpreted by the Division II  
22 Court of Appeals as a bar to an agency attempting to supplement the record on an appeal. See,  
23 e.g., *Towles v. Dep't of Fish and Wildlife*, 94 Wn. App. 196, (Division II, 1999).<sup>1</sup> The *Towles*  
24 court did acknowledge that some agencies have adopted administrative rules that authorize  
25 such supplementing of the record on review and strongly implied that such rules did not violate  
26 the Administrative Procedures Act.<sup>2</sup> The RCW 34.05.464 also states that "[t]he reviewing  
27  
28  
29

30 <sup>1</sup> "[RCW 34.05.464] does not provide that the reviewing officer may go outside the record or take additional  
31 evidence." In *Towles*, the Department of Fish and Wildlife decided *sua sponte* to review a crabbing license, and  
32 sought substantive evidence outside the record. *Towles* is easily distinguishable from the instant case, and the  
33 interests of justice in this case were better served by verifying procedural information.

34 <sup>2</sup> "In contrast, we note that other agencies have adopted regulations addressing this matter. Such agencies as the  
School for the Blind, WAC 72-171-630, and School for the Deaf, WAC 148-171-630, have adopted regulations  
explicitly permitting their reviewing officers to take additional evidence when reviewing an initial order . . ."  
*Towles*, internal pagination omitted). DFI has not implemented such a rule, instead adopting the model rules of



1 officer shall exercise all the decision-making power that the reviewing officer would have had  
2 to decide and enter the final order had the reviewing officer presided over the hearing, except  
3 to the extent that the issues subject to review are limited by a provision of law or by the  
4 reviewing officer upon notice to all the parties." Here, no specific provision of law restricts the  
5 Director's authority to request information relevant to the adequacy of notice, and the Director  
6 did not restrict his own authority in this case by providing notice to all of the parties.

7  
8 In this case, the procedural allegations regarding notice, if true, undercut the  
9 fundamental purpose of the APA, providing adequate notice and opportunity to be heard to  
10 persons involved in an administrative adjudication. The evidence necessary to properly address  
11 the allegations, if it exists, should have been included in the record from the OAH, but was not  
12 evident. The Department, through the Attorney General's Office, was not in a position to  
13 address the veracity of the allegations in its reply as any relevant information would have been  
14 in the possession of the OAH, not the Department.<sup>3</sup> The Respondent did not produce any  
15 relevant evidence that might have been in his possession, but was unable to present any  
16 evidence because he did not attend the hearing. This left a record on review devoid of any  
17 evidence to address the allegation of confusion regarding the hearing date.

18  
19 This left the Director with two choices based on the record and appeal: To accept the  
20 self-interested and unsubstantiated allegations of the Respondent, or to potentially support a  
21 fundamental miscarriage of justice by denying the Respondent due process. In the interest of  
22 justice and fulfilling the underlying intent of the APA, the Director opted to seek the  
23 information regarding any contacts between the Respondent and the Administrative Law Judge  
24 or OAH that, if in existence, could have supported remanding this case for re-hearing. He  
25 attempted to do so through the Director's Interrogatories on Petition for Review,  
26 ("Interrogatories"). The Interrogatories sought specific information about procedural aspects of  
27 the above-captioned matter regarding information that should have been in the original record  
28 on review, but sought no information about the substantive allegations. While properly refusing  
29 to answer the Interrogatories on grounds that the Director does not now dispute, the

30  
31  
32 administrative procedure, WAC 10-08, but has not adopted a rule expressly limiting the Director's review to the  
33 OAH record.

34 <sup>3</sup> The Department did provide information regarding a related but unconsolidated case involving the Respondent that  
might explain some of the confusion, but did not specifically address any telephone conversations between the  
Respondent and the OAH.

RE: Steven William Lusa, OAH Docket No. 2009-DFI-0045, DFI No. C-08-066-08-SC01

FINAL ORDER - 4

1 Administrative Law Judge provided both information about the operations of the OAH and two  
2 pieces of evidence that were already reflected in the record. This information is relevant to the  
3 underlying allegations, so the Director chose to consider the information provided in the Rack  
4 Letter, though it was not ultimately dispositive.

5 3.0 Director's Consideration of FOF and COL.

6 After due consideration of the entire record on review, the Director believes that the  
7 ~~Initial Order is appropriate in its entirety.~~ The Director does not arrive at this conclusion  
8 lightly, given the important liberty interest at issue here and the potential for denial of due  
9 process if the Respondent's allegations were true.

10  
11 The Respondent raises procedural allegations in his Appeal and Petition that are  
12 troubling. These allegations were not refuted by the Department in its response, though the  
13 Department likely would have no way to address the veracity of those allegations as any  
14 relevant records would have rested with the OAH and the Administrative Law Judge, not the  
15 Department or its representative from the Attorney General's Office. However, the allegations  
16 do not appear to be substantiated by the record, either with or without the information  
17 contained in the Rack Letter. The Director must come to the conclusion that the evidence  
18 supports the propositions that: 1) the Respondent did receive adequate notice of his hearing;  
19 and 2) the Respondent was not prevented or dissuaded from attending his hearing by any  
20 actions or errors on the part of the OAH, the Administrative Law Judge, or the Department.

21  
22 As for the Respondent's substantive allegations, no evidence is presented in the record  
23 on review that substantiates any of the substantive allegations raised by the Respondent's  
24 Appeal and Petition. The evidence in the record supports the Findings of Fact and Conclusions  
25 of Law made by the Administrative Law Judge.

26 4.0 Findings of Fact.

27 4.1 Now, therefore, the Director re-affirms FOF 4.1 through FOF 4.36, inclusive, at  
28 pages 2-6 of the Amended, Corrected Initial Order.

29 4.2 The Respondent's Petition and Appeal does not take exception to any specific  
30 portions of the Initial Order.

31 4.3 The Notice of In-Person Hearing issued on May 17, 2010 and served on the  
32 Respondent clearly states that the hearing in this matter was to be held on August 24, 2010, at  
33 9:30 a.m. The hearing was in fact held on that date and at that time.  
34

1 4.4. It is the practice of the OAH to confirm all changes in hearing dates, times, and  
2 places in writing, and any such change must be approved by the presiding Administrative Law  
3 Judge.

4 4.5 Any change of hearing date would have been reflected in the record on review.  
5 No such writing is in the file.

6 4.6 The Respondent had seven (7) days from the issuance of the Amended,  
7 Corrected Initial Order to file a motion to vacate the Order and indicating his grounds to do so  
8 with the Administrative Law Judge. He did not file such a motion.

9  
10 5.0 Conclusions of Law

11 5.1 Now, therefore, the Director re-affirms COL 5.1 through COL 5.29, inclusive, at  
12 pages 6-16 of the Amended, Corrected Initial Order.

13 5.2 WAC 10-08-211(3) states, in pertinent part: "The petition for review shall  
14 specify the portions of the initial order to which exception is taken and shall refer to the  
15 evidence of record which is relied upon to support the petition."

16 5.3 Respondent's petition on substantive grounds is legally deficient because it fails  
17 to specify the portions of the Initial Order to which the Respondent takes exception.

18 5.4 The substantive objections raised in the Respondent's Petition and Appeal are  
19 not supported by the evidence contained in the record on review, regardless of the Petition and  
20 Appeal's legal sufficiency or lack thereof.

21 5.5 Because the Respondent received the Notice of In-Person Hearing issued on  
22 May 17, 2010, and that Notice accurately reflected the date, time, and place of the hearing, he  
23 received adequate notice and opportunity to be heard. This conclusion is confirmed by the  
24 original record on review, and is further supported by the Rack Letter.

25  
26 6.0 Final Order. Having made Findings of Fact and Conclusions of Law as set forth above,  
27 **IT IS HEREBY ORDERED THAT:**

28 6.1 Respondent's request for a new hearing is denied and the Amended, Corrected  
29 Initial Order is affirmed.

30 6.2 Respondents Steven William Lusa and Western States Mortgage Corp. are fined,  
31 jointly and severally, in the amount of \$36,500.00.

32 6.3 Respondents Steven William Lusa and Western States Mortgage Corp. are fined  
33 jointly and severally in the amount of \$1,000.00.  
34

1           6.4     Respondents Steven William Lusa and Western States Mortgage Corp. are  
2 ordered to pay restitution to Carole Wade in the amount of \$16,638.40.

3           6.5     Respondents Steven William Lusa and Western States Mortgage Corp. are  
4 ordered to pay, jointly and severally, an investigation fee in the amount of \$3,504.00.

5           6.6     Denial of License. The application of Respondent, Steven William Lusa, for a  
6 Loan Originator License is denied.

7           6.7     Prohibition. Respondent Steven William Lusa is prohibited from participating in  
8 the conduct of the affairs of any mortgage broker subject to licensure by the Director, in any  
9 manner, through September 27, 2015.

10           6.8     Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to  
11 file a Petition for Reconsideration stating the specific grounds upon which relief is requested.  
12 The Petition must be filed in the Office of the Director of the Department of Financial  
13 Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail  
14 at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of this  
15 Final Order upon Respondent. The Petition for Reconsideration shall not stay the effectiveness  
16 of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in  
17 this matter. A timely Petition for Reconsideration is deemed denied if, within twenty (20) days  
18 from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the  
19 parties with a written notice specifying the date by which it will act on a petition.

20           6.9     Stay of Order. The Director has determined not to consider a Petition to  
21 Stay the effectiveness of this order. Any such requests should be made in connection with a  
22 Petition for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

23           6.10    Judicial Review. Respondent has the right to petition the superior court for  
24 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the  
25 requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

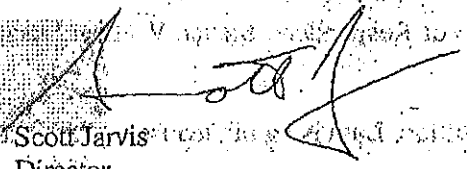
26           6.11    Service. For purposes of filing a Petition for Reconsideration or a Petition  
27 for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of  
28 service attached hereto.

29           6.12    Effectiveness and Enforcement of Final Order. Pursuant to the Administrative  
30 Procedures Act, at RCW 34.05.473, this Final Decision and Order shall be effective  
31 immediately upon deposit in the United States Mail.

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Dated at Tumwater, Washington, on this 8<sup>th</sup> day of December, 2010.

WASHINGTON STATE DEPARTMENT  
OF FINANCIAL INSTITUTIONS

By:   
Scott Jarvis  
Director

RE: Steven William Lusa, OAH Docket No. 2009-DFI-0045, DFI No. C-08-066-08-SC01

FINAL ORDER - 8

1 NOTICE TO THE PARTIES

2 In accordance with RCW 34.05.470 and WAC 10-08-215, any Petition for  
3 Reconsideration of the FINAL DECISION AND ORDER must be filed with the Director  
4 within ten (10) days of service of the FINAL DECISION AND ORDER. It should be noted  
5 that Petitions for Reconsideration do not stay the effectiveness of the FINAL DECISION &  
6 ORDER. Judicial Review of the FINAL DECISION & ORDER is available to a party  
7 according to provisions set out in the Washington Administrative Procedure Act, RCW  
8 34.05.570.

9 This is to certify that the FINAL DECISION AND ORDER has been served upon the  
10 following parties on December 8, 2010, by depositing a copy of  
11 same in the United States mail, postage prepaid.

12 WASHINGTON STATE DEPARTMENT  
13 OF FINANCIAL INSTITUTIONS

14 By: *Susan Putzier*

15 Susan Putzier

16 Executive Assistant to the Director

17  
18 **Mailed to the following:**

19 Steven William Lusa  
20 9511 - 172<sup>nd</sup> St.  
21 Snohomish, WA 98296

Charles Clark, AAG  
Office of the Attorney General  
PO Box 40100  
Olympia WA 98504-0100

22  
23 James R. Brusselback  
24 Chief of Enforcement  
25 Division of Consumer Services  
26 Department of Financial Institutions  
27 P.O. Box 41200  
28 Olympia, WA 98504-1200

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RE: Steven William Lusa, OAH Docket No. 2009-DFI-0045, DFI No. C-08-066-08-SC01.

FINAL ORDER - 9

**FILED**

2014 MAR 24 P 5:05

OIC HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 2-B

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS

RECEIVED

OCT 14 2010

ENFORCEMENT UNIT  
DIVISION OF CONSUMER SERVICES  
DEPT. OF FINANCIAL INSTITUTIONS

In Re:

WESTERN STATES MORTGAGE  
CORP. d/b/a RESIDENTIAL  
CAPITAL CORP. and STEVEN  
WILLIAM LUSA, Owner,  
Designated Broker and Loan  
Originator Applicant, and TROY  
BOWERS, Loan Originator,

RESPONDENTS

Docket No. 2009-DFI-0045

AMENDED  
CORRECTED FINDINGS OF FACT,  
CONCLUSION OF  
LAW, and INITIAL ORDER

*On October 8, 2010, the Amended Corrected Findings of Fact, Conclusion of Law and Initial Order were mailed to the parties without the Administrative Law Judge's signature. This clerical error has been corrected.*

*Due to a typographical error, these Findings of Fact, Conclusions of Law and Initial Order are corrected. New material is in italics and deleted material is in strikethrough.*

## I. ISSUES

1.1 Whether the Department's Statement of Charges for violation of RCW 19.146 should be affirmed and the sanctions contained in the Statement of Charges be imposed upon the Respondents?

## II. ORDER SUMMARY

2.1 The Department's Statement of Charges to (1) deny a loan originator's license to Respondent Lusa; (2) prohibit Respondents Western States Mortgage Corp., and Lusa from participating in the affairs of any mortgage broker subject to licensure by the Director for five years; (3) fine the Respondents Western States Mortgage Corp. and Lusa, jointly and severally, in the amount of \$36,600.00; (4) fine the Respondents Western States Mortgage Corp., and Lusa, jointly and severally, in the amount of \$1,000.00 for not responding or inadequately

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responding to the Director's directives; (5) require Respondents Western States Mortgage Corp., and Lusa, jointly and severally, to pay restitution to Carole Wade in the amount of \$16,638.40; (6) require Respondents Western States Mortgage Corp. and Lusa, jointly and severally, to pay an investigation fee in the amount of \$3,504.00; is hereby AFFIRMED.

### III. HEARING

3.1 **Administrative Law Judge:** Thomas P. Rack

3.2 **Respondents:** Western States Mortgage Corp., d/b/a Residential Capital Corp. ("WSMC"), Steven William Lusa ("Lusa"), and Troy Bowers ("Bowers"), did not appear.

3.3 **Respondent's Representative:** None

3.4 **Agency:** Department of Financial Institutions ("DFI")

3.5 **DFI Representative:** Charles E. Clark, Assistant Attorney General

3.6 **Date:** August 24, 2010

3.7 **Witnesses:** William Halstead, Financial Legal Examiner, DFI Consumer Services; Carole Wade, Borrower, and Carole Schroeder, Borrower.

### IV. FINDINGS OF FACT

I find the following facts more probable than not under the preponderance of the evidence standard:

#### Jurisdiction

4.1 The Respondents, Western States Mortgage Corp. (hereinafter "WSMC"), and Steven William Lusa (hereinafter "Lusa") were provided due notice of the time, date, and place of hearing but failed to appear. Consequently, the findings in this case are based primarily upon evidence presented by or on behalf of the Agency. Respondent Bowers was never served with a copy of the Statement of Charges.

4.2 DFI served Respondents WSMC and Lusa with a copy of the Statement of Charges and Notice of Intention to Enter an Order to Deny Loan Originator License Application, Prohibit From Industry, Impose Fine, Order Restitution, and

Collect Investigation Fee, dated, April 28, 2009. Respondents WSMC and Lusa filed a request for hearing dated May 13, 2009.

**Loan Officer Solicitation**

4.3 On September 11, 2006, Respondent Lusa sent an e-mail (Exhibit D-1) to an individual stating that no Washington State Loan Officer license was required to work for WSMC.

4.4 On January 10, 2007, DFI sent a directive (Exhibit D-2) to Respondents requiring a response as why Respondents believed loan originators did not require a license to act in that capacity.

4.5 Respondents provided an inadequate response (Exhibit D-3), dated January 16, 2007 to DFI.

4.6 On July 20, 2007, DFI send an additional directive (Exhibit D-4) to Respondents seeking additional information regarding WSMC's loan originators.

4.7 By letter dated August 2, 2007, with attachments (Exhibits D-5, D-6, D-7), the Respondents attempted to provide responses to the July 20, 2007 directive from DFI.

4.8 On October 16, 2007, DFI sent a further directive (Exhibit D-8) to Respondents seeking additional information regarding one of the Respondent's loan originators.

4.9 Respondents sent a letter (Exhibit D-9), dated October 29, 2007, in reply to the October 16, 2007 directive.

**Carole Wade Complaint**

4.10 On March 1, 2006, Carole Wade (hereinafter "Wade"), a WSMC borrower, submitted a complaint (Exhibit D-32, D-32A) to DFI about her loan with Respondent WSMC and WSMC loan originator, Troy Bowers (hereinafter "Bowers").

4.11 In the Spring of 2005, Wade planned on replacing a deck for her residence. Wade was referred to WSMC and WSMC's loan originator, Bowers, for possible refinancing of her existing mortgage and a home equity line of credit loan. Wade understood WSMC and Bowers would obtain a new fixed rate first mortgage and home equity line of credit for her at a combined lower monthly payment than she was making under her existing first mortgage and home equity line of credit.

4.12 On April 24, 2005, Wade signed and submitted a loan application (Exhibit D-10) to WSMC and Bowers with the intention of borrowing \$209,000.00 to be secured by a new first mortgage, with a lower payment than her existing first mortgage. In her discussions with Bowers and in her application, Wade was seeking a fixed rate loan with no pre-payment penalties. Wade also received a Good Faith Estimate (Exhibit D-11) of the closing costs for the new loan. The Good Faith Estimate did not disclose a yield spread premium. Yield spread premiums are compensation paid to mortgage brokers, outside of the loan proceeds, for having the borrower agree to a higher interest rate in exchange for lower up-front costs, usually in the form of origination fees, points, or broker fees.

4.13 Wade did not receive a Truth-in-Lending Disclosure Statement (Exhibit D-12) from WSMC and Bowers for the new first \$209,000.00 mortgage and testified the signature on the document was not her signature. This document also indicated the mortgage would be at a variable rate and may have a pre-payment penalty.

4.14 Wade later discovered her property was encumbered by a second mortgage which was arranged by WSMC and Bower. Wade never saw or signed a residential loan application (Exhibit D-20) for an adjustable rate second mortgage.

4.15 Wade never received nor signed a Good Faith Estimate (Exhibit D-21) of the closing costs for the adjustable rate second mortgage. This estimate did not disclose the yield spread premium.

4.16 Wade never received nor signed a Truth-in-Lending Disclosure Statement (Exhibit D-22) for the adjustable rate second mortgage. This document was incomplete and not provided to Wade within three days after the loan application and three days before the loan closing.

4.17 Wade never received nor signed a residential loan application (Exhibit D-23) for an adjustable rate first mortgage loan in the amount of \$190,850.00. In addition, Wade never received nor signed the Good Faith Estimate (Exhibit D-24) and Truth-in-Lending Disclosure Statement (Exhibit D-25) for the adjustable rate first mortgage loan in the amount of \$190,850.00. In the Good Faith Estimate, the loan origination fee was increased and the length of the mortgage term (480 months vs. 360 months) was increased without Wade's knowledge. The Truth-in-Lending Disclosure Statement was incomplete.

4.18 When Wade went to close the loans on May 20, 2005, she was presented with a Settlement Statement (Exhibit D-27) which contained a yield spread premium which had not previously been disclosed; increased loan origination fee (contrary to the fee listed in the Good Faith Estimate-Exhibit D-24); and an appraisal fee, which had not previously been disclosed. The closing was for an

adjustable rate first mortgage in the amount of \$190,850.00 and second mortgage in the amount of \$38,200.00.

4.19 At the time of the loan closing, WSMC and Bowers had not secured a home equity line of credit for Wade.

4.20 On July 4, 2005, Wade's significant other sent an e-mail (Exhibit D-33) to Bowers inquiring about the progress of the home equity line of credit. On July 10, 2005, Wade's significant other sent another e-mail (Exhibit D-33) to Bowers asking why they received a monthly bill from a lender in the amount of \$313.10, because to their knowledge, they had not used the line of credit at that point.

4.21 Based upon Wade's complaint (Exhibit D-32 & D-32A), DFI sent WSMC a directive (Exhibit D-34) on May 11, 2006, essentially asking for copies of Wade's loan application file and related documents.

4.22 Lusa and WSMC responded to DFI's directive (Exhibit D-35) denying any wrongdoing. WSMC and Lusa's response was not adequate.

4.23 Because Wade did not have a fixed rate first mortgage and home equity line of credit which WSMC and Bowers promised, Wade refinanced her first and second adjustable rate mortgages and closed a new loan on November 14, 2006 (Exhibit D-38). Wade incurred a pre-payment penalty of \$8,360.96 (Exhibit D-38, page 3) to pay off the loans brokered by Respondents Lusa and WSMC. In addition, Wade incurred a higher interest rate, higher loan origination fees than originally disclosed and other undisclosed loan fees in the amount of \$8,277.44.

#### Carole Schroeder Complaint

4.24 In 2007, Carole Schroeder (hereinafter "Schroeder") purchased a home and obtained a first mortgage loan on the property from WSMC d/b/a Residential Capital Corp. (hereinafter "RCC").

4.25 On or about June 11, 2007, RCC notified Schroeder her first loan payment was due on August 1, 2007 and instructed her to make all loan payments to them (Exhibit D-42).

4.26 RCC also provided Schroeder with a temporary payment coupon (Exhibits D-41, D-43) for her loan.

4.27 Before Schroeder's first payment was due, RCC sold her loan to Countrywide Home Loans, Inc. (hereinafter "Countrywide") (Exhibit D-40). However, RCC never provided Schroeder with notice of the loan sale or otherwise advised Schroeder to make payments to Countrywide.

4.28 From August 2007 through January 2008, Schroeder made monthly loan payments to RCC and RCC cashed each of Schroeder's checks (Exhibits D-47, D-48, pages 2-6).

4.29 In January 2008, Schroeder discovered her credit report was showing delinquencies from Countrywide, though Schroeder was never advised by RCC or Countrywide of the sale of her loan (Exhibit D-44).

4.30 In February 2008, Schroeder notified Countrywide of the situation and that copies of her cancelled checks, showing payments to RCC, were being submitted to Countrywide (Exhibit D-47).

4.31 Schroeder submitted a complaint against RCC to the Better Business Bureau (Exhibit D-54).

4.32 In response to the Better Business Complaint, on February 7, 2008, Lusa and RCC acknowledged that Schroeder's payments had not been forwarded to Countrywide and promised to immediately correct the situation (Exhibit D-52).

4.33 Countrywide and Lusa also exchanged e-mails (Exhibit D-51), where Lusa admitted Schroeder's payments were not forwarded to Countrywide.

4.34 DFI undertook an investigation WSMC and Lusa regarding the Schroeder matter (Exhibits D-56, D-57).

4.35 On February 19, 2009, DFI sent a directive (Exhibit D-60) to Lusa and WSMC requiring the production of documents and records in the Schroeder matter. Lusa and WSMC never responded to this directive.

4.36 As a result of the investigation by DFI in the Wade and Schroeder matters, DFI staff spent 73 hours investigating the cases. DFI hourly manpower rate is \$48.00 per hour.

## V. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, I make the following Conclusions of Law:

### Jurisdiction

5.1 I have jurisdiction over the persons and subject matter herein under RCW 19.146.230; WAC 208-660-530; chapter 34.04 RCW, and chapter 34.12 RCW.

### Applicable Law

5.2 RCW 19.146.0201(1) states, in pertinent part:

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It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

5.3 RCW 19.146.020(2) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(2) Engage in any unfair or deceptive practice toward any person.

5.4 RCW 19.146.020(3) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(3) Obtain property by fraud or misrepresentation.

5.5 RCW 19.146.020(6) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(6) Fail to make disclosures to loan applicants and non-institutional investors as required by RCW 19.146.030 and any other applicable state or federal law.

5.6 RCW 19.146.020(7) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising.

5.7 RCW 19.146.020(10) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest.  
(Pre-January 1, 2007) (10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest or otherwise fail to comply with any requirement of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226; the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500; the equal credit opportunity act, 15 U.S.C. Sec. 1691 and Regulation B, Sec 202.9, 202.11, and 202.12, as now or hereafter amended, in any advertising of residential mortgage loans or any other mortgage brokerage activity.

5.8 RCW 19.146.0201(11) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(11) Fail to comply with any requirement of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226; the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500; the equal credit opportunity act, 15 U.S.C. Sec. 1691 and Regulation B, Sec 202.9, 202.11, and 202.12; Title V, Subtitle A of the financial modernization act of 1999 (Gramm-Leach-Bliley act), Secs. 6801-6809; the federal trade commission's privacy rules, 16 C.F.R. parts 313-314, mandated by the Gramm-Leach-Bliley act; the home mortgage disclosure act, 12 U.S.C. Sec. 2801 et seq. and Regulation C, home mortgage disclosure; the federal trade commission act, 12 C.F.R. Part 203, 15 U.S.C. Sec. 45(a); the telemarketing and consumer fraud and abuse act, 15 U.S.C. Secs. 6101 to 6108; and the federal trade commission telephone sales rule, 16 C.F.R. part 310, as these acts existed on January 1, 2007, or such subsequent date as may be provided by the department by rule, in any advertising or residential mortgage loans, or any other applicable mortgage broker or loan originator activities covered by the acts. The department may adopt by rule requirements that mortgage brokers or loan originators comply with other applicable federal statutes and regulations in any advertising of residential mortgage loans, or other mortgage broker or loan originator activity.

5.9 RCW 19.146.0201(12) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:

(12) Fail to pay third-party providers no later than thirty days after the recording of the loan closing documents or ninety days after completion of the third-party

service, whichever comes first, unless otherwise agreed, or unless the third-party service provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third party service.  
(Pre-January 1, 2007) (12) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.070.

5.10 RCW 19.146.020(13) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:  
(13) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.070.

5.11 RCW 19.146.020(14)(pre-January 1, 2007) states, in pertinent part:

It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1)(e), (g), or (4) to:  
(14) Fail to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

5.12 RCW 19.146.060 states, in pertinent part:

(2) Except as otherwise provided in subsection (3) of this section, a mortgage broker shall maintain accurate and current books and records which shall be readily available at a location available to the director until at least twenty-five months have elapsed following the effective period to which the books and records relate.

(3) "Books and records" includes but is not limited to:

(b) Copies of all documents, notes, computer records if not stored in printed form, correspondence or memoranda relating to a borrower from whom the mortgage broker has accepted a deposit or other funds, or accepted a residential mortgage loan application or with whom the mortgage broker has entered into an agreement to assist in obtaining a residential mortgage loan.

5.13 RCW 19.146.030 (pre-January 1, 2007) states:

(1) Within three business days following receipt of a loan application or any moneys from a borrower, a mortgage broker shall provide to each borrower a full written disclosure containing an itemization and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which inure to the benefit of the mortgage broker and other such disclosures as may be required by rule. A good



faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not determinable. This subsection shall not be construed to require disclosure of the distribution or breakdown of loan fees, discount, or points between the mortgage broker and any lender or investor.

(2) The written disclosure shall contain the following information:

(a) The annual percentage rate, finance charge, amount financed, total amount of all payments, number of payments, amount of each payment, amount of points or prepaid interest and the conditions and terms under which any loan terms may change between the time of disclosure and closing of the loan; and if a variable rate, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase, and an example of the payment terms resulting from an increase. Disclosure in compliance with the requirements of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, shall be deemed to comply with the disclosure requirements of this subsection;

(b) The itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, escrow fee, property tax, insurance, structural or pest inspection,

and any other third-party provider's costs associated with the residential mortgage loan. Disclosure through good faith estimates of settlement services and special information

booklets in compliance with the requirements of the real estate settlement procedures act, 12 U.S.C. Sec. 2601, and Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall be deemed to comply with the disclosure requirements of this subsection;

(c) If applicable, the cost, terms, duration, and conditions of a lock-in agreement and whether a lock-in agreement has been entered, and whether the lock-in agreement is guaranteed by the mortgage broker or lender, and if a lock-in agreement has not been entered, disclosure in a form acceptable to the director that the disclosed interest rate and terms are subject to change;

(d) A statement that if the borrower is unable to obtain a loan for any reason, the mortgage broker must, within five days of a written request by the borrower, give copies of any appraisal, title report, or credit report paid for by the borrower to the borrower, and transmit the appraisal, title report, or credit report to any other mortgage broker or lender to whom the borrower directs the documents to be sent;

(e) Whether and under what conditions any lock-in fees are refundable to the borrower; and

(f) A statement providing that moneys paid by the borrower to the mortgage broker for third-party provider services are held in a trust account and any moneys remaining after payment to third-party providers will be refunded.

(3) If subsequent to the written disclosure being provided under this section, a mortgage broker enters into a lock-in agreement with a borrower or represents to

the borrower that the borrower has entered into a lock-in agreement, then no less than three business days thereafter including Saturdays, the mortgage broker shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the lock-in agreement, which shall include a copy of the disclosure made under subsection (2)(c) of this section.

(4) A mortgage broker shall not charge any fee that inures to the benefit of the mortgage broker if it exceeds the fee disclosed on the written disclosure pursuant to this section, unless (a) the need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided and (b) the mortgage broker has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee and the reason for charging a fee exceeding that which was previously disclosed. However, if the borrower's closing costs, excluding prepaid escrowed costs of ownership as defined by rule, does not exceed the total closing costs in the most recent good faith estimate, no other disclosures shall be required by this subsection.

5.14 RCW 19.146.235 states:

The director or a designee has authority to conduct investigations and examinations as provided in this section:

(1) For the purposes of investigating violations or complaints arising under this chapter, the director or his or her designee may make an investigation of the operations of any mortgage broker or loan originator as often as necessary in order to carry out the purposes of this chapter.

(2) Every mortgage broker shall make available to the director or a designee its books and records relating to its operations:

(a) For the purpose of examinations, the director or his or her designee may have access to such books and records during normal business hours and interview the officers, principals, loan originators, employees, independent contractors, and agents of the licensee concerning their business.

(b) For the purposes of investigating violations or complaints arising under this chapter, the director may at any time, either personally or by a designee, investigate the business, including but not limited to the books, accounts, records, and files used therein, of every licensee and of every person engaged in the business of mortgage brokering, whether such a person acts or claims to act under, or without the authority of, this chapter.

(c) The director or designated person may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena, or order such person to

produce books, accounts, records, files, and any other documents the director or designated person deems relevant to the inquiry.

(3) The director may visit, either personally or by designee, the licensee's place or places of business to conduct an examination. The scope of the examination is limited to documents and information necessary to determine compliance with this chapter and attendant rules. In general, the examination scope may include:

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(a) A review for trust accounting compliance;

(b) Loan file review to determine the mortgage broker's compliance with this chapter and applicable federal regulations covering the business of mortgage brokering and lending;

(c) Interviews for the purpose of understanding business and solicitation practices, transactional events, disclosure compliance, complaint resolution, or determining specific compliance with this chapter and the attendant rules; and

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(d) A review of general business books and records, including employee records, for the purpose of determining specific compliance with this chapter and the attendant rules.

(4) The purpose of an examination is to make certain that licensees are conducting business in compliance with the law. Therefore, protocols for examination findings and corrective action directed from an examination must be established by rule of the director. To accomplish this purpose, these protocols must include the following:

(a) A reporting mechanism from the director to the licensee;

(b) A process for clear notification of violations and an opportunity for response by the licensee; and

(c) The criteria by which the frequency of examinations will be determined.

(5) If the examination findings clearly identify the need to expand the scope of the examination, the director or a designee, upon five days' written notification to the licensee with an explanation of the need, may:

(a) Expand the examination review to locations other than the examined location regardless of the number of years a location has held a license; or

(b) Expand the time period of the examination beyond the five-year period of licensing, provided the expansion of time does not exceed a date certain identified in the written notification in this subsection.

(6) The director or a designee may consider reports made by independent certified professionals for the mortgage broker covering the same general subject matter as the examination. The director or a designee may incorporate all or part of the report in the report of the examination.

(7) The director may retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations. The cost of these services for investigations only must be billed in accordance with RCW 19.146.228.

(8) The director may establish by rule travel costs for examination of out-of-state entities.

(9)(a) No person subject to examination or investigation under this chapter may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

(b) A person who commits an act under (a) of this subsection is guilty of a class B felony punishable under RCW 9A.20.021(1)(b) or punishable by a fine of not more than twenty thousand dollars, or both.

5.15 RCW 19.146.220 states:

(1) The director may enforce all laws and rules relating to the licensing of mortgage brokers and loan originators, grant or deny licenses to mortgage brokers and loan originators, and hold hearings.

(2) The director may impose fines or order restitution against licensees or other persons subject to this chapter, or deny, suspend, decline to renew, or revoke licenses for:

(a) Violations of orders, including cease and desist orders;

(b) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(c) Failure to pay a fee required by the director or maintain the required bond;

(d) Failure to comply with any directive, order, or subpoena of the director; or

(e) Any violation of this chapter.

(3) The director may impose fines on an employee, loan originator, independent contractor, or agent of the licensee, or other person subject to this chapter for:

(a) Any violations of RCW 19.146.0201 (1) through (9) or (13), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(b) Failure to comply with any directive or order of the director.

~~(4) The director may issue orders directing a licensee, its employee, loan originator, independent contractor, agent, or other person subject to this chapter to cease and desist from conducting business.~~

(5) The director may issue orders 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 chapter for:

~~(a) Any violation of 19.146.0201 (1) through (9) or (13), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265;~~

(b) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(c) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(d) Failure to comply with any directive or order of the director.

(6) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(7) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(8) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

5.16 RCW 19.146.310 states, in pertinent part:

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(1) The director shall issue and deliver a loan originator license if, after investigation, the director makes the following findings:

(f) The loan originator applicant has not been found to be in violation of this chapter or rules;

(g) The loan originator applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly and fairly within the purposes of this chapter. For the purposes of this section, an applicant has not demonstrated financial responsibility when the applicant shows disregard in the management of his or her financial condition. A determination that an individual has shown disregard in the management of his or her financial condition may include, but is not limited to, an assessment of: Current outstanding judgments, except judgments solely as a result of medical expenses; current outstanding tax liens or other government liens and filings; foreclosures within the last three years; or a pattern of seriously delinquent accounts within the past three years.

#### Deceptive Advertising or Solicitation

5.17 Respondents' September 11, 2006 e-mail solicitation for loan originators, wherein Respondents stated no Washington license was required, was an unfair or deceptive practice in violation of RCW 19.146.020(204)(2).

5.18 Respondents' inadequate responses to DFI's directives dated January 16, 2007 and October 16, 2007, regarding Respondents' e-mail was a knowing withholding of information which the Respondents were required to maintain, in violation of RCW 19.146.235(9)(a).

#### Carole Wade Complaint

5.19 Respondents' April 24, 2005 Good Faith Estimate, provided to Wade, without disclosing the yield spread premium was a violation of RCW 19.146.020(204)(1), (2), (3), (6), and (7).

5.20 Respondents' failure to provide Wade with a Truth-in-Lending Disclosure Statement for her first mortgage loan was a violation of RCW 19.146.020(204)(1), (2), (6), (7), (10) and (14); and RCW 19.146.030.

5.21 Because the Truth-in-Lending Disclosure Statement contained a signature which was not Wades' and indicated the mortgage would be a variable rate and with a pre-payment penalty, contrary to Respondents' earlier representations to Wade, the Respondents violated RCW 19.146.020(204)(1), (2), (6), (7), (10), and (14) and RCW 19.146.030.

5.22 Because Wade never signed nor submitted a second mortgage loan application to Respondents, the arrangement of a variable rate second mortgage, by Respondents, was a violation of RCW 19.146.020(1), (2), (7), and (14).

5.23 Because Wade never signed nor received a Good Faith Estimate for the adjustable rate second mortgage and this estimate failed to disclose the yield spread premium, the Respondents violated RCW 19.146.020(1), (2), (3), (6), (7), and (14); and RCW 19.146.030.

5.24 Respondents failed to provide Wade with a Truth-in-Lending Disclosure Statement for the second mortgage and because the Truth-in-Lending Disclosure Statement contained a signature which was not Wades and indicated the second mortgage would be a variable rate and with a pre-payment penalty, contrary to Respondents' earlier representations to Wade, the Respondents violated RCW 19.146.020(1), (2), (6), (7), (10), and (14) and RCW 19.146.030.

5.25 Because Wade never signed a residential loan application for a variable rate first mortgage in the amount of \$190,850.00; and Respondents never provided Wade with a Good Faith Estimate and a Truth-in-Lending Disclosure Statement for this loan; and the terms and conditions of the loan were changed; and Wade never signed this loan application; and the Truth-in-Lending Disclosure Statement was incomplete, the Respondents violated RCW 19.146.020(1), (2), (3), (6), (7), (10), and (14) and RCW 19.146.030.

5.26 Because Respondents increased the loan origination fee, at closing, without Wade's knowledge or consent, the Respondents violated RCW 19.146.020(1), (2), (3), (6), (7), (10), and (14) and RCW 19.146.030.

5.27 Because Respondents did not secure a home equity line of credit, which Wade had requested, the Respondents violated RCW 19.146.020(1), (2), and (7).

5.28 Respondents' inadequate responses to DFI's directive dated May 11, 2006 regarding the Wade matter was a knowing withholding of information Respondents were required to maintain, in violation of RCW 19.146.235(9)(a).

**Carole Schroeder Complaint**

5.29 Because Respondents cashed Schroeder's mortgage payments from August 1, 2007 through January 2008 and did not transmit these payments to the new note holder, Respondents violated RCW 19.146.020(1), (2), and (3).

VI. ORDER

6.1 Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED:

6.2 The Statement of Charges and Notice of Intention to Enter an Order to Deny Loan Originator License Application, Prohibit From Industry, Impose Fine, Order Restitution, and Collect Investigation Fee, dated, April 28, 2009, against Respondents Western States Mortgage Corp. d/b/a Residential Capital Corp. and Steven William Lusa is AFFIRMED.

6.3 Respondent Lusa's loan originator's application for license is denied; and

6.4 Respondents Western States Mortgage Corp., and Lusa are prohibited from participating in the affairs of any mortgage broker subject to licensure by the Director for five years; and

6.5 Respondents Western States Mortgage Corp. and Lusa are fined, jointly and severally, in the amount of \$36,500.00; and

6.6 Respondents Western States Mortgage Corp., and Lusa, are fined jointly and severally, in the amount of \$1,000.00; and

6.7 Respondents Western States Mortgage Corp., and Lusa, jointly and severally, ordered to pay restitution to Carole Wade in the amount of \$16,638.40; and

6.8 Respondents Western States Mortgage Corp. and Lusa, jointly and severally, ordered to pay an investigation fee in the amount of \$3,504.00.

DATED at Olympia, Washington, October 12, September 27, 2010.



Thomas P. Rack  
Administrative Law Judge  
Office of Administrative Hearings



Copies were sent to each of the following:

Western States Mortgage Corp., Respondent  
Steven William Lusa, Respondent  
Charles E. Clark, AAG, Department Representative

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### FURTHER APPEAL RIGHTS

Under RCW 34.05.464 and WAC 10 08 211, any party to an adjudicative proceeding may file a Petition for Review of this Initial Decision and Order. Any Petition for Review shall be filed with the Director of the Department of Financial Institutions within twenty (20) days of the date of service of the Initial Order.

Address for filing the Petition for Review:

Scott Jarvis, Director  
Department of Financial Institutions  
PO Box 41200  
Olympia, WA 98504 1200

Copies of any such Petition must be served upon all other parties or their representatives at the time the Petition is filed with the Director.

Petitions for Review shall specify the portions of the Initial Decision and Order to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition. Any party may file a reply to a Petition for Review. Replies must be filed with the Director within ten (10) days of the date of service of the Petition and copies of the reply must be served upon all other parties or their representatives at the time the reply is filed with the Director.

After the time for filing a Petition for Review has elapsed, the Director of the Department of Financial Institutions will issue a Final Decision and Order in this matter. In accordance with RCW 34.05.470 and WAC 10 08 215, any Petition for Reconsideration of such Final Decision and Order must be filed with the Director within ten (10) days of service of the Final Decision and Order. It should be noted that Petitions for Reconsideration do not stay the effectiveness of the Final Decision and Order.


Judicial Review of the Final Decision and Order is available to a party according to the provisions set out in the Administrative Procedure Act, RCW 34.05.570.

Findings of Fact, Conclusions of Law,  
And Initial Order  
Docket No. 2009-DPI-0045  
Page 18 of 19

Office of Administrative Hearings  
P.O. Box 42489  
Olympia, WA 98504-2489  
Phone: 360-753-2531 Fax: 360-586-6863

**Certification of Mailing**

I certify that I mailed true and correct copies of the Amended Corrected Findings of Fact, Conclusion of Law and Initial Order to the following parties, postage prepaid this 12<sup>th</sup> day of October 2010 at Olympia, Washington.

  
Margaret Simmons  
Legal Secretary

Steven William Lusa  
Western States Mortgage Corporation  
9511 - 172<sup>nd</sup> St SE  
Snohomish, WA 98296

Charles E Clark  
Assistant Attorney General  
Office of the Attorney General  
PO Box 40100  
Olympia, WA 98504-0100

James R Brusselback  
Enforcement Chief  
Department of Financial Institutions  
Division of Consumer Services  
PO Box 41200  
Olympia, WA 98504-1200

Findings of Fact, Conclusions of Law,  
And Initial Order  
Docket No. 2000-DFT-0042  
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Office of Administrative Hearings  
P.O. Box 42489  
Olympia, WA 98504-2489  
Phone: 360-753-3331 Fax: 360-580-6563

**FILED**

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OIG HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 2-C

To whom it may concern;

The issues in the Department of Financial Institutions complaint against Western States Mortgage Corp. and myself were heard without Western states Mortgage corp. or myself being present to defend our position. I was notified of the original hearing date and called the court clerk on the notification to explain that I couldn't make the date originally set and requested a new date. I was told that I'd be notified of a new date but never received any notice. After I called when I didn't receive any follow-up I was told that the hearing was held on the originally scheduled date without me present and since I wasn't there to represent our side all of the charges were up-held.

The closure of the Mortgage, Escrow and Real Estate companies at the end of 2007 brought to light some operational issues and loose ends which were tended to as soon I became aware of them.

Sincerely;

Steven W. Lusa

# EXHIBIT 3

## Penn, Cheryl (OIC)

From: Penn, Cheryl (OIC)  
Sent: Thursday, January 16, 2014 10:52 AM  
To: 'swlusa@gmail.com'  
Subject: License Denial

Mr. Lusa:

This email is to inform you that your application for an insurance license is denied. RCW 48.17.530 (1) (h) gives the Insurance Commissioner the authority to deny an application if the applicant used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere. RCW 48.17.530 (1) (i) gives the Commissioner the authority to deny an application if the applicant has had an insurance producer's license or its equivalent, denied, suspended, or revoked in any state. The two actions taken by the Department of Financial Institutions give basis for the denial of your insurance license application.

You have the right to demand a hearing to contest this decision. During this hearing, you can present your argument that the decision should not have been entered for legal and/or factual reasons and/or to explain the circumstances surrounding the activities which are the subject of this decision. You may be represented by an attorney if you wish, although it is not required. In many hearings before this agency parties do choose to represent themselves without an attorney. Your Demand for Hearing must be made within 90 days after the date of this decision, which is the date of this email, or your Demand will be invalid and this decision will stand.

Your Demand for Hearing should be sent to Hearing Unit, Office of the Insurance Commissioner, P.O. Box 40255, Olympia, WA, 98504-0255, and must briefly state how you are harmed by this decision and why you disagree with it. You will then be notified both by telephone and in writing of the time and place of your hearing. If you have questions concerning filing a Demand for Hearing or the hearing process, please telephone the Hearings Unit, at 360-725-7002.

*Cheryl Penn*, ACP

Licensing Compliance Supervisor

Consumer Protection Division

Washington State Office of the Insurance Commissioner

360.725.7153 | [cherylp@oic.wa.gov](mailto:cherylp@oic.wa.gov) | [www.insurance.wa.gov](http://www.insurance.wa.gov)

P.O. Box 40257, Olympia, WA 98504-0257 / fax 360.586.2019

• [wainsurance.blogspot.com](http://wainsurance.blogspot.com) • [Twitter: @WAinsuranceblog](https://twitter.com/WAinsuranceblog) • [Facebook.com/WSOIC](https://www.facebook.com/WSOIC)

*Protecting Insurance Consumers*

(Insurance Consumer Hotline 1.800.562.6900)

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OIG HEARINGS UNIT  
PATRICIA D. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 4

**Penn, Cheryl (OIC)**

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**From:** Cairns, Kelly (OIC)  
**Sent:** Tuesday, February 18, 2014 11:18 AM  
**To:** Molnes, Renee (OIC); Baughman, Jeff (OIC); Penn, Cheryl (OIC)  
**Subject:** New demand for hearing  
**Attachments:** lusa-demand.pdf

The Hearings Unit received and filed the attached Demand for Hearing from Steven W. Lusa concerning the denial of his license application. Please let me know when an attorney and order number have been assigned to this matter. Also, if Licensing division has any contact information that they could pass along to me, it would be greatly appreciated. The demand came in an envelope from Castle Insurance Assoc. – that is the only address I have.

Thank you,  
Kelly



FILED

FEB 18, 2014

Hearing Unit  
Office of the Insurance Commissioner  
P.O. Box, 40255  
Olympia, WA 98504-0255

Hearings Unit, OIC  
Patricia D. Petersen  
Chief Hearing Officer

RE: Denial of Application for Insurance License; Demand for Hearing

Dear Sir or Madam:

The purpose of this letter is to demand a hearing to contest the decision of the Office of the Insurance Commissioner ("OIC"), dated January 16, 2014, which denied my application for an insurance producer's license. Although I passed the requisite producer's exam, the Commissioner denied my application pursuant to RCW 48.17.530(h) and RCW 48.17.530(i). The Office indicated that the decision was based on the two actions taken by the Department of Financial Institutions ("DFI").

I am aggrieved because the denial of my application prevents me from earning a living in my chosen occupation in order to support my family. I have successfully passed the insurance producer's license examination, and have been offered employment subject to being issued a license.

#### INTRODUCTION

RCW 48.17.530 authorizes the Commissioner to deny Applicant's application for "any one or more of the following causes": "...(h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere; (i) having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory."

Briefly stated, my grounds for seeking a reversal of OIC's denial of my license application are (1) that RCW 48.17.530(1)(i) is not applicable in this case, (2) a factual explanation of the circumstances surrounding the Orders entered in the two DFI proceedings against me will show that the proceedings do not establish that I have used fraudulent, coercive, or dishonest practice, or have demonstrated incompetence, untrustworthiness, or financial irresponsibility, as required by RCW 48.17.530(1)(h), and (3) there are countervailing considerations that demonstrate my professionalism, trustworthiness, competence, and honesty.

#### *1. RCW 48.17.530(i) Should not be Applied as a Grounds for Denial*

As an initial matter, I respectfully submit that subsection (i) is not applicable in this instance. As indicated in the Orders issued by the Department of Financial Institutions, my license as an escrow agent was temporarily suspended. Although grounds for suspension are relevant to my application for an insurance producer's license, an escrow agent's license is not "an insurance producer's license, or its equivalent." In addition, the language of the statute appears to indicate that "or its equivalent" is intended to capture the potential of an equivalent - though differently named - license in another state or jurisdiction.

Since the suspension of my escrow agent's license is not equivalent to an insurance producer's license, subsection (i) is not a proper grounds for refusal of my application.

## 2. Explanation of Factual Situations Surrounding the DFI Proceedings

With regard to subsection (h), the Commissioner has relied on the actions taken by DFI as a basis for denial. However, these actions do not establish that I have used fraudulent, coercive, or dishonest practices, or have demonstrated incompetence, untrustworthiness, or financial irresponsibility, as required by the statute. I believe that a close examination and analysis of the factual situation surrounding these two DFI proceedings will establish that this is the case.

### *a. DFI Case No. C-08066-08SC01 (Office of Administrative Hearings Docket No. 2009-DFI-0045)*

This case arose out of transactions which took place at Western States Mortgage Corp. ("WSMC"), a mortgage brokerage company which I owned, and for which I was the licensed mortgage broker. WSMC was exempt from certain provisions of the Washington Mortgage Broker Practices Act by virtue of being an approved "Fannie Mae" and "Freddie Mac" lender. This DFI proceeding involved three separate substantive charges:

1. That I sent an email to an individual stating my position that no Washington State Loan Officer license was required to work for WSMC ("Loan Officer Solicitation"), Findings of Fact 4.3-4.9, Amended Findings of Fact, Conclusions of Law, and Initial Order, at page 3.
2. That a borrower from WSMC was not given appropriate truth in lending and good faith estimate documents by Troy Bowers, the loan originator and a WSMC employee ("Wade Complaint"). Findings of Fact 4.10-4.23, Amended Findings of Fact, Conclusions of Law, and Initial Order, at pages 3-5.
3. That a borrower from WSMC made payments on her loan to WSMC after the loan had been transferred to Countrywide Home Loans, Inc. and that WSMC failed to transfer the payments to Countrywide ("Schroeder Complaint"). Findings of Fact 4.24-4.36, Amended Findings of Fact, Conclusions of Law, and Initial Order, at pages 5-6.

#### *i. Loan Officer Solicitation.*

~~State mortgage broker licensing requirements were undergoing significant changes in the fall of 2006.~~  
At one point during this period the DFI website stated that loan officers employed by exempt mortgage brokers did not have to be licensed. See page 13 of the attached Proposed Rule Making, posted on DFI's website as of September 31, 2006 (see attached print-screen, also available at <http://web.archive.org/web/20060913213204/http://dfi.wa.gov/resources/rulemaking.htm>).

I relied on this information when I made the statement in the email, which is the subject of the DFI charge. I do not believe that my statement made in reliance on the information contained on the DFI website rises to the level of "fraudulent, coercive, or dishonest practices," under RCW 48.17.530(1)(h), nor does it constitute "incompetence, untrustworthiness, or financial irresponsibility."

#### *ii. Wade Complaint*

The Wade Complaint involved a claim by a borrower that she had not been given required disclosures by the WSMC loan originator handling her file, Troy Bowers. See, e.g., Findings of Fact 4.10-4.23, Amended Findings of Fact, Conclusions of Law, and Initial Order. I was not personally involved with this transaction. While I accept responsibility for Mr. Bowers' actions because he was WSMC's employee, I do not believe RCW 48.17.530(1)(h) applies, since I was not personally involved in the Wade transaction.

*iii. Schroeder Complaint*

WSMC made a loan to Schroeder, and then sold that loan to Countrywide Home Loans, Inc. Schroeder apparently did not receive notice from WSMC that her loan had been sold to Countrywide, and she made some mortgage payments to WSMC. By the time WSMC was made aware of the error, the nationwide housing bubble had burst, and WSMC was insolvent. However, Countrywide gave Schroeder credit for the payments she had made to WSMC, so that Schroeder did not suffer loss.

Although WSMC's record keeping was admittedly sloppy with respect to the way the Schroeder loan assignment was handled, there was no allegation in the DFI statement of charges that I personally did anything wrong. Again, I believe a close look at the Schroeder Complaint will confirm that my conduct was not in violation of RCW 48.17.50(1)(h).

*b. DFI Case No. C-080-245-12-F001 (Office of Administrative Hearings Docket No. 2009-DFI-0045)*

This matter involved Vintage Escrow, Inc., d/b/a Bellevue Escrow ("Bellevue Escrow"), of which I was the licensed designated escrow officer. The DFI charges resulted from an audit of Bellevue's Escrow books, which found a handful of technical violations. At the time, Bellevue Escrow was struggling, and its administrative staff was diminishing. At the same time, Bellevue Escrow was transitioning its financial accounts from one bank to another. As a result of these transitions, several clerical errors occurred, which resulted in the technical violations that are the subject of this DFI case.

There were no customer complaints, and no customer of Bellevue Escrow lost any funds. In its Final Decision, DFI acknowledged in its Finding of Facts no. 26 that "the Department acknowledges that Respondents' violations do not reflect any fraud or deceptive practice."

Based on the circumstances of this case, I do not believe this case can fairly be relied upon as evidence of "fraudulent, coercive, or dishonest practices," under RCW 48.17.530(1)(h), nor does demonstrate constitute "incompetence, untrustworthiness, or financial irresponsibility."

*3. Other Considerations*

Over the last 40 years, from 1976 to 2011, I have held several professional licenses for which moral character is evaluated. Over that time, aside from the DFI proceedings mentioned above, I have had no complaints against me that resulted in disciplinary action being taken against my professional license, nor has my personal character been put into question. In addition, under these licenses, I managed both property and funds in trust. A list of these professional licenses are provided below, and verification of each can be found on the website of the agency overseeing each.

- WA Real Estate Broker
- OR Real Estate Broker
- Escrow Officer

- WA Mortgage Broker
- WA Consumer Lending

Despite maintaining a virtually unblemished record for decades, the DFI proceedings were initiated in 2007 and 2009, threaten to keep me from a professional occupation, even in unrelated industries, for the indefinite future. The professional licenses that were at issue in those proceedings expired in 2008. Thus, coupled with the suspension required in the Orders, I have been effectively prohibited to work in the loan, escrow, and mortgage industries for 7 years. Should my application to pursue an insurance producer's license also be denied, the prohibition from engaging in the loan, escrow, and mortgage industries will be extended to the insurance industry, and the disciplinary action taken by one agency will be extended by another. This would significantly impair my ability to provide for my family in the occupation of my own choosing.


#### CONCLUSION

Since a Loan Originator License, Mortgage Broker License, and Escrow Agent and Officer's Licenses do not correspond to an insurance producer's license, RCW 48.17.50(1)(i) is not an appropriate basis for denial of my application.

In addition, the charges against me in both DFI proceedings involve either technical rule violations or activities in which I had no direct involvement. None of the charges claim that I personally used fraudulent, coercive, or dishonest practices. DFI even acknowledged that I did not engage in any fraud or deceptive practices. Accordingly, RCW 48.17.50(1)(h) should not be used as a basis for denial either.

Finally, other considerations, including my long career as a licensed professional without incident and the possible inequity of denying an unrelated professional license, even though I have met all other qualifications, weigh in favor of granting my application for an insurance producer's license.

Sincerely:



Steven W. Lusa

NEW SECTION

WAC 208-660-008 Exemption from licensing. (1) If I am licensed as an insurance agent under RCW 48.17.060, must I have a separate license to act as a loan originator or mortgage broker? Yes. You will need a separate license as a loan originator or mortgage broker if you are a licensed insurance agent and you do any of the following:

(a) Take a residential mortgage loan application for a mortgage broker;

(b) Offer or negotiate terms of a mortgage loan for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain;

(c) Make a residential mortgage loan, or assist a person in obtaining or applying to obtain a residential mortgage loan, for compensation or gain; or

(d) Hold yourself out as being able to perform any of the above services.

(2) Are insurance companies exempt from the Mortgage Broker Practices Act? Yes. Insurance companies authorized to transact the business of insurance in this state by the Washington state office of the insurance commissioner are exempt from the Mortgage Broker Practices Act.

(3) If I make residential mortgage loans under the Consumer Loan Act, chapter 31.04 RCW, am I exempt from the Mortgage Broker Practices Act? If you are licensed under the Consumer Loan Act, any loans covered by that act are exempt from the Mortgage Broker Practices Act. Complying with the Consumer Loan Act includes abiding by the requirements and restrictions of that act and counting all loans originated and made under that act for purposes of your annual assessment.

(4) If I am an exempt mortgage broker because my business has been approved by and is subject to audit by Fannie Mae or Freddie Mac, am I subject to licensing or any other sections of the act? You are not required to have a license, but you are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. You are also subject to the investigation and enforcement authority of the director.

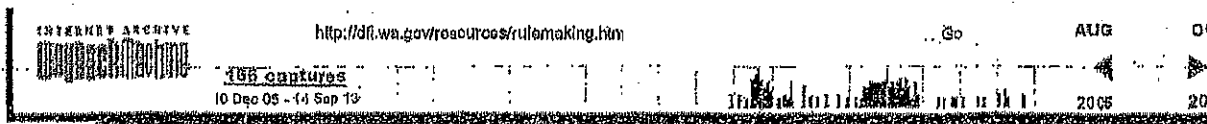
(5) If I am an exempt mortgage broker because my business has been approved by and is subject to audit by Fannie Mae or Freddie Mac, are my loan originators subject to licensing or any other sections of the act? Your loan originator employees are not required to have a license, but they are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. Your loan originator employees are also subject to the investigation and enforcement authority of the director.

Your independent contractor loan originators are not exempt under this section.

(6) Am I exempt from the Mortgage Broker Practices Act if I make or acquire residential mortgage loans solely with my own funds for my own investment without intending to resell the residential mortgage loans? You are exempt from the licensing requirements, but you are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the consumer with certain information they have paid for. You are also subject to the investigation and enforcement authority of the director.

For purposes of this section, intent to resell residential mortgage loans is determined by your ability and willingness to hold the residential mortgage loans, indicated by, but not limited to, such measures as whether you have sold loans in the past, whether the loans conform to established secondary market standards for the sale of loans, and whether your financial condition would reasonably allow you to hold the residential mortgage loans.

(7) If I am an exempt mortgage broker because I am making or acquiring residential mortgage loans solely with my own funds for my own investment without intending to resell the residential mortgage loans, are my loan originators subject to licensing or any other sections of the act? Your loan originator employees are not required to have a license, but they are subject to RCW 19.146.0201 through 19.146.080, and the rules associated with those sections of the act. Those sections include prohibited practices, certain required disclosures, the requirement of a writing for agreements, trust fund requirements, books and records requirements, limitations on fees or compensation, and the requirement to provide the



Resources

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- [Laws & Rules](#)
- [Rulemaking Activity](#)
- [Interpretive Letters & Statements](#)
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- [Site Map](#)
- [Access Washington](#)
- Washington State Department of Financial Institutions
- [Home](#) > Rulemaking Activity

# Rulemaking Activity

Welcome! This page provides information about new rules or changes in existing rules proposed by the Department of Financial Institutions.

Find rulemaking activity for individual divisions by using the links below:

- [Division of Banks](#)
- [Division of Consumer Services](#)
- [Division of Credit Unions](#)
- [Division of Securities](#)

You may read proposed rules drafts and comment on these drafts using our online comment form.

For detailed information, read [RCW 34.05 The Administrative Procedures Act](#), which governs agency rulemaking and [RCW 19.85 The Regulatory Fairness Act](#) which identifies when an agency must complete a Small Business Economic Impact Statement (SBEIS).

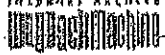
Generally, rulemaking takes place in three distinctive steps based on filings required by the Office of the Code Reviser:

1. A **CR-101 Pre-proposal Statement of Inquiry** is prepared. At this stage, proposed text is usually not available. Comment is invited on whether rules in the areas identified in the CR-101 are needed and, if so, the content of those rules.
2. A **CR-102 Rulemaking Proposal** is filed if it is decided to proceed. Proposed text is filed with the CR-102 and a comment period and public hearing are scheduled.
3. After the comment period and public hearing, a **CR-103 Rulemaking Order** will be filed if it is decided to proceed with the rule. The final text is included with the CR-103. The newly adopted rules are generally effective 31 days after filing with the Code Reviser.

Once a rule has been adopted, it becomes a part of the Washington Administrative Code (WAC):

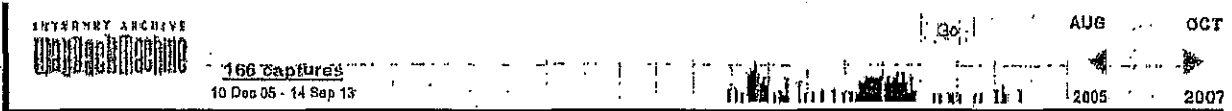
## Division of Banks

Rule Subject	Rule Status	Send a Comment	Upcoming Public Meeting Date
None at this time.			

INTERNET ARCHIVE  
  
 168 captures  
 10 Dec 05 - 14 Sep 13  
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 2005 2007

Rule Subject	Rule Status	Send a Comment	Upcoming Public Meeting Date
Mortgage Brokers and Loan Originators	<p><u>House Bill 2340</u> signed March 9, 2006.</p> <p><u>CR-101 (PDF)</u> - Pre-proposal Statement of Inquiry</p> <p>Final rulemaking panel meeting held August 9, 2006.</p> <p>Rulemaking documents submitted September 2006:</p> <ul style="list-style-type: none"> <li>• <u>CR-102 Cover Letter (PDF)</u></li> <li>• <u>CR-102 (PDF)</u></li> <li>• <u>Proposed Rules (PDF)</u></li> <li>• <u>Small Business Economic Impact Statement (PDF)</u></li> </ul>	<u>Comment</u>	<p>Rules Hearing - Thursday, October 26, 1-3 p.m., House of Representatives, John L. O'Brien Building, Hearing Room C, Olympia.</p> <p>See <u>Mortgage Broker Rulemaking</u> for additional information and background.</p>
Check Cashers, Check Sellers, Small Loan Lenders	<p><u>CR-102</u> - Proposed text modernizing, clarifying and updating <u>WAC 208-630</u>.</p> <p><u>CR-103</u> - Rulemaking Order [effective 11/17/2005], <u>cover memo</u>, and <u>text</u>.</p>	Comment period is over.	Meeting was held October 17, 2005.
Consumer Loan Companies	<p><u>CR-102</u> - Memo and proposed text updating and clarifying <u>WAC 208-620</u>.</p> <p><u>CR-103</u> - Rulemaking Order [effective 03/01/2006], <u>cover memo</u>, and <u>text</u>.</p>	Comment period is over.	Meeting was held January 24, 2006.
Escrow Rules - Exam Fees: Allows hourly audit fee.	<p><u>CR-101</u> - Pre-proposal Statement of Inquiry</p> <p><u>CR-101</u> - Proposed Text Amending <u>WAC 208-680G-050</u></p> <p><u>CR-102</u> - Proposed Rule Making</p> <p><u>CR-102</u> - Supplement</p> <p><u>CR-102</u> - Economic Impact Statement</p> <p><u>CR-102</u> - Proposed Rule Making (continuance of hearing)</p>	Comment period is over.	





- [CR-103 - Rule Making Order](#)  
[Effective 2/10/2005]
- Escrow Rules - Quarterly Reports, E&O Alternatives and Unfair Practices: Rule concerning periodic reporting. [CR-101 - Pre-proposal Statement of Inquiry](#) Comment period is over.
- [CR-101 - Proposed Text](#)  
Amending WAC 208-680E-025
- [CR-101 - Proposed Text](#)  
Amending WAC 208-680F-020
- [CR-101 - Proposed Text](#)  
Amending WAC 208-680G-060
- [CR-102 - Proposed Rule Making](#)
- [CR-102 - Supplement](#)
- [CR-102 - Proposed Rule Making](#)  
(continuance of hearing)
- [CR-102 - Supplement](#)  
(continuance of hearing)
- [CR-103 - Rule Making Order](#)  
[Effective 2/10/2005]

Note: You may also view the [Concise Explanatory Statement](#) pertaining to the above escrow rulemaking, which explains the reasons for adopting the rules, describes and explains the difference between the rules as proposed and adopted, and summarizes and responds to comments received on the proposed rules.

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### Division of Credit Unions

Rule Subject	Rule Status	Send a Comment	Upcoming Public Meeting Date
Credit Union Private Share Insurance	<a href="#">CR-101 - Pre-proposal Statement of Inquiry</a> submitted June 30, 2006 (PDF)	<a href="#">Comment</a>	To be determined


[Introductory Letter to Credit Unions \(PDF\)](#)

Note: When the Division of Credit Unions files a CR-101, -102, or -103 form, it promptly distributes a copy of the filing to each state-chartered credit union.

[\[Top\]](#)

### Division of Securities

Note: Beginning July 1, 2006, the Division of Consumer Services administers the Escrow Agent Registration Act, [RCW](#)

INTERNET ARCHIVE  
 166 captures  
 10 Dec 05 - 14 Sep 13

Go: AUG OCT  
 2006 2007

Rule Subject	Rule Status	Send a Comment	Public Meeting Date
<b>Multijurisdictional Disclosure System Rule Changes:</b> Proposes to amend WAC 460-11A to maintain uniformity with other states concerning the registration of certain Canadian issuers. (WAC 460-11A)	<u>CR-101</u> - Pre-proposal Statement of Inquiry	<a href="#">Comment</a>	
<b>Toronto Stock Exchange:</b> Exchange and national market system exemption.	<u>CR-102</u> - Proposed Rule Making	<a href="#">Comment</a> period is over.	
<b>IA Custody Rule:</b> Proposes to amend WAC 460-24A-105, concerning requirements imposed on investment advisers who take custody of client funds or securities.	<u>CR-103</u> - Rule Making Order [Effective 4/9/2004]		
	<u>CR-101</u> - Pre-proposal Statement of Inquiry	<a href="#">Comment</a> period is over.	

[\[Top\]](#)

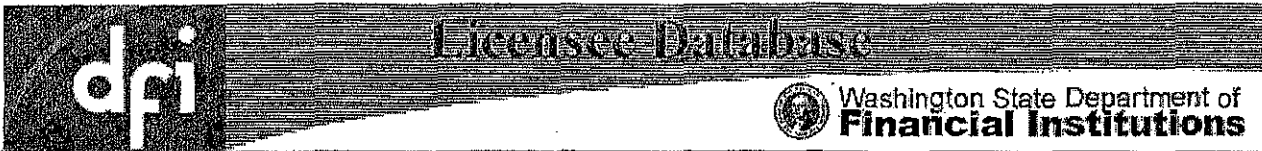
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OIG HEARINGS UNIT  
PATRICIA O. PETERSEN  
CHIEF PRESIDING OFFICER

# EXHIBIT 5



Welcome to the DFI's database of registrants and licensees. Certain investment offerings and financial services professionals and/or businesses are required by state law to be registered or licensed with DFI for consumer protection. This database will allow you to determine if a business or individual is or has been licensed to do business in that industry. This information is up-to-date as of Thursday, March 20, 2014. By proceeding, you agree that the information provided will not be used for commercial purposes. See [RCW 42.56.070\(9\)](#).



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- Business Opportunity
- Franchise (included Exemption, Brokers)
- Other Securities Filings
- Escrow Agents (Companies)
- Escrow Officers
- Money Transmitter/Currency Exchangers
- Check Cashers/Check Sellers
- Small Loans (Payday Lenders)
- Consumer Loan Companies
- Mortgage Brokers
- Loan Originators

Please enter a search item. Either the name (enter entire or part of company name, and search Escrow Officer or Loan Originator by last name) on the filing or file number, license number, city, zip code:

Display All Statuses (If not checked, the results will only display records in a "Current" status)

File Number  OR License/NMLS Number :


Name

City


Zip Code

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FILE #	TYPE	ADDRESS	NAME	COMPANY NAME	TRADE NAME/ISSUER NAME	STATUS
<a href="#">21276</a>	Loan Originator		Steven William Lusa			DeniedApplication
<a href="#">21065</a>	Escrow Officer		Steven William Lusa			RevokedLicense

1 Page 1 of 1

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County: All Counties

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#### Results 1 - 2 of 2:

Name	License Type	City	State	Status
LUSA, STEVEN W	Real Estate Managing Broker	SNOHOMISH	WA	Cancellation
LUSA, SUSAN J	Real Estate Managing Broker	SNOHOMISH	WA	Inactive

#### Results 1 - 2 of 2:

Information Current as of 03/20/2014 3:06AM Pacific Time

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### License Details

#### License Information:

**Name:** LUSA, STEVEN W  
**License Type:** Real Estate Managing Broker  
**License Number:** 9072  
**License Status:** Cancellation  
**First Issued Date:** Aug 17 1976  
**License Issued:** Aug 2 2010  
**Expiration Date:** Aug 5 2011

#### Address:

9511 172ND ST SE  
SNOHOMISH WA 98296

Information Current as of 03/20/2014 3:06AM Pacific Time

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Criteria																
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- Fields are not case sensitive. Example: Smith, smith, and SMITH all match SMITH.																
License Number:	<input type="text"/>															
Registered Business Name:	<input type="text"/>															
First Name:	<input type="text"/>		Last Name:	<input type="text" value="Lusa"/>												
Address:	<input type="text"/>															
City:	<input type="text"/>		State:	<input type="text" value="Oregon"/>		Zip:	<input type="text"/>									
County:	<input type="text"/>															
License Type:	<table border="1"> <tr><td>Broker</td><td></td></tr> <tr><td>Continuing Education Provider</td><td>^</td></tr> <tr><td>Escrow Agent</td><td></td></tr> <tr><td>Escrow Agent Branch Office</td><td>v</td></tr> <tr><td>Membership Camping Contract Broker</td><td></td></tr> </table>						Broker		Continuing Education Provider	^	Escrow Agent		Escrow Agent Branch Office	v	Membership Camping Contract Broker	
Broker																
Continuing Education Provider	^															
Escrow Agent																
Escrow Agent Branch Office	v															
Membership Camping Contract Broker																
		<input type="button" value="Search"/>		<input type="button" value="Clear Form"/>												
<b>Current Filters:</b>																
Last Name: Lusa																
First Name: Steven																
License Type: Broker - OR - Continuing Education Provider - OR - Escrow Agent - OR - Escrow Agent Branch Office - OR - Membership Camping Contract Broker - OR - Membership Camping Contract Operator - OR - Membership Camping Contract Salesperson - OR - Principal Broker - OR - Property Manager - OR - Registered Branch Office - OR - Registered Business Name																
State: Oregon																
Name	License Number	License Type	License Status	City	State	Zip Code										
No records found for the criteria entered.																