

STATE OF INDIANA)
COUNTY OF MARION)

BEFORE THE INDIANA)
SS:)
COMMISSIONER OF INSURANCE)
Cause Number: 7384-AG09-1102-227)

IN THE MATTER OF:)
Fort Wayne Title,)
6203 CONSTITUTION DRIVE)
FORT WAYNE , Indiana 46807)
License No.: 586715)
Respondent/Producer)
And)
Joseph A. Garretson,)
11231 CHESNUT RIDGE CT)
FORT WAYNE , Indiana 46814)
License No.: 426795)
Respondent/Producer)

FILED

NOV 04 2009

STATE OF INDIANA
DEPT. OF INSURANCE

ORDER GRANTING EMERGENCY SUSPENSION

The Indiana Commissioner of Insurance (“Commissioner”), having reviewed the Title Insurance Division's Motion for Emergency Suspension, and being otherwise duly advised, now finds as follows:

FINDINGS OF FACT

1. Respondents currently hold title insurance qualifications in Indiana.
2. Respondents have failed to provide the Indiana Department of Insurance (“Department”) with escrow account reconciliation records pursuant to Ind. Code § 27-1-3.1 *et seq.*

3. The Department has received a complaint from a homeowner who refinanced their house with Respondents stating that his prior mortgage has not been paid off.

4. Respondents failed to comply with a Market Conduct Exam Warrant, an order issued by the Indiana Commissioner of Insurance

5. Joseph A. Garretson ("Garretson") failed to notify the Department of Indiana Secretary of State's administrative action of his loan originator license, where he was permanently barred from the loan brokerage business in Indiana within 30 days of the issuance of the Secretary of State's order.

6. An emergency exists in that Respondents have valid Indiana insurance producer licenses and they are collecting money from consumers for title insurance and related products but they refuse to provide the Department with their escrow account reconciliation records, the Department has received a complaint from a homeowner whose prior mortgage was not paid off by Respondents, the Respondents have failed to comply with the Commissioner's Warrant, and Garretson has failed to properly notify the Department of the SOS's administrative action permanently barring Garretson from the loan brokerage industry in Indiana.

CONCLUSIONS OF LAW

7. In an emergency, the Commissioner may issue appropriate orders without notice or an evidentiary proceeding under Ind. Code § 4-21.5-4-2(a) which states in relevant part:

The agency shall issue the order under this chapter by one (1) of the following procedures:

(1) Without notice or an evidentiary proceeding, by any authorized individual or panel of individuals.

ORDER

It is, therefore, ORDERED, that the Indiana insurance producer licenses of Fort Wayne Title, Inc. and Garretson (license numbers 426795 and 426795) are hereby SUSPENDED pursuant to Ind. Code § 4-21.5-4-2 for 90 days commencing on the date this order is issued.

The Respondents are hereby notified of their right to a hearing concerning this order as quickly as practicable under Ind. Code § 4-21.5-4-4.



Carol Cutter, Commissioner
Indiana Department of Insurance

Distribution to:

Fort Wayne Title,
6203 CONSTITUTION DRIVE
FORT WAYNE, Indiana 46807

Joseph A. Garretson,
11231 CHESNUT RIDGE CT
FORT WAYNE, Indiana 46814

Kathy Carr Hulbert, Managing Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46402

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) License No.: 426795)
) Respondent/Producer)

FILED

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STATE OF INDIANA
DEPT. OF INSURANCE

PETITION FOR EMERGENCY SUSPENSION

The Title Insurance Division of the Indiana Department of Insurance (“Department”), pursuant to Ind. Code § 4-21.5-4, Ind. Code § 27-1-15.6-12 & 17 and Ind. Code § 27-1-3.1 *et seq.*, files its petition for emergency suspension against the title insurance producer licenses of Fort Wayne Title, Inc. and Joseph A. Garretson, and states:

1. Fort Wayne Title is a title insurance producer holding license number 586715. Fort Wayne Title’s principal place of business is 6203 Constitution Drive, Fort Wayne, Indiana 46807.

2. Joseph A. Garretson ("Garretson") is a title insurance producer holding license number 426795. Garretson is the owner and responsible individual of Fort Wayne Title.

3. David A. Morgan ("Morgan"), Senior Insurance Examiner of the Indiana Department of Insurance, performed an on-site compliance examination of Fort Wayne Title's records in Fort Wayne, Indiana.

4. As a part of the examination process, Morgan requested copies of Respondents' escrow account reconciliation and no copies were made available to Morgan at that time.

5. Morgan mailed a follow-up request for the escrow account reconciliation records to Respondents on April 22, 2009 but his letter was returned unclaimed due to an unreported address change.

6. Morgan mailed the follow-up letter again on September 15, 2009 to the new address and it was received on September 21, 2009. The letter included a requirement for a response within 14 days.

7. After receiving the follow-up letter, Garretson called Morgan on or about September 23, 2009 and asked for an extension of time due to the amount of materials requested and a 30 day extension was granted. Morgan has received no further correspondence to date and no escrow account reconcile materials have been received at the Department.

8. On November 2, 2009, Morgan received a call from a homeowner in Allen County, Indiana stating that he had refinanced his house and used the title insurance, settlement and escrow services of Respondents to close the real estate transaction.

9. The homeowner also stated that he just learned that his previous mortgage was never satisfied from the proceeds of the refinance transaction as stated on the HUD-1 Settlement Statement.

10. On November 2, 2009, the Commissioner of the Indiana Department of Insurance issued a formal "Market Conduct Examination Warrant" (the "Warrant") to Fort Wayne Title and Garretson, which was to commence on November 3, 2009.

11. Morgan personally served the Warrant to the Respondents on November 3, 2009.

12. The Warrant called for a market conduct examination of the title insurance activities of Respondents generally and specifically called for an examination of Respondents' records to determine if Respondents were in compliance with Standard 4.

13. Standard 4 of the Warrant is to reviews documents to ensure that "escrow accounts are used only to receive and disburse funds as they relate to a real estate closing."

14. Garretson and Fort Wayne Title refused to provide Morgan with all of the documents requested to determine if Respondents comply with Standard 4 and Respondents also refused to allow Morgan to review the closing file of the complaining homeowner .

15. An affidavit of David A. Morgan, Senior Insurance Examiner for the Indiana Department of Insurance, attesting to the facts personally known to him is attached as **Exhibit "A"** and incorporated herein.

16. The Department has also been informed by the Indiana Secretary of State-Securities Division ("SOS") that on September 3, 2009, the Securities Commissioner

issued a Final Order ordering Garretson and his mortgage brokerage, Fort Wayne Mortgage, to permanently cease and desist from violating any provision of the loan broker act and to pay a \$5,000.00 civil penalty. The final order also permanently barred Garretson and Fort Wayne Mortgage from acting as loan brokers or loan originators in the State of Indiana. A copy of the SOS Order is attached as **Exhibit "B"** and incorporated herein.

17. Garretson failed to notify the Department of the SOS's administrative action against a professional license in violation of Ind. Code § 27-1-15.6-17(a), which states, "a producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter. The report shall include a copy of the order, consent to order, or other relevant legal documents."

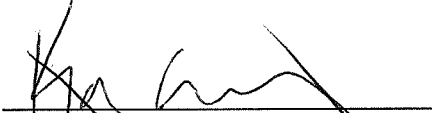
18. The Department has serious consumer protection concerns regarding the activities of Fort Wayne Title and Garretson.

19. An emergency exists in that Respondents have valid Indiana insurance producer licenses and they are collecting money from consumers for title insurance and related products but they refuse to provide the Department with their escrow account reconciliation records, the Department has received a complaint from a homeowner whose prior mortgage was not paid off by Respondents, the Respondents have failed to comply with the Commissioner's Warrant, and Garretson has failed to properly notify the Department of the SOS's administrative action permanently barring Garretson from the loan brokerage industry in Indiana.

20. Under Ind. Code § 4-21.5-4-2(a)(1), the Commissioner may, in an emergency, issue orders without notice or an evidentiary proceeding. Upon issuance of an emergency order, the Respondent may request a hearing as quickly as practicable under Ind. Code § 4-21.5-4-4.

21. Respondents' insurance producer licenses should be suspended on an emergency basis for a period of ninety (90) days or until terminated by the Commissioner.

WHEREFORE, the Department requests that the Commissioner issue an order suspending the insurance producer licenses of Fort Wayne Title, Inc. and Joseph A. Garretson under Ind. Code § 4-21.5-4-2, and for all other necessary and proper relief.

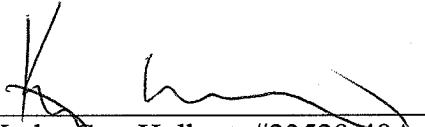

Kathy Carr Hulbert, # 23529-49A
Managing Attorney
Title Insurance Division

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon Respondent's counsel at the address listed below by United States First Class mail, postage prepaid, this 4th day of November, 2009.

Fort Wayne Title,
6203 CONSTITUTION DRIVE
FORT WAYNE, Indiana 46807

Joseph A. Garretson
11231 CHESNUT RIDGE CT
FORT WAYNE, Indiana 46814



Kathy Carr Hulbert, #23529-49A

Title Insurance Division
Indiana Department of Insurance
311 West Washington
Indianapolis, IN 46204-2787
(317) 234-5151

STATE OF INDIANA)
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FORT WAYNE , Indiana 46814)
License No.: 426795)
Respondent/Producer)

AFFIDAVIT OF DAVID A. MORGAN

I, David A. Morgan, having been first duly sworn, state:

1. I am a Senior Insurance Examiner for the Title Insurance Division of the Indiana Department of Insurance.
2. On October 7, 2008, I performed an on-site compliance examination of Fort Wayne Title's records in Fort Wayne, Indiana.
3. As a part of the examination process, I requested copies of Respondents' escrow account reconciliation and no copies were made available to me at that time.

EXHIBIT
A
3 Pages

4. I mailed a follow-up request for the escrow account reconciliation records to Respondents on April 22, 2009 but my letter was returned unclaimed due to an unreported address change.

5. I mailed the follow-up letter again on September 15, 2009 to the new address and it was received on September 21, 2009. The letter included a requirement for a response within 14 days.

6. Garretson called me and asked for an extension of time due to the amount of materials requested and a 30 day extension was granted. I have received no response to date and no escrow account reconcile materials have been received at the Department.

7. On November 2, 2009, I received a call from a homeowner in Allen County, Indiana stating that he had refinanced his house and used the title insurance, settlement and escrow services of Respondents to close the real estate transaction.

8. The homeowner also stated that he just learned that his previous mortgage was never satisfied from the proceeds of the refinance transaction as stated on the HUD-1 Settlement Statement.

9. On November 3, 2009 I went to the offices of Fort Wayne Mortgage, Inc. located at 8321 Illinois Road, Fort Wayne, Indiana 46804 at 3:00 PM. There I met with Joseph Garretson, owner of Fort Wayne Title.

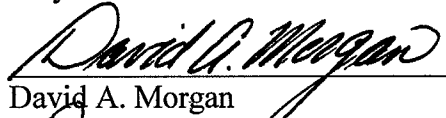
10. Upon arrival to the meeting I personally presented Garretson with the Title Insurance Agency Examination Warrant (the "Warrant") issued under Cause Number 7384-AG09-1102-227 and file stamped November 2, 2009.

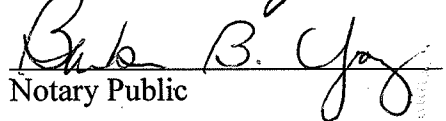
11. I specifically asked Garretson for the closing file for a certain refinance closing Fort Wayne Title prepared for the homeowner who complained to the Department.

12. I also asked for Garretson for Respondents' escrow reconciliation records in accordance with Standard 4 of the Warrant and to previous requests.

13. Garretson refused to provide me either the complaining homeowner's closing file or the escrow account reconciliation records.

I hereby declare, under the penalties of perjury, that the facts stated in this affidavit is personally known to me, and that they are true.


David A. Morgan


Notary Public

Signed and sworn to
before me on November, 4, 2009.

BARBARA B. YOUNG
MORGAN CO.

Notary Public

My Commission expires on 11-20-2016.

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE
SECURITIES DIVISION

FILED
SEP 03 2009

IN THE MATTER OF:)
)
FT. WAYNE MORTGAGE CORPORATION AND))
JOSEPH A. GARRETSON,))
))
Respondents.)

CAUSE NO. 09-0074 SR

**ORDER ADOPTING HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
PROPOSED CONCLUSIONS OF LAW, JUDGMENT AND FINAL ORDER**

Pursuant to due notice to all parties, a hearing was conducted by Hearing Officer O. Wayne Davis, duly appointed by Chris Naylor, Indiana Securities Commissioner ("Commissioner") on July 7, 2009, in Indianapolis, Indiana. Cynthia Lee represented the Securities Division ("Division"). Joseph A. Garretson ("Garretson") appeared pro se and Ft. Wayne Mortgage Corporation ("Ft. Wayne Mortgage") did not appear. The Commissioner hereby adopts and incorporates the findings and conclusions by the Hearing Officer and now enters the following Findings of Fact, Conclusions of Law, Judgment and Final Order.

FINDINGS OF FACT

1. Ft. Wayne Mortgage is a domestic corporation, with a last known business address of 8321 Illinois Road, Fort Wayne, Indiana 46804. (Am. Pet. Order Summ. Rev. ¶ 25; Resp'ts Answer ¶ 25; Req. Admis. 1).
2. From July 20, 2001, to August 5, 2008, Ft. Wayne Mortgage was licensed as a loan broker in the State of Indiana under license number 01-0207 LB. (See Am. Pet. Order Summ. Rev. ¶ 26; Req. Admis. 2).
3. Ft. Wayne Mortgage's license, license number 01-0207 LB, was revoked on August 5, 2008, for operating a principal office without employing a principal

EXHIBIT

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manager at that location in violation of Ind. Code § 23-2-5-10(c)(5) and 20.5(b).

(See Am. Pet. Order Summ. Rev. ¶ 26; Hr'g Tr. 40; Req. Admis. 17-18).

4. Ft. Wayne Mortgage was issued a new license on December 9, 2008, with a license number of 129800, which license was revoked on April 3, 2009. (Am. Pet. Order Summ. Rev. ¶ 27; Hr'g Tr. 19-20; Resp'ts Answer ¶ 27; Req. Admis. 3).
5. Garretson is the owner of Ft. Wayne Mortgage, with a last known address of 8321 Illinois Road, Fort Wayne, Indiana 46804. (Am. Pet. Order Sum. Rev. ¶ 28; Resp'ts Answer ¶ 28; Req. Admis. 6).
6. Garretson was registered as an originator for Ft. Wayne Mortgage from December 1, 2002, to August 5, 2008. (Am. Pet. Order Summ. Rev. ¶ 28; Resp'ts Answer ¶ 28; Req. Admis. 8).
7. On October 10, 2008, Staff entered into a Consent Agreement with Respondents Ft. Wayne Mortgage and Garretson in which Ft. Wayne Mortgage agreed to be suspended from acting as a loan broker in the State of Indiana for one hundred (100) days, with the suspension period beginning on August 6, 2008, and ending on November 14, 2008. (Am. Pet. Order Summ. Rev. ¶ 31; Resp'ts Answer ¶ 31; Hr'g Tr. 44-45).
8. According to the Consent Agreement, Garretson also agreed to be suspended from acting as a principal manager and/or originator in the State of Indiana for one hundred and twenty (120) days immediately following the filing of the Consent Agreement, or until February 7, 2009. (Am. Pet. Order Summ. Rev. ¶ 32; Hr'g Tr. 44-45, 53).

9. Along with the execution of the Consent Agreement, Garretson filed an Affidavit with the Division stating that “Ft. Wayne Mortgage ceased doing business as a loan broker on August 5, 2008, and all originators for Ft. Wayne Mortgage also ceased engaging in loan origination activities as of that date.” (Am. Pet Order Summ. Rev. ¶ 33; Resp’ts Answer ¶ 33; Hr’g Tr. 43).
10. Nevertheless, Staff discovered that Ft. Wayne Mortgage had continued to engage in the loan brokerage business from at least August 7, 2008, to November 13, 2008, in violation of the Consent Agreement. (Am. Pet. Order Summ. Rev. ¶ 34; Hr’g Tr. 44-55, 63, 71-77).
11. Furthermore, Garretson violated the terms of the Consent Agreement by engaging in loan origination activities from August 7, 2008, to January 8, 2009, when he had agreed to a one hundred and twenty (120) day suspension period immediately following the filing of the Consent Agreement, or from October 11, 2008, to February 7, 2009. (Am. Pet. Order Summ. Rev. ¶ 37; Hr’g Tr. 53-54, 63, 71-77).
12. On July 7, 2008, the Commissioner issued an Order of Summary Revocation that summarily revoked Ft. Wayne Mortgage’s previous license, license number 01-0207 LB, for operating a principal loan broker office while employing an unregistered principal manager in violation of Ind. Code §§ 23-2-5-10(c)(5) and 20.5(b). (Am. Pet. Order Summ. Rev. ¶ 41; Hr’g Tr. 38-40; Req. Admis. 17).
13. On March 31, 2009, Staff filed a Petition for Order of Summary Revocation and to Cease and Desist (“Second Petition”), Cause No. 09-0074 SR, against Ft. Wayne Mortgage and Garretson for violations of the Indiana Loan Broker Act, Ind. Code 23-2-5 (“Act”). On the same date, the Commissioner issued an Order of Summary

Revocation and to Cease and Desist (“Second Order”) on Ft. Wayne Mortgage, ordering the revocation of the loan broker license of Ft. Wayne Mortgage, license no. 129800. (Am. Pet. Order Summ. Rev. ¶ 43; Resp’ts Answer ¶ 43).

14. The Second Petition and Second Order were personally served at the principal office location for Ft. Wayne Mortgage on April 3, 2009. (Am. Pet. Order Summ. Rev. ¶ 44; Resp’ts Answer ¶ 44).
15. Respondents were aware of the Commissioner’s Order of Summary Revocation as of April 3, 2009, at the latest. (Am. Pet. Order Summ. Rev. ¶ 45; Resp’ts Answer ¶ 45; Hr’g Tr. 19-20).
16. Nevertheless, on or about April 7, 2009, Ft. Wayne Mortgage engaged in the loan brokerage business by employing an originator who originated one (1) loan, although it was not licensed during that period of time, in violation of Ind. Code § 23-2-5-4(a). (Am. Pet. Order Summ. Rev. ¶ 46; Hr’g Tr. 53-54, 63, 71-77; Req. Admis. 147-151).
17. From August 7, 2008, to January 8, 2009, Garretson engaged in origination activities on behalf of Ft. Wayne Mortgage by assisting one (1) or more prospective borrowers in the selection of loan products or terms although Garretson was not registered as an originator in the State of Indiana for Ft. Wayne Mortgage during that period of time, in violation of Ind. Code § 23-2-5-4(b). (Am. Pet. Order Summ. Rev. ¶ 50; Hr’g Tr. 53-54, 63, 71-79).
18. On or about April 7, 2009, Garretson engaged in origination activities on behalf of Ft. Wayne Mortgage by assisting a borrower in the selection of loan products or terms and completing a loan application although Garretson was not registered as

an originator in the State of Indiana for Ft. Wayne Mortgage at that time, in violation of Ind. Code § 23-2-5-4(b). (Am. Pet. Order Summ. Rev. ¶ 51; Hr'g Tr. 77-79).

19. From August 7, 2008, to December 6, 2009, Ft. Wayne Mortgage employed one (1) or more persons to engage in origination activities in the State of Indiana by assisting borrowers to obtain at least forty-seven (47) loans although no individuals were registered as originators with Ft. Wayne Mortgage in the State of Indiana during that period of time, in violation of Ind. Code § 23-2-5-20.5. (Am. Pet. Order Summ. Rev. ¶ 54; Hr'g Tr. 53-54, 63, 71-79; Req. Admis. 150).
20. On or about April 7, 2009, Ft. Wayne Mortgage employed one (1) or more persons to engage in origination activities in the State of Indiana by assisting a borrower to obtain a loan although no individuals were registered as originators with Ft. Wayne Mortgage in the State of Indiana at that time, in violation of Ind. Code § 23-2-5-20.5. (Am. Pet. Order Summ. Rev. ¶ 55; Hr'g Tr. 71-79).
21. On or about April 7, 2009, Staff sent the Custodian of Records for Ft. Wayne Mortgage a *Subpoena Duces Tecum* ("Subpoena"). (Am. Pet. Order Summ. Rev. ¶ 58; Resp'ts Answer ¶ 58; Hr'g Tr. 59).
22. The Subpoena requested the loan files for thirty-seven (37) individuals, including the files for Michael Bowland ("Bowland"), Jack Clark ("Clark"), Brenda Mudrack ("Mudrack"), and Jeremy Michael Scott ("Scott"). (Am. Pet. Order Summ. Rev. ¶ 59; Resp'ts Answer ¶ 59; Hr'g Tr. 66-76).
23. On April 20, 2009, Garretson met with Staff and informed Staff that he could not provide the loan files of any of the individuals requested in the Subpoena, with the

exception of one individual, John W. Olds, Jr. (Am. Pet. Order Summ. Rev. ¶ 60; Resp'ts Answer ¶ 60; Hr'g Tr. 61-62).

24. Garretson stated to Staff at the April 20, 2009, meeting ("Meeting") that, aside from John W. Olds, Jr., no other individuals listed on the Subpoena submitted a loan application and/or closed on a loan through Ft. Wayne Mortgage. (Am. Pet. Order Summ. Rev. ¶ 61; Hr'g Tr. 61-62).
25. Ft. Wayne Mortgage assisted borrowers Clark, Bowland, Scott, and Mudrack in completing and submitting loan applications to a lender on or about July 17, 2008, September 9, 2008, September 18, 2008, and December 1, 2008, respectively. (Am. Pet. Order Summ. Rev. ¶ 62; Hr'g Tr. 66-76).
26. Furthermore, Clark, Bowland, Scott, and Mudrack closed on their loans on August 19, 2008, September 12, 2008, September 22, 2008, and December 5, 2008, respectively. (Am. Pet. Order Summ. Rev. ¶ 63; Hr'g Tr. 66-76).

II. CONCLUSIONS OF LAW

27. All Findings of Fact are incorporated by reference as Conclusions of Law, and all Conclusions of Law are incorporated as Findings of Fact.
28. The Securities Division is a division of the Office of the Secretary of State. The Division has jurisdiction over matters relating to loan brokers, as provided by the Act. The Act authorizes the Division to regulate: (1) the licensing of loan brokers; (2) the registration of originators; and (3) prohibits fraud in connection with a contract for the services of a loan broker. (Am. Pet. Order Summ. Rev. ¶ 23).
29. Under the Act:

The Commissioner may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee, the registrant, or an ultimate equitable owner of a licensee: ... (6) has knowingly filed any document or statement that: (A) contains a false representation of material fact; (B) fails to state a material fact....

Ind. Code § 23-2-5-10(c).

30. On October 10, 2008, Ft. Wayne Mortgage and Garretson entered into a Consent Agreement with the Division that failed to state the material fact that Ft. Wayne Mortgage had engaged in the loan brokerage business from at least August 7, 2008, to October 7, 2008, and that it was already in violation of the terms of the Consent Agreement by not adhering to the suspension period from August 6, 2008, to November 14, 2008, in violation of Ind. Code § 23-2-5-10(c)(6)(B). (Am. Pet. Order Summ. Rev. ¶ 35; Hr'g Tr. 44-55, 63, 71-77).
31. On or about October 10, 2008, Ft. Wayne Mortgage and Garretson filed an Affidavit with the Commissioner that contained a false representation of material fact by stating that Ft. Wayne Mortgage ceased doing business as a loan broker on August 5, 2008, when in fact Ft. Wayne Mortgage continued to do business as a loan broker from at least August 7, 2008, to October 7, 2008, prior to the filing of the Affidavit with the Commissioner, in violation of Ind. Code § 23-2-5-10(c)(6)(A). (Am. Pet. Order Summ. Rev. ¶ 36; Hr'g Tr. 44-55, 63, 71-77).

32. Under the Act:

The Commissioner may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee, the registrant, or an ultimate equitable owner of a licensee: ... (5) has violated any provision of this chapter....

Ind. Code § 23-2-5-10(c)(5).

Mortgage during that period of time, in violation of Ind. Code § 23-2-5-4(b). (Am. Pet. Order Summ. Rev. ¶ 50; Hr'g Tr. 53-54; 63, 71-79).

39. On or About April 7, 2009, Garretson engaged in origination activities on behalf of Ft. Wayne Mortgage by assisting a borrower in the selection of loan products or terms and completing a loan application although Garretson was not registered as an originator in the State of Indiana for Ft. Wayne Mortgage at that time, in violation of Ind. Code § 23-2-5-4(b). (Am. Pet. Order Summ. Rev. ¶ 51; Hr'g Tr. 77-79).
40. "A person licensed or required to be licensed as a loan broker under this chapter shall not employ a person to engage in origination activities unless the person is registered as an originator or a principal manager under this chapter..." Ind. Code § 23-2-5-20.5(a).
41. From August 7, 2008, to December 6, 2009, Ft. Wayne Mortgage employed one (1) or more persons to engage in origination activities in the State of Indiana by assisting borrowers to obtain at least forty-seven (47) loans although no individuals were registered as originators with Ft. Wayne Mortgage in the State of Indiana during that period of time, in violation of Ind. Code § 23-2-5-20.5. (Am. Pet. Order Summ. Rev. ¶ 54; Hr'g Tr. 53-54, 63, 71-79; Req. Admis. 150).
42. On or about April 7, 2009, Ft. Wayne Mortgage employed one (1) or more persons to engage in origination activities in the State of Indiana by assisting a borrower to obtain a loan although no individuals were registered as originators with Ft. Wayne Mortgage in the State of Indiana at that time, in violation of Ind. Code § 23-2-5-20.5. (Am. Pet. Order Summ. Rev. ¶ 55; Hr'g Tr. 71-79).

43. "The Commissioner may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee, the registrant, or an ultimate equitable owner of a licensee: ... (10) has engaged in dishonest or unethical practices in the loan broker business, as determined by the Commissioner." Ind. Code § 23-2-5-10(c)(10).

44. On April 20, 2009, Ft. Wayne Mortgage and/or Garretson made false oral representations of material fact to Staff, and therefore, engaged in dishonest and unethical practices in the loan broker business, in violation of Ind. Code § 23-2-5-10(c)(10). (Am. Pet. Order Summ. Rev. ¶ 64; Hr'g Tr. 59-76).

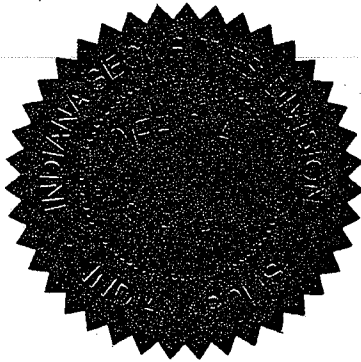
III. FINAL JUDGMENT AND ORDER

Upon consideration of the foregoing Findings of Fact and Conclusions of Law, the Commissioner now Orders, Adjudges, and Decrees the following:

- a) Respondents Ft. Wayne Mortgage and Garretson shall immediately and **PERMANENTLY CEASE AND DESIST** from violating any provision of the Indiana Loan Broker Act or any regulation promulgated there under;
- b) Respondents Ft. Wayne Mortgage and Garretson are each **PERMANENTLY BARRED** from acting as loan brokers and/or originators in Indiana;
- c) Respondents Ft. Wayne Mortgage and Garretson are jointly and severally liable to the Securities Division of the Indiana Secretary of State's Office for the costs of the investigation of this matter in an amount to be determined upon submission of an affidavit from the Division documenting such costs;

d) Respondent Ft. Wayne Mortgage and Garretson are jointly and severally liable to the Securities Division of the Indiana Secretary of State's Office for a civil penalty in the amount of five thousand dollars (\$5,000) for violations of the Indiana Loan Broker Act.

ENTERED AT INDIANAPOLIS, INDIANA, THIS 3RD DAY of SEPTEMBER, 2009.



TODD ROKITA
SECRETARY OF STATE

CHRIS NAYLOR
SECURITIES COMMISSIONER

AFFIDAVIT OF SERVICE – BY U.S. FIRST CLASS MAIL

Judith A. Smith, Affiant, being duly sworn, states that she served the attached and foregoing **ORDER ADOPTING HEARING OFFICER'S PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW, JUDGMENT AND FINAL ORDER** upon Respondents, by U.S. First Class Mail, Postage Prepaid, addressed as follows:

**FT. WAYNE MORTGAGE CORPORATION
8321 Illinois Road
Fort Wayne, In 46804-5737**

**JOSEPH A. GARRETSON
8321 Illinois Road
Fort Wayne, IN 46804-5737**

on this 4th day of September, 2009.

A copy was also hand-delivered to Cynthia Lee of the Division.

A handwritten signature in cursive script that reads "Judith A. Smith".

Affiant