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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUIONS
DIVISION OF BANKS**

IN THE MATTER OF:

RICHARD J. FISHER and
T. MICHAEL YOCUM

Respondents.

DOB No. 2017-01

CONSENT ORDER

COMES NOW GLORIA PAPIEZ, the Director of the State of Washington, Department of Financial Institutions, through her designee, Division of Banks Director Roberta Hollinshead (Director of Banks) and Respondent Richard J. Fisher (Respondent), a former employee of [REDACTED], a commercial bank chartered under Title 30A Revised Code of Washington (RCW), and regulated by the Department, who find that the issues raised in the above-captioned matter may be economically and efficiently settled, and agree to the entry of this Consent Order. This Consent Order is entered pursuant to Title 30A and RCW 34.05.060 of the Administrative Procedure Act, and is based on the following:

CONSENT ORDER

The Director of Banks, and Respondent, by and through his attorneys of record, Seth A. Rosenberg and Christopher A. Campbell of Rosenberg Law Group, PLLC, hereby stipulate and consent to a complete resolution of the matters alleged in the Statement of Charges, Notice of Intent to Enter Final Order of Suspension, And Notice of Opportunity for Hearing, No. DOB 2017-01 (hereafter , Statement of Charges), entered April 12, 2017, attached to this

1 Consent Order as Exhibit A and incorporated herein by reference. The parties intend this
2 Consent Order to fully resolve the Statement of Charges. Without admitting or denying the
3 Statement of Charges, the Director of Banks and Respondent stipulate and consent to the
4 following:

5 **A. Jurisdiction.** It is AGREED that Respondent consents to the Department's jurisdiction
6 over the subject matter of the activities in the Statement of Charges.

7 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of his right to a
8 hearing before the Director of Financial Institutions' designated hearing officer, and
9 hereby waives his right to a hearing and any and all administrative and judicial review of
10 the issues raised in this matter, or of the resolution reached herein. Respondent, by his
11 signature below, withdraws his appeal.

12 **C. Industry Prohibition.** Respondent is prohibited from the date of this Consent Order for a
13 period of ninety days (90) days from participation in any capacity in the conduct of the affairs
14 of any depository institution, trust company, bank holding company, thrift holding
15 company, or financial holding company, including but not limited to: (1) any financial
16 capacity, whether active or passive, or (2) as an officer, director, trustee, principal, active
17 employee, or contractor.

18 **D. Definitions.** This Consent Order utilizes the below definitions.

19 1. "Bank holding company" means any parent company of a federally chartered, state-
20 chartered, or alien bank, whether or not registered with the Board of Governors of the
21 Federal Reserve System (Federal Reserve Board) and whether or not subject to the
22 Bank Holding Company Act.

23 2. "Depository institution" means any depository institution, regardless of whether its
24 deposits are federally insured, including without limitation, any national banking
25 association (national bank) under the National Bank Act, or a successor statute; federal
26 savings and loan association, federal savings association, or federal savings bank

1 under the Home Owners Loan Act, or its successor statute; federal credit union under
2 the Federal Credit Union Act; state commercial bank; state mutual or stock savings
3 bank; state savings association; state credit union; state corporate credit union;
4 industrial loan bank or industrial loan company, with authority to hold deposits.

5 3. "Financial holding company" means any company authorized by the Gramm-Leach-
6 Bliley Act of 1999, or successor statute, to be the holding company of a depository
7 institution.

8 4. "Thrift holding company" means the holding company of a mutual or stock savings
9 bank, a savings and loan association, or a savings association.

10 5. "Trust company" means any federal trust company, state trust company, or the holding
11 company of any such trust company.

12 **E. Fine.** Respondent is liable to the Department for a fine in the amount of seven thousand
13 dollars (\$7,000.00). Respondent shall pay such amount to the Department in the form of a
14 cashier's check made payable to the "Washington State Treasurer" on or before January 31,
15 2018.

16 **F. Private Right of Action.** The Department does not represent or have the consent of any
17 person or entity not a party to this Consent Order to take any action concerning their personal
18 legal rights. This Consent Order does not limit any private rights or remedies against
19 Respondent, the liability of Respondent, or defenses of Respondent to such claims.

20 **G. Effect of Bankruptcy.** Respondent understands that an action in bankruptcy filed by
21 Respondent or any bankruptcy proceeding in which the Respondent is a party shall not
22 affect the non-monetary terms of this Consent Order, including but not limited to, the above-
23 described prohibition from participation in the banking industry.

24 **H. Non-Compliance with Order.** Respondent acknowledges and understands that failure to
25 abide by the terms and conditions of this Consent Order may result in further legal action
26 by the Director, and that in the event of such legal action, Respondent will be responsible

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to the Director both for reimbursement of costs incurred in successfully pursuing such legal action against Respondent, and for attorneys' fees.

I. Completely Read, Understood, and Agreed. Respondent acknowledges that he has voluntarily entered into this Consent Order, which is effective when signed by the Director of Banks. Respondent has, with his attorneys, read this Consent Order in its entirety, and stipulates that he fully understands his rights waived and the terms of the Consent Order, and agrees to all of the same.

RESPONDENT:

[Redacted]

Richard J. Fisher

12-27-17

Date

[Redacted]

Christopher A. Campbell, WSBA No. 50959
Seth A. Rosenberg, WSBA No. 41660
The Rosenberg Law Group, PLLC
Attorneys for Respondent

12/27/17

Date

[Redacted]

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THIS ORDER ENTERED THIS 23rd DAY OF January, 2018.

WASHINGTON STATE DEPARTMENT
OF FINANCIAL INSTITUTIONS

Division of Banks

By 

Roberta Hollinshead
Director, Division of Banks

Presented by:



Ian S. McDonald, WSBA No. 41403
Assistant Attorney General
Attorney for Department of Financial
Institutions, Division of Banks

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKS**

IN THE MATTER OF:

NO. 2017-01

RICHARD J. FISHER; and
T. MICHAEL YOCUM

STATEMENT OF CHARGES, NOTICE
OF INTENT TO ENTER FINAL ORDER
OF SUSPENSION, AND NOTICE OF
OPPORTUNITY FOR HEARING

RESPONDENTS.

THE STATE OF WASHINGTON TO: RICHARD J. FISHER
T. MICHAEL YOCUM

STATEMENT OF CHARGES

Pursuant to RCW 30A.04.030, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of Title 30A RCW, the Washington Commercial Bank Act ("Bank Act"). Please take notice that the Director, through her designee, Division of Banks Director Roberta Hollinshead, has reasonable cause to believe Respondents violated the Bank Act and that their violations justify the entry of an order under RCW 30A.04.050 and RCW 30A.12.040. After having conducted an investigation, and based on the facts available as of the date of this Statement of Charges, the Division of Banks Director institutes this proceeding and finds as follows:

I. TENTATIVE FINDINGS OF FACT

1.1 Respondents. Richard J. Fisher ("Fisher") was employed at [REDACTED] as Senior Vice President and Chief Lending Officer during the relevant

1 time period, March through May 2015. His employment with the bank officially terminated
2 on November 30, 2015.

3 Respondent T. Michael Yocum ("Yocum") was employed at [REDACTED] Vice President
4 and Commercial Loan Officer/Relationship Manager. On July 23, 2015, Yocum resigned
5 from [REDACTED], effective immediately.

6 **1.2 Nature of the Violations.** Without knowledge of the Bank President and Chief
7 Executive Officer or [REDACTED]'s Board of Directors, Respondents Fisher and Yocum acted
8 together to unlawfully obtain multiple loans from the Bank in furtherance of a personal real
9 estate venture.

10 1.2.1 [REDACTED]. On March 17, 2015, Yocum emailed Bank President [REDACTED]
11 [REDACTED], with a copy to Fisher, a request for a business loan for the
12 purpose of rehabilitating some of his rental property.

13 On March 18, 2015, Fisher made a personal check payable to Yocum in the amount of
14 \$1,000. On the same date, Yocum submitted earnest money in the amount of \$2,000 to [REDACTED]
15 [REDACTED], P.S. ("the Closing Attorney") toward the purchase of [REDACTED]
16 [REDACTED] Spokane Valley, WA 99216 ("[REDACTED]").

17 On March 24, 2015, Fisher, acting as the loan officer, recommended approval of a
18 commercial loan, identified as loan [REDACTED], in the amount of \$45,000. Fisher characterized the
19 transaction as a short term business investment discretionary line of credit for the purpose of
20 enabling Yocum to "rehabilitate a couple of his rentals" before potentially selling or
21 refinancing. Based on Fisher's approval recommendation, President [REDACTED] approved loan
22 [REDACTED] on the same date.

23 On March 31, 2015, loan proceeds of \$45,000 in the form of a cashier's check, in
24 combination with a separate cashier's check from Yocum in the amount of \$52,000, and a
25 cashier's check from Fisher in the amount of \$100,000, were remitted to the Closing Attorney
26 for the purchase of the [REDACTED]. The real estate closing document for the sale of

1 the [REDACTED] listed both Yocum and Fisher as buyers of the property. Fisher and
2 Yocum provided no disclosure to President [REDACTED] or [REDACTED] Board of Directors regarding
3 the existence of the business relationship, Fisher's financial interest in the loan proceeds, or
4 the true purpose to which the loan proceeds were to be put.

5 1.2.2 [REDACTED]. On April 14, 2015, Yocum emailed to President
6 [REDACTED] with a copy to Fisher, a request for a line of credit for \$300,000, or, in the
7 alternative, two loans each for \$110,000, the proceeds of which would pay off the \$45,000
8 loan Yocum had recently received [REDACTED] for the stated purpose of improving some of
9 his real estate.

10 On April 21, 2015, Fisher, acting as the loan officer, recommended approval of two
11 commercial loans, identified as loans [REDACTED] and [REDACTED], each in the amount of \$112,500. On
12 May 1, 2015, Fisher increased the Bank's commitment to \$120,000 for each loan. Based on
13 Fisher's approval recommendation, President [REDACTED] approved loans [REDACTED] and [REDACTED] on
14 the same date.

15 The loans were characterized as cash out refinances of the duplexes at [REDACTED] & [REDACTED]
16 [REDACTED] Spokane Valley, WA. Loan [REDACTED] was secured by a grant of a deed of trust by
17 Yocum and his wife, [REDACTED] Yocum, on the real property commonly known as [REDACTED] &
18 [REDACTED] Avenue, Spokane Valley, WA. Loan [REDACTED] was secured by a grant of a
19 deed of trust by Yocum and his wife, [REDACTED] Yocum, on the real property commonly known
20 as [REDACTED], Spokane Valley, WA.

21 On May 1, 2015, the parties executed the Notice of Final Agreement on loans [REDACTED]
22 and [REDACTED]. Yocum signed as the borrower, and Fisher signed on behalf of the lender Bank.
23 On May 7, 2015, \$238,000, representing the loan proceeds, was wired to Yocum's bank
24 account. Fisher and Yocum provided no disclosure to President [REDACTED] or [REDACTED] Board of
25 Directors regarding the existence of the business relationship or Fisher's financial interest in
26 the subject properties or in the loan proceeds.

1 **1.3 Damages.** As a result of Respondents' inducement to lend funds to Yocum, the
2 Bank suffered monetary damages in the amount of \$65,000, inclusive of external loan review
3 costs and legal fees, to date. The Bank incurred credit risks associated with making loans not
4 in compliance with internal policies and risk guidelines, risks for which the Bank was not
5 compensated by the contractual rate of interest. The bank also incurred opportunity costs by
6 lending money to Yocum that could have otherwise been lent in conformance with lending
7 policies and without any self-dealing. The Bank suffered further financial damages in that
8 Respondent Fisher received at least \$180 in incentive pay from the Bank for the origination of
9 the loans to Yocum. As a result of the Respondents' actions as bank employees the Bank has
10 suffered substantial damage to its reputation.

11 **1.4 Ongoing Investigation.** The Division of Banks' investigation of Respondents'
12 activities and the financial condition of the Bank continues to date. This Statement of Charges
13 may be amended in the future based on subsequent facts revealed by the examination.

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

15 **2.1 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above,
16 the Director has reasonable cause to believe Respondents Fisher and Yocum are in apparent
17 violation of RCW 30A.12.040(1):

18 2.2.1 Respondents committed unsafe and unsound practices in connection with the
19 affairs of the Bank;

20 2.1.2 Respondents breached their fiduciary duties to the Bank;

21 2.1.3 Respondents committed acts and/or omissions of personal dishonesty;

22 2.1.4 Respondents' acts, omissions and violations, if lacking fraudulent intent, were
23 otherwise reckless or incompetent.

24 **2.2 Risk of Substantial Financial Loss or Other Damage.** The Director has
25 reasonable cause to believe that the Bank or other depository institution has suffered, or is
26

1 likely to suffer, substantial financial loss and/or reputational damage on account of
2 Respondents' acts, omissions, or violations of law.

3 **III. AUTHORITY TO IMPOSE SANCTIONS**

4 3.1 Pursuant to RCW 30A.04.030, RCW 30A.04.050, and RCW 30A.12.040, the
5 Director may issue and serve an employee of a bank with written notice of intent to prohibit
6 the person from participating in the conduct of the affairs of the bank or any other depository
7 institution, trust company, bank holding company, thrift holding company, or financial
8 holding company doing business in the State of Washington, if:

9 3.1.1 Reasonable cause exists to believe that the person has committed a material
10 violation of law, an unsafe and unsound practice, or an act or practice involving a breach of
11 fiduciary duty, personal dishonesty, recklessness or incompetence; and

12 3.1.2 Either the financial institution has suffered, or is likely to suffer, substantial loss
13 or other damage, or the interest of depositors or trust beneficiaries could be seriously
14 prejudiced by reason of the violation or practice.

15 3.2 Pursuant to RCW 30A.04.050(3), the Director may impose a penalty of up to
16 \$10,000 for each violation of the Bank Act.

17 **IV. NOTICE OF INTENT TO ENTER ORDER**

18 Based on the Sections I through III of this Statement of Charges, inclusive, there is
19 good and sufficient basis for the Director to enter an order pursuant to RCW 30A.04.050,
20 RCW 30A.12.040 and RCW 30A.12.042. Therefore, Respondents Richard J. Fisher and T.
21 Michael Yocum are notified that it is the Director's intent to ORDER that:

22 4.1 Respondent Fisher be prohibited from participation, in any manner, in the conduct
23 of the affairs of any bank or any other depository institution, trust company, bank holding
24 company, thrift holding company, or financial holding company doing business in the State of
25 Washington for a period of five years.

1 4.2 Respondent Fisher pay a penalty of not less than thirty thousand dollars
2 (\$30,000.00), up to ten thousand dollars for each separate violation of law or act of material
3 misconduct alleged, as determined at hearing.


4 4.3 Respondent Yocum be prohibited from participation, in any manner, in the conduct
5 of the affairs of any bank or any other depository institution, trust company, bank holding
6 company, thrift holding company, or financial holding company doing business in the State of
7 Washington for a period of one year.

8 4.4 Respondent Yocum pay a penalty of not less than ten thousand dollars
9 (\$10,000.00), up to ten thousand dollars for each separate violation of law or act of material
10 misconduct alleged, as determined at hearing.

11 **V. AUTHORITY AND PROCEDURE**

12 This Statement of Charges is entered pursuant to the provisions of the Bank Act and is
13 subject to the provisions of Chapter 34.05 RCW (Administrative Procedure Act). Each
14 Respondent may make a written request for a hearing as set forth in the NOTICE OF
15 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

16
17 Dated this 12th day of April, 2017

18 
19 ROBERTA HOLLINSHEAD
20 Director, Division of Banks
21 Department of Financial Institutions
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