

TERMS COMPLETE

CONSENT ORDER SUMMARY - Case Number: C-09-160

Name(s) SFV Financial, Inc. and Mark Heller

Order Number C-09-160-09-CO01

Effective Date November 25, 2009

License Number U/L

License Effect N/A

Not Apply until November 25, 2014

Prohibition/Ban until November 25, 2014

Investigation Costs	\$772.80	Due	Paid Yes	Date: 11/24/2009
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Assessment(s)	\$	Due	Paid Y N	Date
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Monetary Penalty	\$	Due	Paid Y N	Date
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Other Restitution \$1,000 - paid

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

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

NO. C-09-160-09-CO01

SFV FINANCIAL, INC., and
MARK HELLER, President, and Owner,
Respondents.

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and SFV Financial, Inc. (hereinafter Respondent SFV Financial) and Mark Heller, President and Owner of SFV Financial (hereinafter Respondent Heller), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-09-160-09-SC01 (Statement of Charges), entered May 27, 2009, (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

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

3 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing
4 before an administrative law judge, and that they hereby waive their right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
6 Accordingly, Respondents by their signatures below hereby withdraw their appeal to the Office of Administrative
7 Hearings.

8 C. **Prohibition from Industry.** It is AGREED that Respondents are prohibited from participating in the
9 conduct of the affairs of any mortgage broker licensed by the Department or any person subject to licensure or
10 regulation by the Department or any mortgage broker exempt from Washington law under RCW 19.146.020(1)(e)
11 or (g) for five (5) years from the date of entry of this Consent Order in any capacity, including but not limited to:
12 (1) any financial capacity whether active or passive or (2) as an officer, director, principal, designated broker,
13 employee, or loan originator or (3) any management, control, oversight or maintenance of any trust account(s) in
14 any way related to any residential mortgage transaction or (4) receiving, disbursing, managing or controlling in
15 any way, consumer trust funds in any way related to any residential mortgage transaction.

16 D. **Restitution.** It is AGREED that Respondents have paid restitution in the amount of \$1,000, in the
17 form of a check, to the borrower listed in the attached restitution schedule.

18 E. **Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee
19 of \$772.80, in the form of a cashier's check or money order made payable to the "Washington State Treasurer,"
20 upon entry of this Consent Order.

21 F. **Authority to Execute Order.** It is AGREED that the undersigned Respondents have represented and
22 warranted that they have the full power and right to execute this Consent Order on behalf of the parties
23 represented.

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G. Non-Compliance with Order. It is AGREED that Respondents understand that failure to abide by the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

H. Voluntarily Entered. It is AGREED that the undersigned Respondents have voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

I. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read this Consent Order in its entirety and fully understand and agree to all of the same.

RESPONDENTS:

SFV Financial, Inc.

By:

[Redacted Signature]

Mark Heller
President and Owner

10/26/09
Date

[Redacted Signature]

Mark Heller
Individually

10/26/09
Date

Samuel J. Smith, WSBA No. _____
Attorney at Law
Attorney for Respondents

Date

DO NOT WRITE BELOW THIS LINE

1 THIS ORDER ENTERED THIS 25th DAY OF November, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

6 Presented by:



9 ROBERT E. JONES
Financial Legal Examiner

10

11 Approved by:



13 JAMES R. BRUSSELBACK
Enforcement Chief

Restitution Schedule- SFV Financial

Name	Address	Refund Amount
K.E.	[REDACTED]	\$1,000.00
TOTAL=		\$1,000.00

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

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Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

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SFV FINANCIAL, INC., and
MARK HELLER, President, and Owner,

Respondents.

NO. C-09-160-09-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST, IMPOSE
FINE, ORDER RESTITUTION, PROHIBIT FROM
INDUSTRY, AND COLLECT INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act)¹. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **SFV Financial, Inc. (SFV Financial)** is a California corporation located 17929 Ventura Blvd. #4, Encino, California, 91316. Respondent SFV Financial has never been licensed to conduct the business of a Mortgage Broker by the Department of Financial Institutions.

B. **Mark Heller (Heller)** is the President and Owner of SFV Financial, Inc. Respondent Heller was licensed to conduct the business of a Loan Originator by the Department of Financial Institutions on November 30, 2007, until December 31, 2008, when his license expired.

¹ RCW 19.146 (2006)

1 **1.2 Unlicensed Activity.** Between at least January and May, 2009, Respondent SFV Financial assisted at
2 least one borrower in applying to obtain a loan modification on property located in the State of Washington
3 from the unlicensed location discussed in paragraph 1.1. Respondent SFV Financial assisted at least one
4 borrower in obtaining a loan modification. The borrower involved in this loan modification paid fees to
5 Respondent SFV Financial totaling \$1,000.

6 **1.3 Failure to Respond Timely to Directive.** On March 2, 2009, the Department sent a Directive and
7 Requirement for Production of Records and Explanation to Respondent SFV Financial by First-Class mail.
8 This Directive was not returned as undeliverable by the United States Postal Service. The Directive required
9 Respondent SFV Financial to respond by March 17, 2009. Respondent SFV Financial did not respond to this
10 Directive until May 21, 2009.

11 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
12 Respondents continues to date.

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

14 **2.1 Definition of Mortgage Broker.** Pursuant to RCW 19.146.010(12) and WAC 208-660-010,
15 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
16 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
17 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
18 person in obtaining or applying to obtain a residential mortgage loan.

19 **2.2 Definition of Loan Originator.** Pursuant to RCW 19.146.010(10) and WAC 208-660-010, means a
20 natural person who (a) takes a residential mortgage loan application for a mortgage broker, or (b) offers or
21 negotiates terms of a mortgage loan, for direct or indirect compensation or gain, or in the expectation of direct
22 or indirect compensation or gain. "Loan originator" also includes a person who holds themselves out to the
23 public as able to perform any of these activities. "Loan originator" does not mean persons performing purely
24 administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or
25 clerical tasks" means the receipt, collection, and distribution of information common for the processing of a

1 loan in the mortgage industry and communication with a borrower to obtain information necessary for the
2 processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not
3 performing administrative or clerical tasks.

4 **2.3 Definition of Borrower.** Pursuant to RCW 19.146.010(2), a "Borrower" is defined as any person who
5 consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information
6 on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself
7 or herself, regardless of whether the person actually obtains such a loan.

8 **2.4 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set forth in Section
9 I above, Respondents are in apparent violation of RCW 19.146.200 for engaging in the business of a mortgage
10 broker without first obtaining and maintaining a license under the Act. Individuals negotiating residential
11 mortgage loan terms act as mortgage brokers or loan originators and must be licensed under the Act unless
12 specifically exempt from the Act.

13 **III. AUTHORITY TO IMPOSE SANCTIONS**

14 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the Director may
15 issue orders directing a licensee, its employee or loan originator, independent contractor, agent, or other person
16 subject to the Act to cease and desist from conducting business.

17 **3.2 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2) and WAC 208-660-530, the Director may
18 impose fines on a licensee, employee or loan originator of the licensee, or other person subject to the Act for
19 any violations of RCW 19.146.200 or failure to comply with a directive or order of the Director.

20 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may issue orders directing
21 a licensee or other person subject to the Act to pay restitution.

22 **3.4 Authority to Prohibit from the Industry.** Pursuant to RCW 19.146.220(5)(a) and (d), the Director
23 may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a
24 licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage
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1 broker or any person subject to licensing under the Act for any violation of RCW 19.146.200 or failure to
2 comply with a directive or order of the Director.

3 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-550(4) and
4 WAC 208-660-520(9), upon completion of any investigation of the books and records of a licensee or other person
5 subject to the Act, the Department will furnish to the licensee or other person subject to the Act a billing to cover
6 the cost of the investigation. The investigation charge will be calculated at the rate of forty-eight dollars (\$48) per
7 hour that each staff person devoted to the investigation.

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

9 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
10 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
11 for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the
12 Director's intention to ORDER that:

- 13 **4.1** Respondents SFV Financial, Inc. and Mark Heller cease and desist offering loan modification services or
14 otherwise conducting the business of a mortgage broker or loan originator in the State of Washington;
- 15 **4.2** Respondents SFV Financial Inc. and Mark Heller jointly and severally pay a fine which as of the date of
16 these charges totals \$3,750;
- 17 **4.3** Respondents SFV Financial Inc. and Mark Heller jointly and severally pay restitution as shown at hearing;
- 18 **4.4** Respondent SFV Financial, Inc. be prohibited from participation in the conduct of the affairs of any
19 mortgage broker subject to licensure by the Director, in any manner, for a period of five (5) years;
- 20 **4.5** Respondent Mark Heller be prohibited from participation in the conduct of the affairs of any mortgage
21 broker subject to licensure by the Director, in any manner, for a period of five (5) years;
- 22 **4.6** Respondents SFV Financial, Inc. and Mark Heller jointly and severally pay an investigation fee which as of
23 the date of these charges totals \$772.80 calculated at \$48.00 per hour for the sixteen and one tenth (16.1)
24 staff hours devoted to the investigation; and
- 25 **4.7** Respondents SFV Financial, Inc. and Mark Heller maintain records in compliance with the Act and provide
the Department with the location of the books, records and other information relating to Respondent SFV
Financial, Inc.'s mortgage broker business, and the name, address and telephone number of the individual
responsible for maintenance of such records in compliance with the Act.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Impose Fine, Order Restitution, Prohibit From Industry, and Collect Investigation Fee is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). 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 27th day of May, 2009.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



ROBERT E. JONES
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief