

ORDER SUMMARY – Case Number: C-14-1410

Name(s): Serrano Financial, LLC d/b/a Default Servicing
Kelvin Pickering

Order Number: C-14-1410-14-FO01

Effective Date: September 10, 2014

License Number: U/L
Or NMLS Identifier [U/L]

License Effect: N/A

Not Apply Until: September 10, 2019

Not Eligible Until: September 10, 2019

Prohibition/Ban Until: September 10, 2019

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|--|-------------|---|--|------|
| Investigation Costs | \$1,360.80 | Due | Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N | Date |
| | | | | |
| Fine | \$15,000 | 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 | \$18,249.23 | Due | Paid <input type="checkbox"/> Y <input checked="" 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: | | 4 | | |

Comments: cease and desist unlicensed mortgage broker / loan originator activity, retain records

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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-14-1410-14-FO01

SERRANO FINANCIAL, LLC d/b/a
DEFAULT SERVICING and
KELVIN PICKERING, Managing Member,

FINAL ORDER

Respondents.

I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On July 21, 2014, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist Business, Prohibit from Industry, Order Restitution, Impose Fine, and Collect Investigation Fee (Statement of Charges) against Serrano Financial, LLC d/b/a Default Servicing and Kelvin Pickering (Respondents). 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, Notices of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents (collectively, accompanying documents).

On July 23, 2014, the Department served Respondent Serrano Financial with the Statement of Charges and accompanying documents with cover letter dated July 23, 2014, by First-Class mail and Federal Express overnight delivery. On July 24, 2014, the documents sent by Federal Express

1 overnight delivery were delivered. The documents sent by First-Class mail were not returned to the
2 Department by the United States Postal Service.

3 On August 18, 2014, the Department served Respondent Kelvin Pickering with the Statement
4 of Charges and accompanying documents with cover letter dated August 18, 2014, by First-Class
5 mail and Federal Express overnight delivery. On August 19, 2014, the documents sent by Federal
6 Express overnight delivery were delivered. The documents sent by First-Class mail were not
7 returned to the Department by the United States Postal Service.

8 Respondents did not request an adjudicative hearing within twenty calendar days after the
9 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
10 in WAC 208-08-050(2).

11 B. Record Presented. The record presented to the Director's designee for her review and
12 for entry of a final decision included the Statement of Charges, cover letters dated July 23, 2014, and
13 August 18, 2014, Notices of Opportunity to Defend and Opportunity for Hearing, and blank
14 Applications for Adjudicative Hearing for Respondents, with documentation for service.

15 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
16 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

17 II. FINAL ORDER

18 Based upon the foregoing, and the Director's designee having considered the record and being
19 otherwise fully advised, NOW, THEREFORE:

20 A. IT IS HEREBY ORDERED, That:

- 21 1. Respondents Serrano Financial, LLC d/b/a Default Servicing and Kelvin Pickering
22 cease and desist engaging in the business of a mortgage broker or loan originator.
- 23 2. Respondents Serrano Financial, LLC d/b/a Default Servicing and Kelvin Pickering
24 are prohibited from participation, in any manner, in the conduct of the affairs of
any mortgage broker subject to licensure by the Director for a period of five years.

3. Respondents Serrano Financial, LLC d/b/a Default Servicing and Kelvin Pickering jointly and severally pay restitution to the four consumers identified in the Appendix to the Statement of Charges in the amount set forth therein.
4. Respondents Serrano Financial, LLC d/b/a Default Servicing and Kelvin Pickering jointly and severally pay a fine of \$15,000.
5. Respondents Serrano Financial, LLC d/b/a Default Servicing and Kelvin Pickering jointly and severally pay an investigation fee of \$1,360.80.
6. Respondents Serrano Financial, LLC d/b/a Default Servicing, its officers, employees, and agents maintain records in compliance with chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and provide the Director with the location of the books, records and other information relating to Respondent Serrano Financial, LLC'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.

B. Reconsideration. Pursuant to RCW 34.05.470, Respondents 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 the Final Order upon Respondents. 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.

C. Stay of Order. The Director's designee 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.

1 D. Judicial Review. Respondents have the right to petition the superior court for judicial
2 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
3 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

4 E. Non-compliance with Order. If you do not comply with the terms of this order,
5 **including payment of any amounts owed within 30 days of receipt of this order**, the Department
6 may seek its enforcement by the Office of the Attorney General to include the collection of the fines,
7 fees, and restitution imposed herein. The Department also may assign the amounts owed to a
8 collection agency for collection.

9 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
10 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
11 attached hereto.

12 DATED this 10th day of September, 2014.



13 STATE OF WASHINGTON
14 DEPARTMENT OF FINANCIAL INSTITUTIONS

15 [Redacted Signature]
16 DEBORAH BORTNER
17 Director, Division of Consumer Services
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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:

SERRANO FINANCIAL, LLC d/b/a
DEFAULT SERVICING and
KELVIN PICKERING, Managing Member,

Respondents.

No. C-14-1410-14-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, PROHIBIT FROM
INDUSTRY, ORDER RESTITUTION,
IMPOSE FINE, 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). 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. Serrano Financial, LLC d/b/a Default Servicing (Respondent Serrano) is a limited liability company registered with the State of Utah. Respondent Serrano has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker.

B. Kelvin Pickering (Respondent Pickering) is managing member of Respondent Serrano. Respondent Pickering has never been licensed by the Department to conduct business as a mortgage broker or loan originator.

1 **1.2 Unlicensed Activity.** Between at least June 2013 and October 2013, Respondents were
2 offering residential mortgage loan modification services to Washington consumers on property located
3 in Washington State. Respondents entered into a contractual relationship with at least four
4 Washington consumers to provide those services and collected an advance fee for the provision of
5 those services. The Department has received at least five complaints from Washington consumers
6 alleging Respondents provided or offered to provide residential mortgage loan modification services
7 while not licensed by the Department to provide those services. A list of Washington consumers with
8 whom Respondents conducted business as a mortgage broker or loan originator, and the amount paid
9 by each, is appended hereto and incorporated herein by reference.

10 **1.3 Misrepresentations and Omissions.** Respondents represented that they were licensed to
11 provide the residential mortgage loan modification services or omitted disclosing that they were not
12 licensed to provide those services.

13 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
14 Act by Respondents continues to date.

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

16 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
17 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
18 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
19 or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person
20 in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
21 person "'assists a person in obtaining or applying to obtain a residential mortgage loan' by, among
22 other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages...."

23 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), "loan originator" means a
24 natural person who for direct or indirect compensation or gain, or in the expectation of direct or

indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker; offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform any of these activities.

2.3 Prohibited Acts. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice toward any person and obtaining property by fraud or misrepresentation.

2.4 Requirement to Obtain and Maintain Mortgage Broker License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1) for engaging in the business of a mortgage broker for Washington residents or property without first obtaining a license to do so.

2.5 Requirement to Obtain and Maintain Loan Originator License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1) for engaging in the business of a loan originator without first obtaining and maintaining a license.

2.6 Prohibition against Taking Advance Fees. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 12 CFR §1015.5 (Regulation O) for taking advance fees for loan modification services.

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III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Issue an Order to Cease and Desist. Pursuant to RCW 19.146.220(4), the Director may issue orders directing any person subject to the Act to cease and desist from conducting business.

3.2 Authority to Prohibit from Industry. Pursuant to RCW 19.146.220(5), the Director may issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker any person subject to licensing under the Act for any violation of RCW 19.146.0201(1) through (9) or (13), or RCW 19.146.200.

3.3 Authority to Order Restitution. Pursuant to RCW 19.146.220(2), the Director may order restitution against any person subject to the Act for any violation of the Act.

3.4 Authority to Impose Fine. Pursuant to RCW 19.146.220(2), the Director may impose fines against any person subject to the Act for any violation of the Act.

3.5 Authority to Collect Investigation Fee. Pursuant to RCW 19.146.228(2), and WAC 208-660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted to an investigation of any person subject to the Act.

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IV. NOTICE OF INTENT TO ENTER ORDER

Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth above constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221, and RCW 19.146.223. Therefore, it is the Director's intent to ORDER that:

- 4.1 Respondents Serrano Financial LLC and Kelvin Pickering cease and desist engaging in the business of a mortgage broker or loan originator.
- 4.2 Respondents Serrano Financial LLC and Kelvin Pickering be prohibited from participation, in any manner, in the conduct of the affairs of any mortgage broker subject to licensure by the Director for a period of five years.
- 4.3 Respondents Serrano Financial LLC and Kelvin Pickering jointly and severally pay restitution to the 4 consumers identified in the Appendix to this Statement of Charges in the amount set forth therein, and that Respondents jointly and severally pay restitution to each Washington consumer with whom they entered into a contract for residential mortgage loan modification services related to real property or consumers located in the state of Washington equal to the amount collected from that Washington consumer for those services in an amount to be determined at hearing.
- 4.4 Respondents Serrano Financial LLC and Kelvin Pickering jointly and severally pay a fine, which as of the date of this Statement of Charges totals \$15,000.
- 4.5 Respondents Serrano Financial LLC and Kelvin Pickering jointly and severally pay an investigation fee, which as of the date of this Statement of Charges totals \$1,360.80.
- 4.6 Respondents Serrano Financial LLC and Kelvin Pickering maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondents' provision of residential mortgage loan modification services in Washington, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

V. AUTHORITY AND PROCEDURE

This Statement of Charges 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 21st day of July, 2014.




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

Presented by:


SHANA L. OLIVER
Financial Legal Examiner

Approved by:


CHARLES E. CLARK
Enforcement Chief

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APPENDIX

| <u>Consumer</u> | <u>Amount Paid</u> |
|-----------------|--------------------|
| G.H. | \$4,401 |
| J.M. | \$4,916.13 |
| R.W. | \$4,856.36 |
| L.Z. | \$4,075.74 |