

ORDER SUMMARY – Case Number: C-14-1591

Names: Evertree, LLC and Michael Rodriguez

Order Number: C-14-1591-16-FO01

Effective Date: 6/3/2016

License Number:
Or NMLS Identifier [U/L] U/L
NMLS: Rodriguez - 1163611, Evertree, LLC - 1507919

License Effect: _____

Not Apply Until: 06/03/2021

Not Eligible Until: 06/03/2021

Prohibition/Ban Until: 06/03/2021

Investigation Costs	\$984	Due 30 days from receipt of final order	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$6,000	Due 30 days from receipt of final order	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	\$3,000	Due 30 days from receipt of final order	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Costs and Expenses of Prosecution	\$257.18	Due 30 days from receipt of final order	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
No. of Victims:		2		

Comments: Respondents are ordered to cease and desist from engaging in the business of a mortgage broker and loan originator.

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:

EVERTREE, LLC, and
MICHAEL RODRIGUEZ, Manager,

Respondents.

No.: C-14-1591-16-FO01

FINAL ORDER

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 Charles E. Clark (Director's designee), pursuant to RCW 34.05.440(1). On August 27, 2015, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist Business, Prohibit from Industry, Order Restitution, Impose Fine, Collect Investigation Fee, and Recover Costs and Expenses (Statement of Charges) against Evertree, LLC and Michael Rodriguez (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 dated September 2, 2015, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents (collectively, accompanying documents).

On September 2, 2015, the Department served Respondents with the Statement of Charges and accompanying documents by First-Class mail and Federal Express overnight delivery. On September 8, 2015, the documents sent by Federal Express overnight delivery were delivered. The

documents sent by First-Class mail were not returned to the Department by the United States Postal Service.

Respondents did not request an adjudicative hearing within twenty (20) calendar days after the Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for in WAC 208-08-050(2).

B. Record Presented. The record presented to the Director's designee for his review and for entry of a final decision included the following:

1. Statement of Charges, cover letter dated September 2, 2015, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Respondents, with documentation for service.
2. Declaration of Rachelle Villalobos with supporting documentation dated May 31, 2016.

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

II. FINAL ORDER

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

A. IT IS HEREBY ORDERED, That:

1. Respondents Evertree, LLC and Michael Rodriguez cease and desist engaging in the business of a mortgage broker or loan originator.
2. Respondents Evertree, LLC and Michael Rodriguez 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 (5) years.
3. Respondents Evertree, LLC and Michael Rodriguez jointly and severally pay restitution to the two consumers identified by the Department in the amounts set forth in paragraph 1.2 of the Statement of Charges, 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

1 to real property or consumers located in the state of Washington equal to the
2 amount collected from that Washington consumer for those services.

- 3 4. Respondents Evertree, LLC and Michael Rodriguez jointly and severally pay a
4 fine of \$6,000.
- 5 5. Respondents Evertree, LLC and Michael Rodriguez jointly and severally pay an
6 investigation fee of \$984.
- 7 6. Respondents Evertree, LLC and Michael Rodriguez jointly and severally pay the
8 Department's costs and expenses for prosecuting violations of 19.146 RCW, the
9 Mortgage Broker Practices Act (Act) in the amount of \$257.18 as established in
10 the Declaration of Rachelle Villalobos.
- 11 7. Respondents Evertree, LLC and Michael Rodriguez maintain records in
12 compliance with the Act and provide the Department with the location of the
13 books, records and other information relating to Respondents' provision of
14 residential mortgage loan modification services in Washington, and the name,
15 address and telephone number of the individual responsible for maintenance of
16 such records in compliance with the Act.

17 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
18 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
19 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
20 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
21 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
22 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
23 Reconsideration a prerequisite for seeking judicial review in this matter.

24 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.

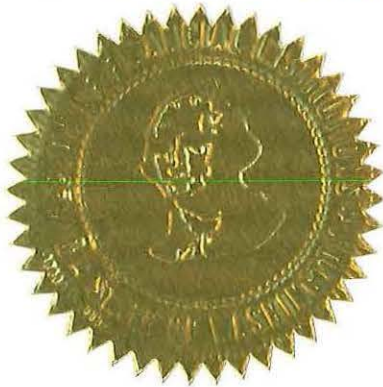
C. Stay of Order. The Director's designee has determined not to consider a Petition to
Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

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 3rd day of June, 2016.



14 STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

15 
16 CHARLES E. CLARK
17 Director
18 Division of Consumer Services

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:

EVERTREE, LLC, and
MICHAEL RODRIGUEZ, Manager,

Respondents.

No. C-14-1591-15-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, PROHIBIT FROM
INDUSTRY, ORDER RESTITUTION,
IMPOSE FINE, COLLECT
INVESTIGATION FEE, AND RECOVER
COSTS AND EXPENSES

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 Charles E. Clark, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Evertree, LLC (Respondent Evertree) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker.

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1 **B. Michael Rodriguez (Respondent Rodriguez)**¹ is the manager of Respondent Evertree.

2 During the relevant time period, Respondent Rodriguez was not licensed by the Department to
3 conduct business as a mortgage broker or loan originator.

4 **1.2 Unlicensed Activity.** Between at least June 27, 2014, and the date of this Statement of
5 Charges, Respondents Evertree and Rodriguez (hereafter Respondents) were offering residential
6 mortgage loan modification services to Washington consumers on property located in Washington
7 State. Respondents entered into a contractual relationship with at least two Washington consumers to
8 provide those services and collected an advance fee for the provision of those services. The
9 Department has received at least two complaints from Washington consumers alleging Respondents
10 provided or offered to provide residential mortgage loan modification services while not licensed by
11 the Department to provide those services. Consumer S.C. paid Respondents \$1,000, and consumer
12 R.B. paid Respondents \$2,000.

13 **1.3 Misrepresentations and Omissions.** Respondents represented that they were licensed to
14 provide the residential mortgage loan modification services or omitted disclosing that they were not
15 licensed to provide those services.

16 **1.4 Failure to Comply with Director's Authority.** On or about September 10, 2014, the
17 Department served Respondent Evertree with a subpoena. As of the date of the Statement of
18 Charges, Respondents have never provided a response to the Department's subpoena.

19 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the
20 Act by Respondents continues to date.

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24 ¹ A Final Order was previously entered against Respondent Rodriguez on January 2, 2014, under case number C-13-1368.
The order prohibited Respondent Rodriguez 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.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Mortgage Broker Defined. Pursuant to RCW 19.146.010(14), "Mortgage broker" means any person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or performs residential mortgage loan modification services or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan or provide residential mortgage loan modification services.

2.2 Loan Originator Defined. Pursuant to RCW 19.146.010(11)(b), "Loan originator" means a natural person who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

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, Respondent Rodriguez is 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.

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1 **2.6 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in
2 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 12 CFR 1015
3 (Regulation O) for taking advance fees for loan modification services.

4 **2.7 Requirement to Comply with Director's Authority.** Based on the Factual Allegations set
5 forth in Section I above, Respondents are in apparent violation of RCW 19.146.235 for failing to
6 comply with the Director's investigation authority.

7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
9 Director may issue orders directing any person subject to the Act to cease and desist from conducting
10 business.

11 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
12 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
13 any person subject to licensing under the Act for any violation of the Act.

14 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
15 restitution against any person subject to the Act for any violation of the Act.

16 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
17 against any person subject to the Act for any violation of the Act.

18 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2) and WAC 208-
19 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
20 to an investigation of any person subject to the Act.

21 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director
22 may recover the state's costs and expenses for prosecuting violations of 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 Evertree, LLC and Michael Rodriguez cease and desist engaging in the business of a mortgage broker or loan originator.
- 4.2 Respondents Evertree, LLC and Michael Rodriguez 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 Evertree, LLC and Michael Rodriguez jointly and severally pay restitution to the two consumers identified by the Department in paragraph 1.2 in the amount set forth therein, and that Respondents Evertree, LLC and Michael Rodriguez 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 Evertree, LLC and Michael Rodriguez jointly and severally pay a fine, in the amount of \$3,000 for each loan modification assisted or performed for Washington consumers; which as of the date of this Statement of Charges totals which as of the date of this Statement of Charges totals \$6,000.
- 4.5 Respondents Evertree, LLC and Michael Rodriguez jointly and severally pay an investigation fee, which as of the date of this Statement of Charges totals \$984.
- 4.6 Respondents Evertree, LLC and Michael Rodriguez pay the Department's costs and expenses for prosecuting violations of the Act in an amount to be determined at hearing or by Declaration with supporting documentation in event of default by Respondents.
- 4.7 Respondents Evertree, LLC and Michael Rodriguez 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.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
3 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
4 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
5 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
6 accompanying this Statement of Charges.

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8 Dated this 27th day of August, 2015.



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[Redacted Signature]

CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

15 Presented by:

16
17 [Redacted Signature]
18 RACHELLE VILLALOBOS
19 Financial Legal Examiner

20 Approved by:

21 [Redacted Signature]
22 STEVEN C. SHERMAN
23 Enforcement Chief
24