

## Terms Completed

### ORDER SUMMARY – Case Number: C-17-2309

**Names:** Kevin Gardner, Inc. d/b/a Snohomish Mortgage Company;  
Kevin E. Gardner

**Order Number:** C-17-2309-18-CO01

**Effective Date:** May 14, 2018

**License Numbers:** 121366 and 123231

**License Effect:** \_\_\_\_\_

**Not Apply Until:** \_\_\_\_\_

**Not Eligible Until:** \_\_\_\_\_

**Prohibition/Ban Until:** \_\_\_\_\_

<b>Investigation Costs</b>	\$ 1245.60		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 5/11/18
<b>Fine</b>	\$ 10,000	Due 5/31/19	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 6/11/19
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Financial Literacy and Education</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Cost of Prosecution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
No. of Victims:				

**Comments:** \_\_\_\_\_

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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-17-2309-18-CO01

KEVIN GARDNER, INC. D/B/A SNOHOMISH  
MORTGAGE COMPANY, NMLS #121366,

CONSENT ORDER

and

KEVIN E. GARDNER, President, Owner,  
Designated Broker, and Mortgage Loan  
Originator, NMLS #123231,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Charles E. Clark, Division Director, Division of Consumer Services, and Kevin Gardner, Inc. d/b/a Snohomish Mortgage Company (Respondent Snohomish Mortgage) and Kevin E. Gardner (Respondent Gardner), 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 the 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-17-2309-17-SC01 (Statement of Charges), entered January 5, 2018 (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

1 Order to fully resolve the Statement of Charges.

2 Based upon the foregoing:

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

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

10 C. **Investigation Fee.** It is AGREED that Respondent shall pay to the Department an  
11 investigation fee of \$1,245.60, in the form of a cashier's check made payable to the "Washington  
12 State Treasurer," upon entry of this Consent Order.

13 D. **Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of  
14 \$10,000.00, in the form of one or more cashier's checks made payable to the "Washington State  
15 Treasurer." Respondents shall pay \$1,754.40 of the fine upon entry of this Consent Order.  
16 Respondents shall pay the remaining \$8,245.60 of the fine by May 31, 2019. The investigation fee  
17 and the portion of the fine that are due upon entry of this Consent Order may be paid together in one  
18 \$3,000.00 cashier's check made payable to the "Washington State Treasurer." The remaining  
19 \$8,245.60 of the fine may be paid in one or more cashier's checks, including monthly installments,  
20 by May 31, 2019.

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

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

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

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

9           **I. Counterparts.** This Consent Order may be executed by the Respondents in any number  
10 of counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall be  
11 deemed to be an original, but all of which, taken together, shall constitute one and the same Consent  
12 Order.

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**RESPONDENTS:**

**Kevin Gardner, Inc. d/b/a Snohomish Mortgage Company**

By:

/s/  
Kevin E. Gardner  
President, Owner, Designated Broker, and  
Mortgage Loan Originator

5/4/18  
Date

**Kevin E. Gardner**

/s/  
Kevin E. Gardner  
Individually

5/4/18  
Date

Approved for Entry:

/s/  
Jessica M. Creager, WSBA No. 42183  
Rosenberg Law Group, PLLC  
Attorney for Respondents

5/9/2018  
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 14<sup>th</sup> DAY OF May, 2018.

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

Presented by:

Approved by:

/s/  
DREW STILLMAN  
Financial Legal Examiner

/s/  
STEVEN C. SHERMAN  
Enforcement Chief

**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:

KEVIN GARDNER INC. D/B/A SNOHOMISH  
MORTGAGE COMPANY, NMLS #121366,

and

KEVIN E. GARDNER, President, Owner,  
Designated Broker, and Mortgage Loan  
Originator, NMLS #123231,

Respondents.

No. C-17-2309-17-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO ENTER AN  
ORDER TO REVOKE LICENSE, PROHIBIT  
FROM INDUSTRY, 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 her designee, Division of Consumer Services Director Charles E. Clark, institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondents.**

A. **Kevin Gardner Inc. d/b/a Snohomish Mortgage Company (Respondent Snohomish Mortgage)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker on or about March 13, 2006, and continues to be licensed to date.

B. **Kevin E. Gardner (Respondent Gardner)** is President, Owner, Designated Broker, and a mortgage loan originator of Respondent Snohomish Mortgage. Respondent Gardner was named

1 Designated Broker of Respondent Snohomish Mortgage on or about March 13, 2006, and continues  
2 to be Designated Broker to date. Respondent Gardner was licensed by the Department to conduct  
3 business as a mortgage loan originator on or about January 1, 2007, and continues to be licensed to  
4 date.

5 **1.2 Prior Regulatory Order.** On or about March 14, 2013, the Director issued Statement of  
6 Charges C-12-1002-12-SC01. On or about July 9, 2013, the Director issued Consent Order C-12-  
7 1002-13-CO01 to resolve the Statement of Charges.

8 **1.3 False Statements on License Renewal Applications.** After entry of the Statement of  
9 Charges and Consent Order, Respondents applied to renew their licenses on five occasions beginning  
10 on or about December 9, 2013. Each time, Respondent Gardner attested that the information  
11 contained in the Nationwide Multistate Licensing System (NMLS) for both Respondents was true,  
12 accurate, and complete. Respondent Gardner also acknowledged his duty to expediently update and  
13 correct the information. Contrary to these attestations, Respondents' NMLS filings contained false  
14 responses to questions seeking regulatory action disclosure. In particular, Respondent Snohomish  
15 Mortgage's NMLS filings represented that no state agency had entered an order within the last ten  
16 years against it in connection with a financial services-related activity. In addition, Respondent  
17 Gardner's NMLS filings represented that no state agency had ever disciplined him, entered an order  
18 against him in connection with a financial services-related activity or any license or registration, or  
19 taken any of these actions against any organization over which he exercised control.

20 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the  
21 Act by Respondents continues to date.

## 22 II. GROUNDS FOR ENTRY OF ORDER

23 **2.1 Responsibility for Conduct of Loan Originators.** Pursuant to RCW 19.146.245, a licensed  
24 mortgage broker is liable for any conduct violating the Act by the designated broker, a loan

1 originator, or other licensed mortgage broker while employed or engaged by the licensed mortgage  
2 broker.

3 **2.2 Responsibility of Designated Broker.** Pursuant to RCW 19.146.200(3), every licensed  
4 mortgage broker must at all times have a designated broker responsible for all activities of the  
5 mortgage broker in conducting the business of a mortgage broker. A designated broker, principal, or  
6 owner who has supervisory authority over a mortgage broker is responsible for a licensee's,  
7 employee's, or independent contractor's violations of the Act if: the designated broker, principal, or  
8 owner directs or instructs the conduct or, with knowledge of the specific conduct, approves or allows  
9 the conduct; or the designated broker, principal, or owner who has supervisory authority over the  
10 licensed mortgage broker knows or by the exercise of reasonable care and inquiry should have known  
11 of the conduct, at a time when its consequences can be avoided or mitigated and fails to take  
12 reasonable remedial action.

13 **2.3 False Statements or Omissions of Material Facts.** Based on the Factual Allegations set  
14 forth in Section I above, Respondents are in apparent violation of RCW 19.146.0201(8) for  
15 negligently making any false statement or knowingly and willfully making any omission of material  
16 fact in connection with any reports filed by a licensee or in connection with any investigation  
17 conducted by the Department.

18 **2.4 Requirement to Provide Information upon License Renewal.** Based on the Factual  
19 Allegations set forth in Section I above, Respondent Snohomish Mortgage is in apparent violation of  
20 RCW 19.146.205(2) and Respondent Gardner is in apparent violation of RCW 19.146.300(2)(a) for  
21 failing to provide, upon license renewal, complete and accurate answers to all disclosure questions in  
22 their NMLS filings.

### 23 **III. AUTHORITY TO IMPOSE SANCTIONS**

24 **3.1 Authority to Revoke License.** Pursuant to RCW 19.146.220(2), the Director may revoke



licenses for: false statements or omission of material information on the application that, if known, would have allowed the Director to deny the application for the original license; or any violation of the Act.

**3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(4), the Director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act for any violation of the Act.

**3.3 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines against a licensee, employees, independent contractors, agents of licensees, or other persons subject to the Act for any violation of the Act.

**3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), WAC 208-660-520(9) & (11), 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.

**3.5 Authority to Recover Costs and Expenses.** Pursuant to RCW 19.146.221(2), the Director may recover the state's costs and expenses for prosecuting violations of the Act.

#### **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 in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, 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** Respondent Kevin Gardner Inc. d/b/a Snohomish Mortgage Company's license to conduct the business of a mortgage broker be revoked.

**4.2** Respondent Kevin E. Gardner's license to conduct the business of a loan originator be revoked.

- 1       **4.3**     Respondent Kevin Gardner Inc. d/b/a Snohomish Mortgage Company be prohibited  
2             from participation in the conduct of the affairs of any mortgage broker subject to  
3             licensure by the Director, in any manner, for a period of five years.
- 4       **4.4**     Respondent Kevin E. Gardner be prohibited from participation in the conduct of the  
5             affairs of any mortgage broker subject to licensure by the Director, in any manner, for  
6             a period of five years.
- 7       **4.5**     Respondents Kevin Gardner Inc. d/b/a Snohomish Mortgage Company and Kevin E.  
8             Gardner jointly and severally pay a fine. As of the date of this Statement of Charges,  
9             the fine totals \$20,000.
- 10       **4.6**     Respondents Kevin Gardner Inc. d/b/a Snohomish Mortgage Company and Kevin E.  
11            Gardner jointly and severally pay an investigation fee. As of the date of this Statement  
12            of Charges, the investigation fee totals \$542.40.
- 13       **4.7**     Respondents Kevin Gardner Inc. d/b/a Snohomish Mortgage Company and Kevin E.  
14             Gardner jointly and severally pay the Department's costs and expenses for prosecuting  
15             violations of the Act in an amount to be determined at hearing or by declaration with  
16             supporting documentation in event of default by either or both Respondents.

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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  
4 34.05 RCW (the Administrative Procedure Act). Respondents may make a written request for a  
5 hearing as set forth in the NOTICE OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND  
6 TO DEFEND accompanying this Statement of Charges.

7  
8 Dated this 5<sup>th</sup> day of January, 2018.

9  
10 /s/  
11 CHARLES E. CLARK  
12 Director  
13 Division of Consumer Services  
14 Department of Financial Institutions

15 Presented by:

16 /s/  
17 DREW STILLMAN  
18 Financial Legal Examiner

19 Approved by:

20 /s/  
21 STEVEN C. SHERMAN  
22 Enforcement Chief  
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