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

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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

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

4 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
5 are in apparent violation of RCW 19.146.0201(2) & (3) for engaging in an unfair or deceptive practice
6 toward any person and obtaining property by fraud or misrepresentation.

7 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
8 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
9 for engaging in the business of a mortgage broker for Washington residents or property without first
10 obtaining a license to do so.

11 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
12 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
13 for engaging in the business of a loan originator without first obtaining and maintaining a license.

14 **2.6 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in
15 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 12 CFR §1015.5
16 (Regulation O) for taking advance fees for loan modification services.

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1 **III. AUTHORITY TO IMPOSE SANCTIONS**

2 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
3 Director may issue orders directing any person subject to the Act to cease and desist from conducting
4 business.

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

9 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
10 restitution against any person subject to the Act for any violation of the Act.

11 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
12 against any person subject to the Act for any violation of the Act.

13 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
14 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
15 to an investigation of any person subject to the Act.

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

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

- 5 **4.1** Respondents Serrano Financial LLC and Kelvin Pickering cease and desist engaging in the
6 business of a mortgage broker or loan originator.
- 7 **4.2** Respondents Serrano Financial LLC and Kelvin Pickering be prohibited from participation, in
8 any manner, in the conduct of the affairs of any mortgage broker subject to licensure by the
9 Director for a period of five years.
- 10 **4.3** Respondents Serrano Financial LLC and Kelvin Pickering jointly and severally pay restitution
11 to the 4 consumers identified in the Appendix to this Statement of Charges in the amount set
12 forth therein, and that Respondents jointly and severally pay restitution to each Washington
13 consumer with whom they entered into a contract for residential mortgage loan modification
14 services related to real property or consumers located in the state of Washington equal to the
15 amount collected from that Washington consumer for those services in an amount to be
16 determined at hearing.
- 17 **4.4** Respondents Serrano Financial LLC and Kelvin Pickering jointly and severally pay a fine,
18 which as of the date of this Statement of Charges totals \$15,000.
- 19 **4.5** Respondents Serrano Financial LLC and Kelvin Pickering jointly and severally pay an
20 investigation fee, which as of the date of this Statement of Charges totals \$1,360.80.
- 21 **4.6** Respondents Serrano Financial LLC and Kelvin Pickering maintain records in compliance with
22 the Act and provide the Department with the location of the books, records and other
23 information relating to Respondents' provision of residential mortgage loan modification
24 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 21st day of July, 2014.



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[Redacted Signature]

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

19 Presented by:

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[Redacted Signature]

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SHANA L. OLIVER
Financial Legal Examiner

Approved by:

[Redacted Signature]

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