

ORDER SUMMARY – Case Number: C-12-0993

Name(s): Ryan Law Firm; Kelly F. Ryan

Order Number: C-12-0993-13-CO01

Effective Date: September 4, 2013

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

License Effect: N/A

Not Apply Until: September 4, 2023

Not Eligible Until: September 4, 2023

Prohibition/Ban Until: September 4, 2023

Investigation Costs	\$168	Due: 9/4/2013	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 9/4/2013
Fine	\$150,000	Due: Stayed	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	\$44,995	Due:	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 7/31/2014
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:			

RECEIVED

AUG 29 2013

Enforcement Unit
Division of Consumer Services
Dept. of Financial Institutions

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:

RYAN LAW FIRM, and
KELLY F. RYAN, President,

Respondent.

No.: C-12-0993-13-CO01

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 Ryan Law Firm (Respondent Ryan Law) and Kelly F. Ryan, President (Respondent Ryan), 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 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-12-0993-12-SC01 (Statement of Charges), entered September 27, 2012, (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 and agree that Respondents do not admit any

1 wrongdoing by its entry. Respondents are agreeing not to contest the Statement of Charges in
2 consideration of the terms of this Consent Order.

3 Based upon the foregoing:

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

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

11 **C. Prohibition from Industry.** It is AGREED that, for a period of ten years from the date of
12 entry of this Consent Order, Respondents are prohibited from participating, in any capacity, in the
13 conduct of the affairs of any mortgage broker and consumer loan company licensed by the
14 Department or subject to licensure or regulation by the Department.

15 **D. Restitution.** It is AGREED that Respondents shall pay \$44,995 to the 19 borrowers
16 identified in the attached Restitution Schedule. If restitution cannot be made to any particular
17 consumer, Respondents shall take the necessary steps to escheat such funds to the Washington State
18 Department of Revenue as unclaimed property in the name of the consumer. No later than July 31,
19 2014, Respondents shall provide the Department with an affidavit signed by Respondents attesting to the
20 payment of restitution and providing written proof that the entire restitution amount has either been
21 received by consumers or escheated to the state. The "written proof" at a minimum must consist of
22 copies of the front and back of cancelled checks.

1 **E. Stayed Fine.** Respondents provided the Department, in the form of a Financial
2 Declaration signed on or about August 12, 2013, with evidence of their inability to pay any fine.
3 Accordingly, it is AGREED that Respondents are jointly and severally liable to the Department for a
4 fine of \$150,000, which shall be stayed until Respondents have provided the Department with
5 written proof of payment of all restitution, or escheatment there of, to the Department of Revenue, of
6 consumer funds as agreed upon pursuant to this Consent Order. If the Department determines that
7 Respondents failed to fully comply with the restitution provision (paragraph D) of this Consent
8 Order, then the Department will seek to lift the stay and impose the fine. It is further AGREED that
9 if the Department does not seek to lift the stay prior to August 31, 2014, and a proceeding to lift the
10 stay is not then pending, after this date the obligation to pay the fine will thereafter be deemed
11 withdrawn without further action being required by either party.

12 **F. Lifting of Stay and Imposing Monetary Sanctions.** It is AGREED that:

- 13 1. If the Department determines that Respondents did not make complete
14 restitution as agreed to pursuant to this Consent Order, and the Department
15 seeks to lift the stay and impose the fine, the Department will first notify
16 Respondents in writing of its determination of noncompliance.
- 17 2. The Department's notification will include:
- 18 a) A description of the alleged noncompliance;
- 19 b) A statement that because of the noncompliance, the Department seeks to
20 lift the stay and impose the fine;
- 21 c) Notice of the opportunity for Respondents to request, in writing, an
22 adjudicative hearing before the Office of Administrative Hearings (OAH)
23 to contest the Department's determination of noncompliance; and
- 24 d) A copy of this Consent Order.
- 25 3. Respondents will be afforded ten business days to file a written request for an
26 adjudicative hearing before OAH. The request must be received by the
27 Department within ten business days of the date of mailing of the
28 Department's notice. Respondents, in addition to their request for an

1 adjudicative hearing, may also provide a written response and information
2 relating to the Department's determination of noncompliance.

- 3 4. The adjudicative hearing, if requested, shall be held within 15 business days,
4 or as soon as the schedule of OAH permits, from the date of the Department's
5 receipt of Respondents' timely request for hearing. The parties will
6 accommodate the prompt scheduling of the hearing. The scope and issues of
7 the hearing will be limited solely to whether or not Respondents are in
8 violation of the Act or any of the terms and conditions of this Consent Order.
- 9 5. At the conclusion of the hearing, the OAH will issue an initial decision. Either
10 party may file a Petition for Review with the Director of the Department.
- 11 6. If Respondents do not timely request an adjudicative hearing the Department
12 will immediately lift the stay, impose the fines, and pursue whatever action it
13 deems necessary to enforce this Consent Order and the Act, including but not
14 limited to seeking enforcement of this Consent Order through filing an action
15 in Superior Court by the Office of the Attorney General for a judgment to
16 include the collection of the fine imposed herein. The Department also may
17 assign the amounts owed to a collection agency for collection.

18 **G. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
19 consent of any person or entity not a party to this Consent Order to take any action concerning their
20 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
21 Order, this Consent Order does not limit or create any private rights or remedies against Respondents,
22 limit or create liability of Respondents, or limit or create defenses of Respondents to any claims.

23 **H. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
24 investigation fee of \$168, in the form of a cashier's check made payable to the "Washington State
Treasurer," upon entry of this Consent Order.

I. Change of Address. It is AGREED that for the period of present through August 31,
2014, unless otherwise agreed to in writing by the Department, Respondents shall provide the
Department with a current mailing address and telephone number at which they can be contacted, and
shall notify the Department in writing of any changes in the mailing address or telephone number
within fifteen days of any such change.

1 **J. Records Retention.** It is AGREED that Respondents, its officers, employees, and agents
2 shall maintain records in compliance with the Act and provide the Director with the location of the
3 books, records and other information relating to Respondents' loan modification services business
4 relating to Washington consumer and properties, and the name, address and telephone number of the
5 individual responsible for maintenance of such records in compliance with the Act.

6 **K. Authority to Execute Order.** It is AGREED that the undersigned have represented and
7 warranted that they have the full power and right to execute this Consent Order on behalf of the
8 parties represented.

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

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

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

17 **RESPONDENTS:**

18 **Ryan Law Firm**
19 **Kelly F. Ryan**

20 By: 

21 **Ryan Law Firm**
22 **Kelly F. Ryan**
23 **President**

24 **Kelly F. Ryan**

CONSENT ORDER
C-12-0993-12-0001
RYAN LAW FIRM and
Kelly F. Ryan, President

08/21/13

Date

08/21/13

Date

1 Individually

2 DO NOT WRITE BELOW THIS LINE

3 //

4 THIS ORDER ENTERED THIS 4th DAY OF September, 2013



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6
7 DEBORAH BORTNER
8 Director
9 Division of Consumer Services
10 Department of Financial Institutions

11 Presented by:



12 DEBORAH TAEILLIOUS
13 Financial Legal Examiner

14 Approved by:



15 CHARLES E. CLARK
16 Enforcement Chief

RESTITUTION SCHEDULE: RYAN LAW FIRM

Consumer	Restitution Amount
	\$1,200
	\$2,100
	\$2,100
	\$3,000
	\$2,995
	\$3,000
	\$3,500
	\$ 650
	\$3,000
	\$2,000
	\$ 700
	\$3,000
	\$3,000
	\$2,100
	\$2,400
	\$1,250
	\$4,000
	\$3,000
	\$2,000
TOTAL	\$44,995

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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:

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RYAN LAW FIRM, and
KELLY F. RYAN, President,

Respondents.

No. C-12-0993-12-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO PRODUCE RECORDS,
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). 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 Respondent Ryan Law Firm (Respondent Ryan Law Firm) has never been licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a mortgage broker or loan originator.

1.2 Respondent Kelly F. Ryan (Respondent Ryan) is President of Respondent Ryan Law Firm. During the relevant time period, Respondent Ryan was not licensed by the Department to conduct business as a mortgage broker or loan originator.

1.3 Unlicensed Activity. On or about February 24, 2009, through May 16, 2012, Respondents Ryan Law Firm and Ryan (Respondents) were offering residential mortgage loan modification services to Washington consumers on property located in Washington State. Respondents entered into

1 a contractual relationship with at least one Washington consumer to provide those services and
2 collected an advance fee for the provision of those services. The Department has received at least one
3 complaint from a Washington consumer alleging Respondents provided or offered to provide
4 residential mortgage loan modification services while not licensed by the Department to provide those
5 services. A list of Washington consumers with whom Respondents conducted business as a mortgage
6 broker or loan originator, and the amount paid by each is appended hereto and incorporated herein by
7 reference.

8 **1.4 Misrepresentations and Omissions.** Respondents represented that they were licensed to
9 provide the residential mortgage loan modification services or omitted disclosing that they were not
10 licensed to provide those services. During the relevant time period, Respondent Ryan represented that
11 he was licensed to practice law in Washington or omitted disclosing that he was not licensed to
12 practice law in the State of Washington.

13 **1.5 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

1 compensation or gain: takes a residential mortgage loan application for a mortgage broker; offers or
2 negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform any of
3 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 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
15 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
16 location that is on file with and readily available to the Department until at least twenty-five months
17 have elapsed following the effective period to which the books and records relate.

18 III. AUTHORITY TO ORDER PRODUCTION OF RECORDS

19 **3.1 Authority to Order Production of Records.** Pursuant to RCW 19.146.223, RCW 19.146.
20 235(2), and WAC 208-660-520, the Director may issue orders directing any person to produce books,
21 accounts, records, files, and any other documents the director or designated person deems relevant to
22 an investigation.

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1 **IV. AUTHORITY TO IMPOSE SANCTIONS**

2 **4.1 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 **4.2 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 **4.3 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 **4.4 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 **4.5 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.

16 **V. NOTICE OF INTENT TO ENTER ORDER**

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

20 **5.1** Respondents cease and desist engaging in the business of a mortgage broker or loan originator.

21 **5.2** Respondents provide the Department with a list detailing all residential mortgage loan
22 modification services transactions with Washington consumers, including the name, address,
23 and phone numbers of the consumers, the transaction date, and fees collected by Respondents
24 for the provision of those services.

5.3 Respondents be prohibited from participation in the conduct of the affairs of any mortgage
broker subject to licensure by the Director, in any manner, for a period of five years.


- 1 5.4 Respondents jointly and severally pay restitution to the 50 consumers identified by the
2 Department in paragraph 1.3 as having paid \$144,776 to Respondents, and that Respondents
3 jointly and severally pay restitution to each Washington consumer with whom they entered into
4 a contract for residential mortgage loan modification services related to real property or
5 consumers located in the state of Washington equal to the amount collected from that
6 Washington consumer for those services in an amount to be determined at hearing.
- 7 5.5 Respondents jointly and severally pay a fine of \$3,000 for each residential loan modification
8 transaction entered into with Washington consumers. As of the date of this Statement of
9 Charges, the fine totals \$150,000.
- 10 5.6 Respondents jointly and severally pay an investigation fee at the rate of \$48.00 per hour. As of
11 the date of this Statement of Charges, the investigation fee totals \$168.
- 12 5.7 Respondents maintain records in compliance with the Act and provide the Department with the
13 location of the books, records and other information relating to Respondents' provision of
14 residential mortgage loan modification services in Washington, and the name, address and
15 telephone number of the individual responsible for maintenance of such records in compliance
16 with the Act.

17 VI. AUTHORITY AND PROCEDURE

18 This Statement of Charges is entered pursuant to the provisions of RCW 19.146.220, RCW
19 19.146.221, RCW 19.146.223, and RCW 19.146.230, and is subject to the provisions of chapter 34.05
20 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
21 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
22 accompanying this Statement of Charges.

23 Dated this 27th day of September, 2012.



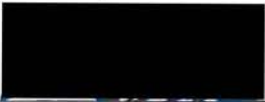
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DEBORAH BORTNER
Director, Division of Consumer Services
Department of Financial Institutions

1 Presented by:



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3 DEBORAH TAEILLIOUS
4 Financial Legal Examiner

5 Approved by:



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7 CHARLES E. CLARK
8 Enforcement Chief

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RESTITUTION

Borrower

Amount



\$2,000.00
\$3,750.00
\$1,000.00
\$3,500.00
\$2,100.00
\$2,100.00
\$3,000.00
\$3,000.00
\$2,995.00
\$3,000.00
\$5,500.00
\$3,000.00
\$3,500.00
\$650.00
\$4,500.00
\$5,000.00
\$2,500.00
\$2,000.00
\$3,000.00
\$3,700.00
\$4,100.00
\$3,900.00
\$4,200.00
\$3,900.00
\$4,000.00
\$3,000.00
\$1,000.00
\$2,000.00
\$3,295.00
\$700.00
\$4,500.00
\$3,000.00
\$3,500.00
\$3,000.00
\$2,250.00
\$2,100.00
\$1,000.00

1		\$2,400.00
2		\$2,000.00
3		\$3,000.00
4		\$1,250.00
5		\$2,400.00
6		\$1,386.00
7		\$800.00
8		\$4,000.00
9		\$3,000.00
10		\$4,400.00
11		\$3,900.00
12		\$4,000.00
13		\$3,000.00
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	TOTAL	\$144,776.00