

ORDER SUMMARY – Case Number: C-13-1340

Name(s): K&M Law, a Professional Law Corporation
Brian J. Kucsan

Order Number: C-13-1340-14-CO01

Effective Date: September 8, 2014

License Number: U/L
Or NMLS Identifier

License Effect: N/A

Not Apply Until: September 8, 2019

Not Eligible Until: September 8, 2019

Prohibition/Ban Until: September 8, 2019

Investigation Costs	\$288	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 8/29/14
Fine	\$1000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 8/29/14
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input 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:		1		

Comments:

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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:

No.: C-13-1340-14-CO01

CONSENT ORDER

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K&M LAW, A PROFESSIONAL LAW
CORPORATION; and
BRIAN J. KUCCAN, Principal,

Respondents.

COME NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and K&M Law, a Professional Law Corporation (Respondent K&M), and Brian J. Kucsan, Principal (Respondent Kucsan), 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-13-1341-13-SC01 (Statement of Charges), entered February 6, 2014, (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 the 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 signatures below, withdraw their appeal to the Office of
10 Administrative Hearings.

11 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
12 Statement of Charges and agree that Respondents do not admit to any wrongdoing by its entry.

13 **D. Cease and Desist.** It is AGREED that Respondents shall cease and desist from
14 conducting the business of a mortgage broker or loan originator as related to Washington property or
15 consumers without obtaining and maintaining a license or qualifying for an exemption from licensure
16 under the Act.

17 **E. Prohibition from Industry.** It is AGREED that, for a period of 5 years from the date of
18 entry of this Consent Order, Respondents are prohibited from participating, in any capacity, in the
19 conduct of the affairs of any mortgage broker licensed by the Department or subject to licensure or
20 regulation by the Department as related to Washington property or consumers.

21 **F. Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
22 \$1,000, in the form of a cashier's check made payable to the "Washington State Treasurer," upon
23 entry of this Consent Order.

1 **G. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
2 investigation fee of \$288, in the form of a cashier's check made payable to the "Washington State
3 Treasurer," upon entry of this Consent Order. The Fine and Investigation Fee may be paid together
4 in one \$1,288 cashier's check made payable to the "Washington State Treasurer."

5 **H. Records Retention.** It is AGREED that Respondent K&M, its officers, employees, and
6 agents shall maintain records in compliance with the Act and provide the Director with the location
7 of the books, records and other information relating to Respondent K&M's provision of residential
8 mortgage loan modification services in Washington, and the name, address and telephone number of
9 the individual responsible for maintenance of such records in compliance with the Act.

10 **I. Authority to Execute Order.** It is AGREED that the undersigned have represented and
11 warranted that they have the full power and right to execute this Consent Order on behalf of the
12 parties represented.

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

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

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

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1 **RESPONDENTS:**

2 **K&M Law, a Professional Law Corporation**

3 By:

[Redacted signature]

4 Brian J. Kucsan

Principal

[Redacted signature]

6 Brian J. Kucsan

Individually

7 Approved for Entry:

[Redacted signature]

9 M. Cris Armenta

The Armenta Law Firm

10 Attorney for Respondents

8/11/14

Date

8/11/14

Date

8/11/14

Date

11 DO NOT WRITE BELOW THIS LINE

12 THIS ORDER ENTERED THIS _____ DAY OF _____, 2014.

15 _____
16 DEBORAH BORTNER
17 Director, Division of Consumer Services
18 Department of Financial Institutions

17 Presented by:

19 _____
20 DEVON P. PHELPS
21 Financial Legal Examiner

21 Approved by:

23 _____
24 CHARLES E. CLARK
Enforcement Chief

1 **RESPONDENTS:**

2 **K&M Law, a Professional Law Corporation**

3 By:

4 [Redacted]
5 Brian J. Kucsan
6 Principal

8/11/14
Date

7 [Redacted]
8 Brian J. Kucsan
9 Individually

8/11/14
Date

10 Approved for Entry:

11 M. Cris Armenta
12 The Armenta Law Firm
13 Attorney for Respondents

Date

14 **DO NOT WRITE BELOW THIS LINE**

15 THIS ORDER ENTERED THIS 8th DAY OF September, 2014.



16 [Redacted]

17 DEBORAH BORTNER
18 Director, Division of Consumer Services
19 Department of Financial Institutions

20 Presented by:

21 [Redacted]

22 DEVON P. PHELPS
23 Financial Legal Examiner

24 Approved by:

[Redacted]

CHARLES E. CLARK
Enforcement Chief

1 consumers on property located in Washington State. Respondents entered into a contractual
2 relationship with at least one Washington consumer, A.J., to provide those services and attempted to
3 collect an advance fee for the provision of those services. The Department has received at least one
4 complaint from a Washington consumer alleging Respondents provided or offered to provide
5 residential mortgage loan modification services while not licensed by the Department to provide those
6 services.

7 **1.3 Misrepresentations and Omissions.** Respondents represented that they were licensed to
8 provide the residential mortgage loan modification services or omitted disclosing that they were not
9 licensed to provide those services.

10 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
11 Act by Respondents continues to date.

12 II. GROUNDS FOR ENTRY OF ORDER

13 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14) and WAC 208-660-006,
14 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of
15 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan
16 or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a person
17 in obtaining or applying to obtain a residential mortgage loan. Pursuant to WAC 208-660-006, a
18 person "assists a person in obtaining or applying to obtain a residential mortgage loan" by, among
19 other things, counseling on loan terms (rates, fees, other costs), [and] preparing loan packages...."

20 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11), "loan originator" means a
21 natural person who for direct or indirect compensation or gain, or in the expectation of direct or
22 indirect compensation or gain: takes a residential mortgage loan application for a mortgage broker;
23 offers or negotiates terms of a mortgage loan; or holds themselves out to the public as able to perform
24 any of these activities.

1 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
2 are in apparent violation of RCW 19.146.0201(2) for engaging in an unfair or deceptive practice
3 toward any person.

4 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
5 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
6 for engaging in the business of a mortgage broker for Washington residents or property without first
7 obtaining a license to do so.

8 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
9 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
10 for engaging in the business of a loan originator without first obtaining and maintaining a license.

11 **2.6 Requirement to Maintain Accurate and Current Books and Records.** Pursuant to RCW
12 19.146.060 and WAC 208-660-450, Respondents are required to keep all books and records in a
13 location that is on file with and readily available to the Department until at least twenty-five months
14 have elapsed following the effective period to which the books and records relate.

15 III. AUTHORITY TO IMPOSE SANCTIONS

16 **3.1 Authority to Issue an Order to Cease and Desist.** Pursuant to RCW 19.146.220(4), the
17 Director may issue orders directing any person subject to the Act to cease and desist from conducting
18 business.

19 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 19.146.220(5), the Director may
20 issue orders prohibiting from participation in the conduct of the affairs of a licensed mortgage broker
21 any person subject to licensing under the Act for any violation of the Act.

22 **3.3 Authority to Order Restitution.** Pursuant to RCW 19.146.220(2), the Director may order
23 restitution against any person subject to the Act for any violation of the Act.
24

1 **3.4 Authority to Impose Fine.** Pursuant to RCW 19.146.220(2), the Director may impose fines
2 against any person subject to the Act for any violation of the Act.

3 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 19.146.228(2), and WAC 208-
4 660-550(4)(a), the Department will charge forty-eight dollars per hour for an examiner's time devoted
5 to an investigation of any person subject to the Act.

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

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

- 10 **4.1** Respondents K&M Law, a Professional Law Corporation and Brian J. Kucsan cease and desist
11 engaging in the business of a mortgage broker or loan originator.
- 12 **4.2** Respondents K&M Law, a Professional Law Corporation and Brian J. Kucsan be prohibited
13 from participation, in any manner, in the conduct of the affairs of any mortgage broker subject
14 to licensure by the Director for a period of five years.
- 15 **4.3** Respondents K&M Law, a Professional Law Corporation and Brian J. Kucsan jointly and
16 severally pay restitution to each Washington consumer with whom they entered into a contract
17 for residential mortgage loan modification services related to real property or consumers
18 located in the state of Washington equal to the amount collected from that Washington
19 consumer for those services in an amount to be determined at hearing.
- 20 **4.4** Respondents K&M Law, a Professional Law Corporation and Brian J. Kucsan jointly and
21 severally pay a fine, which as of the date of this Statement of Charges totals \$3,000.
- 22 **4.5** Respondents K&M Law, a Professional Law Corporation and Brian J. Kucsan jointly and
23 severally pay an investigation fee, which as of the date of this Statement of Charges totals
24 \$288.
- 25 **4.6** Respondents K&M Law, a Professional Law Corporation and Brian J. Kucsan maintain
26 records in compliance with the Act and provide the Department with the location of the books,
27 records and other information relating to Respondent K&M Law, a Professional Law
28 Corporation's provision of residential mortgage loan modification services in Washington, and
29 the name, address and telephone number of the individual responsible for maintenance of such
30 records in compliance with the Act.

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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 6th day of February, 2014.



[Redacted signature]

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

Presented by:

[Redacted signature]

DEVON P. PHELPS
Financial Legal Examiner

Approved by:

[Redacted signature]

CHARLES E. CLARK
Enforcement Chief