

ORDER SUMMARY – Case Number: C-19-2685

Name(s): Bayview Loan Servicing, LLC

Order Number: C-19-2685-19-FO01

Effective Date: June 21, 2019

License Number: NMLS #2469
Or NMLS Identifier [U/L] _____

License Effect: None

Not Apply Until: n/a

Not Eligible Until: n/a

Prohibition/Ban Until: n/a

Investigation Costs	\$ 0		Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$ 0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Financial Literacy and Education	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Cost of Prosecution	\$0	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
	No. of Victims:			

Comments: Final Order to Cease and Desist

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3 **STATE OF WASHINGTON**
4 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
5 **DIVISION OF CONSUMER SERVICES**

6 IN THE MATTER OF DETERMINING
7 Whether there has been a violation of the
8 Consumer Loan Act of Washington by:

NO. C-19-2685-19-FO01

9 BAYVIEW LOAN SERVICING, LLC,
10 NMLS #2469,

FINAL ORDER TO CEASE AND DESIST

Respondent.

11 I. DIRECTOR'S CONSIDERATION

12 A. Default. This matter has come before the Director of the Department of
13 Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.440(1). On May
14 23, 2019, the Director, through Consumer Services Division Acting Director Richard St. Onge, entered
15 a Temporary Order to Cease and Desist against Respondent Bayview Loan Servicing, LLC
16 (Respondent). A copy of the Temporary Order to Cease and Desist is attached and incorporated into
17 this order by this reference. The Temporary Order to Cease and Desist was accompanied by a cover
18 letter dated May 24, 2019, a Notice of Opportunity to Defend and Opportunity for Hearing, and a
19 blank Application for Adjudicative Hearing for Bayview Loan Servicing, LLC (accompanying
20 documents). The Department served Respondent with the Temporary Order to Cease and Desist and
21 accompanying documents on May 24, 2019, by First-Class mail and by Federal Express overnight
22 delivery. The documents sent via First-Class mail were not returned to the Department by the United
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1 States Post Office as undeliverable. The documents sent by Federal Express were delivered on May
2 28, 2019.

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

6 B. Record Presented. The record presented to the Director's designee for his review and
7 for entry of a final decision included the Temporary Order to Cease and Desist, cover letter dated May 24,
8 2019, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
9 Adjudicative Hearing for Bayview Loan Servicing, LLC with documentation of service.

10 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the
11 Director's designee hereby adopts the Temporary Order to Cease and Desist, which is attached hereto.

12 II. FINAL ORDER

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

16 A. IT IS HEREBY ORDERED, that Respondent Bayview Loan Servicing shall
17 permanently cease and desist from foreclosure proceedings related to borrower K.K. and property
18 located at 8011 9th Avenue NW, Seattle, Washington, until such time as Respondent can establish
19 proper service of the Notice of Default as required by RCW 61.24.030(8). This section shall not
20 preclude Respondent from recommencing foreclosure proceedings in compliance with RCW 61.24 *et*
21 *seq.*¹
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25 ¹ The Temporary Order to Cease and Desist included an affirmative requirement for Respondent to instruct Quality Loan Service Corp. of Washington to cancel a pending foreclosure sale scheduled for May 31, 2019, until such time as

1 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
2 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
3 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
4 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten days of service of the Final Order upon Respondent. The Petition
6 for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a
7 prerequisite for seeking judicial review in this matter.
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9 A timely Petition for Reconsideration is deemed denied if, within 20 days from the date the
10 petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
11 notice specifying the date by which it will act on a petition.

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

15 D. Judicial Review. Respondent has the right to petition the superior court for judicial
16 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing
17 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

18 E. Non-compliance with Order. If you do not comply with the terms of this order, the
19 Department may seek its enforcement by the Office of Attorney General.
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24 compliance with RCW 61.24.080(8) was provided to the Department. Respondent complied with this provision by
25 cancelling the May 31st sale and rescheduling for July 12, 2019.

1 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for
2 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
3 attached hereto.

4 DATED this 21st day of June, 2019.

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6 STATE OF WASHINGTON
7 DEPARTMENT OF FINANCIAL
8 INSTITUTIONS

9 /s/
10 RICHARD ST. ONGE
11 ACTING DIRECTOR
12 DIVISION OF CONSUMER SERVICES
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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

C-19-2685-19-TD01

BAYVIEW LOAN SERVICING, LLC,
NMLS #2469,

TEMPORARY ORDER TO
CEASE AND DESIST

Respondents.

8 THE STATE OF WASHINGTON TO: BAYVIEW LOAN SERVICING, LLC

9 COMES NOW the Director of the Washington State Department of Financial Institutions
10 (Director), by and through his designee Richard St. Onge, Acting Division Director, Division of
11 Consumer Services (designee), and finding that the public is likely to be substantially injured by delay in
12 issuing a cease and desist order, enters this temporary order to cease and desist pursuant to chapter 31.04
13 RCW, the Consumer Loan Act (Act), based on the following findings:

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15 **I. FACTUAL FINDINGS**

16 **1.1 Respondent Bayview Loan Servicing, LLC, (Respondent)** was licensed by the Department
17 of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer
18 Loan Company on or about June 9, 2008, and remains licensed to date.

19 **1.2 Foreclosure Action.** Respondent services a residential mortgage loan secured by
20 property bearing the physical address of 8011 9th Avenue NW, Seattle, Washington. On or
21 about April 23, 2015, Respondent, through its appointed trustee Quality Loan Service Corp. of
22 Washington (QLS), issued a Notice of Default (NOD) to borrower K.K. On or about March
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1 29, 2019, an Amended Notice of Trustee’s Sale was recorded with the King County,
2 Washington, Auditor’s office scheduling a foreclosure sale for May 31, 2019.¹

3 **1.3 Service of NOD.** RCW 61.24.030(8) requires that “at least thirty days before notice of
4 sale shall be recorded, transmitted or served, written notice of default ... shall be transmitted by
5 the beneficiary or trustee to the borrower and grantor at their last known addresses by both
6 first-class and either registered or certified mail, return receipt requested, and the beneficiary or
7 trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or
8 personally served on the borrower and grantor.”

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10 Respondent has provided the Department with sufficient evidence to establish that on
11 or about April 23, 2015, the Notice of Default was posted in a conspicuous place on the
12 borrower’s premises. The evidence of service by certified mail, however, is not sufficient.
13 Respondent has provided a copy of a document entitled “Affidavit of Mailing” (which is
14 actually in the form of a sworn declaration) from a third-party provider for QLS (IDSolutions,
15 Inc.) and a copy of a Postal Service Form 3877; both bearing what purport to be First Class and
16 Certified Mail tracking numbers. The United States Postal Service (USPS), however, has to
17 date been unable to confirm the tracking numbers. Additionally, the process for sending
18 certified mail with return receipt requested is designed to provide either a signed return receipt
19 or the return of the mailed item for the sender’s records; one of which should be in the
20 possession of Respondent or QLS. To date, Respondent has not been able to provide the
21 Department with a copy of either. As a result, Respondent has been unable to sufficiently
22 establish compliance with the service requirements of RCW 61.24.030(8).
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¹ Prior sales were scheduled but were not held for various reasons.

1 **II. GROUNDS FOR ENTRY OF ORDER**

2 **2.1 Requirement to Comply with RCW 61.24 et seq.** Based on the Factual Allegations set forth
3 in Section I above, Respondent is in apparent violation of RCW 31.04.027(1)(b) and (m) by failing to
4 comply with the requirements of RCW 61.24.030(8).

5 **2.2 Requirement to Conduct Business in a Manner that is not Injurious or Illegal.** Based on
6 the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW
7 31.04.165(2) and (3) by conducting business in an injurious manner that creates a reasonable
8 likelihood of a violation of any provision of the Act.
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10 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

11 **3.1 Authority to Issue Temporary Order to Cease and Desist.** Pursuant to RCW 31.04.093(5),
12 if it appears to the director that a licensee is conducting business in an injurious manner, or is violating
13 any provision of the Act, the director may order or direct the discontinuance of any such injurious or
14 illegal practice. Pursuant to RCW 31.04.093(8), whenever the director determines that the public is
15 likely to be substantially injured by delay in issuing a cease and desist order, the director may
16 immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue
17 any violation of the Act and to take such affirmative action as is necessary to comply with the Act.
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19 **IV. ORDER**

20 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue
21 Temporary Order to Cease and Desist, and pursuant to RCW 31.04.093(5) and (8) and RCW
22 31.04.165, the Director determines that Respondent is violating provisions of the Act and conducting
23 business in an injurious manner in violation of the provisions of the Act; and that the public is likely to
24 be substantially injured by a delay in entering a cease and desist order. Therefore, the Director

25 ORDERS that:

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DATED this 23rd day of May, 2019.

/s/
RICHARD ST. ONGE
Acting Director
Division of Consumer Services
Department of Financial Institutions