

**ORDER SUMMARY – Case Number: C-20-2943**Name(s): Bayshore Mortgage Funding LLC

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Order Number: C-20-2943-20-CO01Effective Date: February 10, 2020License Number: 196858

Or NMLS Identifier [U/L]

License Effect: 

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Not Apply Until: 

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Not Eligible Until: 

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Prohibition/Ban Until: 

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<b>Investigation Costs</b>	\$ 3,000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 2/3/2021
<b>Fine</b>	\$ 20,000 (\$10,000 stayed two years)	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 2/3/2021
<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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1 **STATE OF WASHINGTON**  
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
3 **DIVISION OF CONSUMER SERVICES**

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

No.: C-20-2943-20-CO01

CONSENT ORDER

5 BAYSHORE MORTGAGE FUNDING, LLC,  
NMLS # 196858  
6 Respondent.

7 COMES NOW the Director of the Department of Financial Institutions (Director), through  
8 his designee Lucinda Fazio, Division of Consumer Services Director, and Bayshore Mortgage  
9 Funding, LLC (Respondent), and finding that the issues raised in the above-captioned matter may be  
10 economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is  
11 entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and RCW 34.05.060  
12 of the Administrative Procedure Act, based on the following:

13 **AGREEMENT AND ORDER**

14 The Department of Financial Institutions, Division of Consumer Services (Department) and  
15 Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges  
16 No. C-20-2943-20-SC01 (Statement of Charges), entered July 15, 2020, (copy attached hereto).  
17 Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), and RCW 34.05.060 of the  
18 Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent  
19 Order and further agrees that the issues raised in the above-captioned matter may be economically  
20 and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully  
21 resolve the Statement of Charges.

22 Based upon the foregoing:

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

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

8           **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the  
9 Statement of Charges and agree that Respondent does not admit to any wrongdoing by its entry.

10           **D. Fine (Partially Stayed).** It is AGREED that Respondent shall pay a fine to the  
11 Department in the amount of \$20,000. It is further AGREED that \$10,000 of the fine amount shall be  
12 stayed for two years from the date of this Consent Order unless the stay is lifted pursuant to  
13 Paragraph E of this Consent Order. The stayed fine shall expire without further action or notice by  
14 the Department if the Department does not seek to lift the stay and impose the stayed fine pursuant to  
15 Paragraph E.

16           **E. Lifting of Stay and Imposition of Stayed Fine.** It is AGREED that:

17           1. If, during the two-year period of the stay, the Department determines that Respondent  
18           has not complied with this Consent Order and the Department seeks to lift the stay and  
19           impose the stayed fine, the Department will first serve Respondent with a written  
20           notice of alleged noncompliance.

21           2. The notice will include:

22           i. A description of the alleged noncompliance;

- 1                   ii. A statement that the Department seeks to lift the stay and impose the stayed  
2                   fine;  
3                   iii. Notice that Respondent can contest the notice of alleged noncompliance by  
4                   either requesting an adjudicative hearing before an administrative law judge  
5                   (ALJ) from the Office of Administrative Hearings or by submitting a written  
6                   response to the Department contesting the alleged noncompliance; and  
7                   iv. Notice that the process for lifting the stay applies only to this Consent Order.

- 8                   3. Respondent has 20 days from the date of service of the notice of alleged  
9                   noncompliance to submit a written request to the Department for an adjudicative  
10                  hearing.  
11                  4. The scope and issues of the adjudicative hearing are limited solely to whether or not  
12                  Respondent is in violation of the terms of this Consent Order.  
13                  5. At the conclusion of the adjudicative hearing, the ALJ will issue an initial decision.  
14                  Any party may file a Petition for Review of that initial decision with the Director of  
15                  the Department.  
16                  6. DEFAULT. If Respondent does not timely request an adjudicative hearing or submit a  
17                  written response contesting the notice of alleged noncompliance, the Department may  
18                  lift the stay and impose the stayed fine without further notice.

19                  **F. Investigation Fee.** It is AGREED that Respondent shall pay an investigation fee to the  
20 Department in the amount of \$3,000. The non-stayed portion of the fine and the investigation fee  
21 shall be paid together in the form of one cashier's check for \$13,000, made payable to the  
22 "Washington State Treasurer" upon entry of this Consent Order.  
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1           **G. Records Retention.** It is AGREED that Respondent, 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 Respondent's consumer loan company business, and  
4 the name, address and telephone number of the individual responsible for maintenance of such  
5 records in compliance with the Act.

6           **H. 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           **I. Non-Compliance with Order.** It is AGREED that Respondent understands 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, Respondent may be responsible to reimburse the Director  
12 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

13           **J. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this  
14 Consent Order, which is effective when signed by the Director's designee.

15           **K. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read  
16 this Consent Order in its entirety and fully understands and agrees to all of the same.

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18 **RESPONDENT:**

19 Bayshore Mortgage Funding, LLC

20 By:

21 /s/\_\_\_\_\_

Joshua Perra

22 Executive Vice President of Operations

1/20/2021\_\_\_\_\_

Date

23 Approved for Entry:

1 /s/  
HAROLD B. SCOGGINS, III WSBA No.21717  
2 Attorney at Law  
Farleigh Wada Witt  
3 Attorney for Respondent

1-20-21  
Date

4 DO NOT WRITE BELOW THIS LINE

5 THIS ORDER ENTERED THIS 10th DAY OF February, 2021.

7 /s/  
Lucinda Fazio, Director  
8 Division of Consumer Services  
9 Department of Financial Institutions

10 Presented by:

11 /s/  
12 KENNETH J. SUGIMOTO  
Financial Legal Examiner Supervisor

13 Approved by:

14 /s/  
15 STEVEN C. SHERMAN  
16 Enforcement Chief

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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  
Consumer Loan Act of Washington by:

BAYSHORE MORTGAGE FUNDING, LLC,  
NMLS # 196858,

Respondent.

No. C-20-2943-20-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO ENTER AN  
ORDER TO IMPOSE FINE, COLLECT  
INVESTIGATION FEE, and RECOVER  
COSTS AND EXPENSES

**INTRODUCTION**

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges and Notice of Intent to Enter an Order to Impose Fine, Collect Investigation Fee, and Recover Costs and Expenses (Statement of Charges), the Director, through his designee, Division of Consumer Services Director Lucinda Fazio, institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Bayshore Mortgage Funding, LLC (Respondent)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a consumer loan company on or about March 7, 2017, and continues to be licensed to date.

**1.2 Prior Complaint.** In Complaint No. 049871, dated April 10, 2019, the Department reviewed Respondent's advertising and determined that Respondent likely violated the following sections of the Act and related rules: RCW 31.04.027(1)(b), (g), (m), 135, and 145, and WAC 208-620-550(14), 630(5) and (7). Among other things, the Department determined that Respondent likely violated the Act for using consumers' lenders' names in an unfair and deceptive fashion by using lenders' names

1 more prominently than Respondent's own, and failing to identify how Respondent acquired the  
2 information regarding consumers' lenders.

3 **1.3 Advertising Violations.** In a subpoena to Respondent dated October 16, 2019, the  
4 Department directed Respondent to provide, among other things, copies of its print advertising for  
5 VA loans and related information, sent by Respondent to consumers in the state of Washington  
6 between January 1, 2017, and September 30, 2019. The Department reviewed Respondent's print  
7 advertising for this period and determined that Respondent mailed thousands of advertisements to  
8 Washington consumers in violation of the Act as described below. The Department also obtained  
9 copies of print advertising mailed by Respondent to Washington consumers in 2020, and determined  
10 that Respondent violated the Act as described below.

11 **1.4 Continued Improper Use of Lender Name.** In advertisements sent by Respondent  
12 subsequent to the Department's resolution of Complaint No. 049871, Respondent continued to use  
13 consumers' lenders' names in an unfair and deceptive fashion by using lenders' names more  
14 prominently than Respondent's own, and failing to identify how Respondent acquired the information  
15 regarding consumers' lenders.

16 **1.5 False Sense of Urgency.** Respondent's advertising contained numerous features suggesting a  
17 false sense of urgency and inducing consumers to respond to the advertisements when no response  
18 was required. Respondent's advertisements suggested that they were official notices which might  
19 expire, or that consumers were required to take action of some kind in response to the advertisements.

20 **1.6 False or Misleading Terms.** Respondent's advertisements stated that appraisals of  
21 consumers' properties during the process of refinancing their loans with Respondent were free when,  
22 in fact, Respondent paid for the appraisals.

23 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the  
24 Act by Respondent continues to date.



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

2 **2.1 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,  
3 Respondent is in apparent violation of RCW 31.04.027(1)(b) and (g), WAC 208-620-550, and WAC  
4 208-620-630 for: directly or indirectly engaging in any unfair or deceptive practice toward any  
5 person, and making in any manner, any false or deceptive statement with regard to the financing  
6 terms for a residential mortgage loan.

7 **2.2 Prohibited Advertisement Practices.** Based on the Factual Allegations set forth in Section I  
8 above, Respondent is in apparent violation of RCW 31.04.135, WAC 208-620-550, and WAC 208-  
9 620-630 for advertising or permitting to be advertised, in any manner whatsoever, any statement or  
10 representation with regard to rates, terms, or conditions for the lending of money that is false,  
11 misleading, or deceptive.

12 **III. AUTHORITY TO IMPOSE SANCTIONS**

13 **3.1 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of  
14 up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator, or  
15 any other person subject to the Act for any violation of the Act.

16 **3.2 Authority to Charge Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-  
17 590, WAC 208-620-610(7), every licensee examined or investigated by the Director or the Director's  
18 designee shall pay for the cost of the investigation, calculated at the rate of \$69.01 per staff hour  
19 devoted to the investigation.

20 **3.3 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director  
21 may recover the state's costs and expenses for prosecuting violations of the Act.

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

2 Respondent’s violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,  
3 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose  
4 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, RCW  
5 34.04.202, and RCW 31.04.205. Therefore, it is the Director’s intent to ORDER that:

6 **4.1** Respondent Bayshore Mortgage Funding, LLC, pay a fine. As of the date of this  
7 Statement of Charges, the fine totals \$50,000.

8 **4.2** Respondent Bayshore Mortgage Funding, LLC pay an investigation fee. As of the  
9 date of this Statement of Charges, the investigation fee totals \$3,000.

10 **4.3** Respondent Bayshore Mortgage Funding, LLC pay the Department’s costs and  
11 expenses for prosecuting violations of the Act in an amount to be determined at  
hearing or by declaration with supporting documentation in event of default by  
Respondent Bayshore Mortgage Funding, LLC.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 31.04.093, RCW  
3 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05  
4 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as  
5 set forth in the NOTICE OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND TO  
6 DEFEND accompanying this Statement of Charges.

7 Dated this 15th day of July, 2020.

8 /s/ \_\_\_\_\_  
9 Lucinda Fazio, Director  
10 Division of Consumer Services  
11 Department of Financial Institutions

12 Presented by:

13 /s/ \_\_\_\_\_  
14 KENNETH J. SUGIMOTO  
15 Financial Legal Examiner Supervisor

16 Approved by:

17 /s/ \_\_\_\_\_  
18 STEVEN C. SHERMAN  
19 Enforcement Chief