

ORDER SUMMARY – Case Number: C-17-2321

Name(s): Mortgage Brokers Services Inc. d/b/a Kiel Mortgage

Order Number: C-17-2321-18-CO01

Effective Date: April 19, 2018

License Number: NMLS NO. 53969

Or NMLS Identifier [U/L] _____

License Effect: _____

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: _____

Investigation Costs	\$ 2,401.55	Due 4/18/18	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 4/18/18
Fine	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	N/A	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	N/A	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:			

Comments: _____

Financial Literary Account deposit: \$10,000.00. Payment was made upon the Consent Order's entry.

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
5 Consumer Loan Act of Washington by:
6 MORTGAGE BROKERS SERVICES, INC.
D/B/A KIEL MORTGAGE,
7 NMLS NO. 53969, and
DEAN RAYMOND EULBERG, Mortgage Loan
Originator, NMLS NO. 112154,
8 Respondents.

No.: C-17-2321-18-CO01

9 CONSENT ORDER AS TO
10 MORTGAGE BROKERS SERVICES, INC.
11 DBA KIEL MORTGAGE

12 COMES NOW the Director of the Department of Financial Institutions (Director), through
13 her designee Charles E. Clark, Division Director, Division of Consumer Services, and Mortgage
14 Brokers Services, Inc. d/b/a Kiel Mortgage (Respondent MBSI), and finding that the issues raised in
15 the above-captioned matter may be economically and efficiently settled solely as related to
16 Respondent MBSI, agree to the entry of this Consent Order. This Consent Order is entered pursuant
17 to chapter 31.04 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the
18 Administrative Procedure Act, based on the following:

19 **AGREEMENT AND ORDER**

20 The Department of Financial Institutions, Division of Consumer Services (Department) and
21 Respondent MBSI have agreed upon a basis for resolution of the matters alleged in Statement of
22 Charges No. C-17-2321-18-SC01 (Statement of Charges), entered February 23, 2018, (copy attached
23 hereto), solely as they relate to Respondent MSBI. Pursuant to chapter 31.04 RCW, the Consumer
24 Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent MBSI hereby
agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the
above-captioned matter as related to Respondent MSBI may be economically and efficiently settled

1 by entry of this Consent Order. Respondent MBSI agrees 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
5 matter of the activities discussed herein.

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

11 C. **No Admission of Liability.** The Department and Respondent MBSI intend for this
12 Consent Order to fully resolve the Statement of Charges solely as it concerns Respondent MBSI and
13 agree that Respondent MBSI neither admits nor denies any wrongdoing by its entry. The Department
14 recognizes that Respondent MBSI has cooperated with the Department's investigation and provided
15 restitution to the consumer in this matter. Additionally, the Department recognizes that Respondent
16 MBSI has taken affirmative actions to strengthen its compliance processes.

17 D. **Financial Literacy Payment.** Pursuant to RCW 31.04.093(7), the Director may
18 accept payments to the Department for purposes of financial literacy and education programs
19 authorized under RCW 43.320.150. Accordingly, in further compromise and in consideration of the
20 additional terms set forth herein, it is AGREED that upon entry of this Consent Order Respondent
21 MBSI shall pay \$10,000.00 to the Department for purposes of financial literacy and education
22 programs (the "Financial Literacy Payment"). It is FURTHER AGREED and ORDERED that
23 Respondent MBSI shall not advertise the Financial Literacy Payment.

1 E. **Investigation Fee.** It is AGREED that Respondent MBSI shall pay to the
2 Department an investigation fee of \$2,401.55 in the form of a cashier’s check made payable to the
3 “Washington State Treasurer” upon entry of this Consent Order. The Financial Literacy Payment
4 and Investigation Fee shall be paid together in one \$12,401.55 cashier’s check made payable to the
5 “Washington State Treasurer.”

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

11 G. **Complete Cooperation with the Department and the Office of the Attorney**
12 **General.** It is AGREED that Respondent MBSI shall upon request provide the Department with a
13 truthful and complete sworn statements outlining its activities with respect to Dean Raymond Eulberg,
14 NMLS No. 112154. The “sworn statements” may take the form of affidavits, declarations, or
15 deposition testimony, at the Department’s and the Office of the Attorney General’s discretion. It is
16 further AGREED that Respondent MBSI shall upon request testify fully, truthfully, and completely at
17 any proceeding related to the Department’s investigation and enforcement actions related to this matter,
18 including, but not limited to, Dean Raymond Eulberg, NMLS No. 112154.

19 H. **Authority to Execute Order.** It is AGREED that the undersigned have represented
20 and warranted that they have the full power and right to execute this Consent Order on behalf of
21 Respondent MBSI.

22 I. **Voluntarily Entered.** It is AGREED that Respondent MBSI has voluntarily entered
23 into this Consent Order, which is effective when signed by the Director’s designee.
24

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

3 K. **Counterparts.** This Consent Order may be executed by the Respondent MBSI in any
4 number of counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall
5 be deemed to be an original, but all of which, taken together, shall constitute one and the same
6 Consent Order.

7
8 **RESPONDENT:**
9 Mortgage Brokers Services, Inc.
10 d/b/a Kiel Mortgage

11 By:

12 /s/
13 Paul Bina
14 Chief Executive Officer

04/17/18
Date

15
16 /s/
17 Brian O'Dell
18 Attorney at Law
19 Bradley Arant Boult Cummings LLP
20 Attorney for Respondent MBSI

04/17/18
Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 19th DAY OF April, 2018.

/s/
CHARLES E. CLARK
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

/s/
IGOR VOLOSHIN
Financial Legal Examiner

Approved by:

/s/
STEVEN C. SHERMAN
Enforcement Chief

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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
Consumer Loan Act of Washington by:

MORTGAGE BROKERS SERVICES, INC.
D/B/A KIEL MORTGAGE, INC.,
NMLS NO. 53969, and
DEAN RAYMOND EULBERG, Mortgage Loan
Originator, NMLS NO. 112154,

Respondents.

No. C-17-2321-17-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO REVOKE LICENSE, PROHIBIT
FROM INDUSTRY, ORDER
RESTITUTION, 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
RCW 31.04, 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, the
Director, through her designee, Division of Consumer Services Director Charles E. Clark, institutes
this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Mortgage Brokers Services, Inc. d/b/a Kiel Mortgage (Respondent MBS) 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 January 1, 2010, and continues to be
licensed to date.

B. Dean Raymond Eulberg (Respondent Eulberg) was licensed by the Department to
conduct business as a mortgage loan originator on or about January 11, 2007, and continues to be

1 licensed to date. Respondent Eulberg has been sponsored by Respondent MBS since approximately
2 October 18, 2011.

3 **1.2 Discovery of Unfair or Deceptive Acts or Practices.** Respondent Eulberg induced or
4 attempted to induce two co-borrowers into signing a document that contained material false
5 statements. The co-borrowers retained Respondent Eulberg as their mortgage loan originator in
6 order to purchase a primary residence in Washington State. On or about February 01, 2017, in the
7 course of finalizing the transaction, Respondent Eulberg received a report regarding the subject-
8 property's septic system from one of the co-borrowers. On or about February 2, 2017, at
9 approximately 9:56 AM, Respondent Eulberg sent the following email to the co-borrowers and their
10 real estate broker in response to the content of the septic-system report:

11 This does open up a new can of worms for the lender that could delay us. **Could**
12 **we just have the realtors write up a form 34 saying that the buyers have**
13 **waived the septic inspection? This is just for the loan.** You can keep your
14 agreement with the sellers on what you have, but I need to show the lender there
15 is no issue with the septic system and form 34 is the fastest way around this.
(emphasis added)

16 On or about February 2, 2017, at approximately 10:58 AM, Respondent Eulberg reiterated that “[w]e
17 don’t really want to say anything about [the septic system] needing repairs or it being repaired. If it
18 is all good to go now let’s just keep it simple and say it’s been inspected and signed off.”

19 Respondent Eulberg directed this message to the co-borrower’s real estate broker, with the co-
20 borrowers copied on the message, despite his actual or constructive knowledge that the septic system
21 needed repairs. Based in part on this exchange, the co-borrower’s real estate broker drafted an
22 addendum to the purchase and sale agreement that stated, “PRIVATE SEPTIC SYSTEM HAS
23 BEEN INSPECTED BY A LICENSE SEPTIC COMPANY AND SIGNED OFF.” The addendum
24 was signed by one of the co-borrowers on February 3, 2017, and February 7, 2017, by the other. The
co-borrowers paid a third party to repair the septic system after the transaction closed.

1 **1.3 On-Going Investigation.** The Department’s investigation into the alleged violations of the
2 Act by Respondents continues to date.

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

4 **2.1 Responsibility and Liability for Violations.** Pursuant to WAC 208-620-378, in addition to
5 ensuring that each employee have sufficient understanding of the law to comply with the Act and
6 rules, Respondent MBS is responsible for ensuring its employees have sufficient understanding of
7 the law to comply with the Act and rules. Furthermore, pursuant to WAC 208-620-372, Respondent
8 MBS is liable for any violations of the Act or rules by its employees.

9 **2.2 Unfair or Deceptive Acts or Practices.** Based on the Factual Allegations set forth in
10 Section I above, Respondents are in apparent violation of RCW 31.04.027(1), (2), (3), and (7) for
11 employing a scheme, device, or artifice to defraud or mislead any person; directly or indirectly
12 engaging in any unfair or deceptive practice toward any person; directly or indirectly obtaining
13 property by fraud or misrepresentation; and making, in any manner, a false or deceptive statement or
14 representation with regard to the conditions for a residential mortgage loan.

15 **III. AUTHORITY TO IMPOSE SANCTIONS**

16 **3.1 Authority to Revoke or Suspend License.** Pursuant to RCW 31.04.093(3)(b), the Director
17 may revoke a license issued under the Act if the licensee, either knowingly or without the exercise of
18 due care, has violated any provision of the Act or any rule adopted under the Act.

19 **3.2 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), “the Director
20 may issue an order prohibiting from participation in the affairs of any licensee, or both, any officer,
21 principal, employee or mortgage loan originator, or any person subject to this chapter for violations
22 of RCW 31.04.027.

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1 **3.3 Authority to Order Restitution.** Pursuant to RCW 31.04.093(5)(c), the Director may issue
2 an order directing a licensee, its employee or loan originator, or any other person subject to the Act
3 to make restitution to a borrower who is damaged as a result of a violation of the Act.

4 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
5 up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator,
6 or any other person subject to the Act for any violation of the Act.

7 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and
8 WAC 208-620-590(1), every licensee examined by the Director or the Director's designee shall pay
9 for the cost of the investigation, collected at the rate of \$69.01 per staff hour devoted to the
10 investigation.

11 **3.6 Authority to Recover Costs and Expenses.** Pursuant to RCW 31.04.205(2), the Director
12 may recover the state's costs and expenses for prosecuting violations of the Act.

13 **IV. NOTICE OF INTENTION TO ENTER ORDER**

14 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC,
15 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
16 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and
17 RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

18 **4.1** Respondent Dean Raymond Eulberg's license to conduct business as a mortgage loan
19 originator be revoked.

20 **4.2** Respondent Dean Raymond Eulberg be prohibited from participation in the conduct
21 of the affairs of any consumer loan company subject to licensure by the Director, in
22 any manner, for five years.

23 **4.3** Respondent Mortgage Brokers Services, Inc. d/b/a Kiel Mortgage, and Respondent
24 Dean Raymond Eulberg jointly and severally pay restitution to the consumers
identified by the Department in paragraph 1.2 in an amount to be determined at
hearing or by Declaration with supporting documentation in event of default by
Respondents.

- 1 **4.4** Respondent Mortgage Brokers Services, Inc. d/b/a Kiel Mortgage, and Respondent
2 Dean Raymond Eulberg jointly and severally pay a fine. As of the date of this
 Statement of Charges, the fine totals \$25,000.00.

- 3 **4.5** Respondent Mortgage Brokers Services, Inc. d/b/a Kiel Mortgage, and Respondent
4 Dean Raymond Eulberg jointly and severally pay an investigation fee. As of the date
 of this Statement of Charges, the investigation fee totals \$2,505.06.

- 5 **4.6** Respondent Mortgage Brokers Services, Inc. d/b/a Kiel Mortgage, and Respondent
6 Dean Raymond Eulberg jointly and severally pay the Department's costs and
7 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.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Enter an Order to Revoke License,
3 Prohibit from the Industry, Order Restitution, Impose Fine, Collect Investigation Fee, and Recover
4 Costs and Expenses (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093,
5 RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of
6 RCW 34.05 (The Administrative Procedure Act). Respondents may make a written request for a
7 hearing as set forth in the NOTICE OF OPPORTUNITY FOR ADJUDICATIVE HEARING AND
8 TO DEFEND accompanying this Statement of Charges.

9 Dated this 23rd day of February, 2018.

10 /s/ _____
11 CHARLES E. CLARK
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15
16 Presented by:

17
18 /s/ _____
19 IGOR VOLOSHIN
20 Financial Legal Examiner

21 Approved by:

22
23 /s/ _____
24 STEVEN C. SHERMAN
Enforcement Chief

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