

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF MORTGAGE LENDING

Before the Commissioner of the Division of Mortgage Lending

In the Matter of:

JOSE BENJAMIN RODRIGUEZ,  
A/K/A BEN RODRIGUEZ  
Mortgage Agent License No. 22616,  
Associated Covered Service Provider  
License No. 46467

Respondent.

Order No. 2012-19

FINAL ORDER  
REVOKING ASSOCIATED COVERED SERVICE PROVIDER LICENSE,  
IMPOSING AN ADMINISTRATIVE FINE AND  
REQUIRING PAYMENT OF ADMINISTRATIVE COSTS

Issued and Entered,  
This 1st day of October, 2012,  
By James Westrin,  
Commissioner

**WHEREAS**, the Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") is statutorily charged with the responsibility and authority to administer and enforce Chapter 645F of the Nevada Revised Statutes, NRS 645F.010 *et seq.* (the "Act"), and Chapter 645F of the Nevada Administrative Code, NAC 645F.005 *et seq.*, (the "Regulation"), governing the licensing and conduct of covered service providers in the State of Nevada; and,

**WHEREAS**, the Commissioner is statutorily vested with general supervisory power and control over all covered service providers doing business in the State of Nevada pursuant to NRS 645F; and,

**WHEREAS**, on or about September 5, 2012, the Commissioner issued to Respondent a NOTICE OF INTENT TO ISSUE AND ENTER ORDER REVOKING ASSOCIATED COVERED

1 SERVICE PROVIDER LICENSE, IMPOSING AN ADMINISTRATIVE FINE AND REQUIRING  
2 PAYMENT OF ADMINISTRATIVE COSTS AND NOTICE OF OPPORTUNITY FOR HEARING  
3 (the "Notice"), attached hereto as Exhibit 1 and incorporated herein by this reference; and,

4       **WHEREAS**, the Notice was served on Respondent on or about September 6, 2012, via certified  
5 mail and regular mail; and,

6       **WHEREAS**, the Notice advised Respondent that Respondent was entitled to an administrative  
7 hearing in this matter if Respondent filed a written request for a hearing within 20 days of receipt of the  
8 Notice; and,

9       **WHEREAS**, the Notice further advised Respondent that failure to file a written request a for a  
10 hearing within 20 days of receipt of the Notice would result in the issuance of a final order revoking  
11 Respondent's license, imposing an administrative fine and requiring payment of administrative costs;  
12 and,

13       **WHEREAS**, Respondent failed to file a written request for a hearing within 20 days of receipt  
14 of the Order, as required by Chapter 645F of the NAC.

15       **NOW, THEREFORE**, based upon the factual findings set forth above and the files and records  
16 of the Division of Mortgage Lending, the Commissioner finds and concludes that Respondent violated  
17 NAC 645F.200, NRS 645F.405 and NAC 645F.835(2)-(3)(c), and **IT IS HEREBY ORDERED**  
18 **THAT:**

19       1. The factual allegations contained in the Notice shall be and hereby are found to be true and  
20 correct.

21       2. Respondent's Associated Covered Service Provide License, License Number 46467, shall be  
22 and hereby is REVOKED.

23       3. Respondent shall be and hereby is assessed an ADMINISTRATIVE FINE in the amount of  
24 Twenty-Five Thousand Dollars and No Cents, (\$25,000.00). The ADMINISTRATIVE FINE shall be  
25 and is due within thirty (30) days of entry of this Order. The ADMINISTRATIVE FINE shall be  
26 tendered in the form of a certified check or money order payable to the State of Nevada.

27       4. Respondent shall be and hereby is assessed ADMINISTRATIVE COSTS in the amount of One  
28 Thousand Six Hundred Thirty Five Dollars and No Cents (\$1,635.00). The ADMINISTRATIVE

1 COSTS shall be and are due within thirty (30) days of the entry of this Order. The  
2 ADMINISTRATIVE COSTS shall be tendered in the form of a certified check or money order payable  
3 to the State of Nevada.

4 5. This Order shall be and is effective on the date is issued and entered, as shown in the caption  
5 hereof.

6 6. This Order shall remain in effect and fully enforceable until terminated, modified, or set aside,  
7 in writing by the Commissioner.

8 7. The Commissioner specifically retains jurisdiction of the matter(s) contained herein to issue  
9 such further order or orders as he may deem just, necessary, or appropriate so as to assure compliance  
10 with the law and protect the interest of the public.

11 **IT IS SO ORDERED.**

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13 DIVISION OF MORTGAGE LENDING

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16 JAMES WESTRIN, COMMISSIONER  
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# **EXHIBIT “1”**

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF MORTGAGE LENDING

Before the Commissioner of the Division of Mortgage Lending

In the Matter of: )  
JOSE BENJAMIN RODRIGUEZ, ) Order No. 2012-19  
A/K/A BEN RODRIGUEZ, )  
Mortgage Agent License No. 22616, )  
Associated Covered Service Provider License No. 46467, )  
Respondent. )

NOTICE OF INTENT TO ISSUE AND ENTER ORDER  
REVOKING ASSOCIATED COVERED SERVICE PROVIDER LICENSE,  
IMPOSING AN ADMINISTRATIVE FINE AND  
REQUIRING PAYMENT OF ADMINISTRATIVE COSTS  
AND  
NOTICE OF OPPORTUNITY FOR HEARING

I.  
NOTICE OF INTENT

The Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") is statutorily charged with the responsibility and authority to administer and enforce Chapter 645F of the Nevada Revised Statutes, NRS 645F.010 *et seq.*, and Chapter 645F of the Nevada Administrative Code, NAC 645F.005 *et seq.*, (collectively, the "Covered Service Provider Act"), governing the licensing and conduct of covered service providers in the State of Nevada; and,

The Commissioner is statutorily vested with general supervisory power and control over all covered service providers and associated covered service providers doing business in the State of Nevada pursuant to the Covered Service Provider Act; and,

Pursuant to that statutory authority granted to the Commissioner, and in accordance with provisions of the Covered Service Provider Act, Notice is hereby provided to JOSE BENJAMIN RODRIGUEZ A/K/A BEN RODRIGUEZ (hereinafter, "RESPONDENT") to give RESPONDENT

1 notice of facts or conduct which, if true, will result in the issuance of a final order revoking  
2 Respondent's associated covered service provider license, imposing an administrative fine in the  
3 amount of \$25,000.00, and requiring payment of administrative costs in the amount of \$1,635.00. The  
4 factual allegations and complaint which warrant the intended action are set forth in Section II and the  
5 applicable laws and penalties are set forth in Section III of this Notice. Notice is further provided to  
6 inform RESPONDENT that prior to the issuance and entry of a final Order, RESPONDENT is  
7 entitled to an administrative hearing. If RESPONDENT desires to avail itself of the right to an  
8 administrative hearing, RESPONDENT must timely file a written request for an administrative  
9 hearing in accordance with the instructions set forth in Section IV of this Notice.

10 II.

11 FACTUAL ALLEGATIONS AND COMPLAINT

12 The staff of the Division of Mortgage Lending alleges that the following facts are true and  
13 correct:

14 1. RESPONDENT made application for and was granted a license by the Commissioner as an  
15 associated covered service provider licensee ("associate licensee"), License No. 46467, pursuant to  
16 provisions of NRS 645F, on April 8, 2010.

17 2. "Associated Licensees" are required to be associated with an independent licensee, and,  
18 therefore, RESPONDENT was limited to only providing services as an employee or independent  
19 contractor of an independent licensee.

20 3. RESPONDENT was last an employee or independent contractor of an independent licensee on  
21 September 22, 2010. Since that time, RESPONDENT has not been employed by or an independent  
22 contractor of an independent licensee and has, therefore, been ineligible to conduct covered service  
23 activity, as defined by NRS 645F.310.

24 4. However, at all times relevant to this matter, RESPONDENT held a license with the Division of  
25 Mortgage Lending (the "Division") pursuant to NRS 645F and, therefore, is subject to the jurisdiction  
26 of the Commissioner.

27 5. RESPONDENT failed to renew this license and it was classified as "closed" on January 1, 2012.  
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1 6. The Division received two complaints against the MAJESTIC GROUP, LLC, JOSE  
2 BENJAMIN RODRIGUEZ A/K/A BEN RODRIGUEZ and NEVADA SKY PREMIER, LLC alleging  
3 that the RESPONDENT was engaged in activities or practices that violated NRS 645F during the time  
4 he was ineligible to conduct covered service activity.

5 7. The Division Staff commenced a full and thorough investigation of the complaints, pursuant to  
6 NAC 645F.435(1)(a), and determined that RESPONDENT was engaged in activity requiring licensure  
7 as an independent covered service provider and that RESPONDENT claimed, demanded, charged,  
8 collected and received compensation from those two complainants prior to successfully obtaining  
9 mortgage assistance for the individuals.

10 8. On or about January 10, 2012, RESPONDENT was provided with an opportunity to show  
11 compliance with all lawful requirements for the retention of the license as a covered service provider, in  
12 accordance with NRS 233B.127.

13 9. RESPONDENT did not exercise his right to an opportunity to show compliance with all lawful  
14 requirements for the retention of the license.

15 10. Accordingly, an Order to Cease and Desist (the "order") was issued and entered against  
16 RESPONDENT, on March 23, 2012. The order set forth in particularity the facts surrounding  
17 RESPONDENT'S unlicensed activity, and further ordered RESPONDENT to make restitution to the  
18 individuals harmed by his unlicensed activity and imposed an administrative fine on RESPONDENT.

19 11. The order was finalized on April 17, 2012.

20 12. RESPONDENT has failed to comply with the requirements of the order.

21 13. The following violations are alleged:

22 **COUNT I**

23 **Unlicensed Activity**

24 14. The Division repeats and re-alleges all facts as though fully set forth herein.

25 15. NAC 645F.200 prohibits any person from advertising services as, providing any of the services  
26 of, acting as or conducting business as a covered service provider or to otherwise engage in, carry on or  
27 hold himself out as engaging in the activities of a covered service provider unless the person is properly  
28 licensed as a covered service provider in accordance with the Covered Service Provider Act.

1 16. RESPONDENT held himself as being able to provide the services of an independent covered  
2 service provider and solicited, engaged in and provided covered services for at least two (2) individuals  
3 under the names Majestic Group, LLC and Nevada Sky Premier, LLC, neither of which hold a license  
4 as an independent licensee, without proper licensure as an independent licensee and in violation of  
5 NAC 645F.200.

6 COUNT II

7 Claiming, Demanding, Charging, Collecting or Receiving Advance Fees

8 17. The Division repeats and re-alleges all facts as though fully set forth herein.

9 18. NRS 645F.405 prohibits any person from claiming, demanding, charging, collecting or  
10 receiving any compensation before a homeowner has executed a written agreement with the lender or  
11 servicer incorporating the offer of mortgage assistance obtained from the lender or servicer by the  
12 person who performs any covered service for compensation.

13 19. RESPONDENT claimed, demanded, charged, collected and received compensation from those  
14 two (2) individuals prior to successfully obtaining mortgage assistance for the individuals, in violation  
15 of NRS 645F.405.

16 COUNT III

17 Failure to Comply with Order of the Commissioner

18 20. The Division repeats and re-alleges all facts as though fully set forth herein.

19 21. Section 835(3)(c) of Chapter 645F of the Nevada Administrative Code, NAC 645F.835(3)(c),  
20 provides that it is grounds for disciplinary action against a person who engages in an activity for which  
21 licensure is required under Chapter 645F, without regard to whether the person is licensed under  
22 Chapter 645F, if the person “[d]oes not conduct business in accordance with law or has violated any  
23 provision of [chapter 645F] or any order of the Commissioner”.

24 22. An Order to Cease and Desist (the “order”) was issued and entered against RESPONDENT, on  
25 March 23, 2012. The order set forth in particularity the facts surrounding RESPONDENT’S unlicensed  
26 activity, and further ordered RESPONDENT to make restitution to the individuals harmed by his  
27 unlicensed activity and imposed an administrative fine on RESPONDENT. RESPONDENT has failed  
28 to comply with the requirements of the order in violation of NAC 645F.835(3)(c).



1 III.

2 APPLICABLE LAWS AND PENALTIES

3 If the facts as alleged are true and correct, violations of the Covered Service Provider Act have  
4 occurred. Staff believes the following provisions are applicable in this matter:

5 **NAC 645F.200, provides as follows:**

6 A person shall not advertise services as, provide any of the services of, act  
7 as or conduct business as a covered service provider, foreclosure  
8 consultant or loan modification consultant or otherwise engage in, carry  
9 on or hold himself or herself out as engaging in or carrying on the  
10 activities of a covered service provider, foreclosure consultant or loan  
11 modification consultant unless the person has a license as a covered  
12 service provider, foreclosure consultant or loan modification consultant,  
13 as applicable, issued pursuant to this chapter and chapter 645F of NRS.

11 **NRS 645F.405 provides as follows:**

12 A person who performs any covered service for compensation, a  
13 foreclosure consultant and a loan modification consultant shall not claim,  
14 demand, charge, collect or receive any compensation before a homeowner  
15 has executed a written agreement with the lender or servicer incorporating  
16 the offer of mortgage assistance obtained from the lender or servicer by  
17 the person who performs any covered service for compensation, the  
18 foreclosure consultant or the loan modification consultant.

17 **NAC 645F.835(2)-(3)(c) provides as follows:**

18 2. A person who engages in an activity for which licensure as a covered  
19 service provider, foreclosure consultant or loan modification consultant is  
20 required under this chapter and chapter 645F of NRS, without regard to  
21 whether the person is licensed under this chapter and chapter 645F of  
22 NRS, may be required by the Commissioner to pay restitution to any  
23 person who has suffered an economic loss as a result of a violation of the  
24 provisions of this chapter or chapter 645F of NRS or an order of a court  
25 of competent jurisdiction.

26 3. For each violation committed by a person who engages in an activity  
27 for which licensure as a covered service provider, foreclosure consultant  
28 or loan modification consultant is required under this chapter and chapter  
645F of NRS, without regard to whether the person is licensed under this  
chapter and chapter 645F of NRS, the Commissioner may ... suspend,  
revoke or place conditions upon the person's license, or may do both, if  
the person, whether or not acting as such:

\* \* \*

1 (c) Does not conduct business in accordance with law or has violated any  
2 provision of this chapter or chapter 645F of NRS or any order of the  
Commissioner;

\* \* \*

3 (k) Has refused or failed to pay, within a reasonable time, any fines, fees,  
4 assessments and costs that the person is required to pay pursuant to this  
chapter or chapter 645F of NRS.

5 **NRS 645F.410(1) provides as follows:**

6 1. In addition to any other remedy or penalty, the Commissioner may,  
7 after giving notice and opportunity to be heard, impose an administrative  
8 penalty of not more than \$25,000 on any person licensed or required to be  
9 licensed pursuant to NRS 645F.390 who violates any provision of this  
chapter or any regulation adopted pursuant thereto or any other applicable  
law.

10 **NRS 622.400 provides as follows:**

11 1. A regulatory body may recover from a person reasonable attorney's  
12 fees and costs that are incurred by the regulatory body as part of its  
13 investigative, administrative and disciplinary proceedings against the  
person if the regulatory body:

14 (a) Enters a final order in which it finds that the person has violated any  
15 provision of this title which the regulatory body has the authority to  
enforce, any regulation adopted pursuant thereto or any order of the  
regulatory body; or

16 (b) Enters into a consent or settlement agreement in which the regulatory  
17 body finds or the person admits or does not contest that the person has  
18 violated any provision of this title which the regulatory body has the  
authority to enforce, any regulation adopted pursuant thereto or any order  
of the regulatory body.

19 2. As used in this section, "costs" means:

20 (a) Costs of an investigation.

21 (b) Costs for photocopies, facsimiles, long distance telephone calls and  
postage and delivery.

22 (c) Fees for court reporters at any depositions or hearings.

23 (d) Fees for expert witnesses and other witnesses at any depositions or  
hearings.

24 (e) Fees for necessary interpreters at any depositions or hearings.

25 (f) Fees for service and delivery of process and subpoenas.

26 (g) Expenses for research, including, without limitation, reasonable and  
27 necessary expenses for computerized services for legal research.

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1 IV.

2 NOTICE OF OPPORTUNITY FOR AN ADMINISTRATIVE HEARING

3 This Notice is provided to you pursuant to Section 855 of Chapter 645F of the Nevada  
4 Administrative Code, which provides as follows:

5 1. If the Commissioner enters an order taking any disciplinary action  
6 against a person or denying a person's application for a license, the  
7 Commissioner will cause a written notice of the order to be served  
8 personally or sent by certified mail or telegram to the person.

9 2. Unless a hearing has already been conducted concerning the matter, the  
10 person, upon application, is entitled to a hearing. If the person does not  
11 make such an application within 20 days after the date of the initial order,  
12 the Commissioner will enter a final order concerning the matter.

13 3. A person may appeal a final order of the Commissioner taking any  
14 disciplinary action against the person in accordance with the provisions of  
15 chapter 233B of NRS that apply to a contested case.

16 **If you wish to exercise your right to an opportunity for an administrative hearing, within**  
17 **20 calendar days after the date of this Notice, you must file a verified petition with the**  
18 **Commissioner to request a hearing. The verified petition requesting a hearing must be delivered**  
19 **to:**

20 Division of Mortgage Lending  
21 Attn. Susan Slack  
22 7220 Bermuda Road, Suite A  
23 Las Vegas, Nevada 89119

24 **If you fail to timely file a verified petition to request a hearing, your right to a hearing**  
25 **under NAC 645F.855 will be deemed waived and relinquished and a final order will be issued and**  
26 **entered in this matter.**

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