

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:

PRIMECAP LENDING, LLC
Mortgage Broker License No. 3943
NMLS ID No.: 1035749

Respondent.

Order No. 2015-014

Case No. 2015-014

CONSENT ORDER

Issued and Entered,
This 27th day of August, 2015,
By James Westrin,
Commissioner

The Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") having been statutorily charged with the responsibility and authority to administer and enforce Chapter 645B of the Nevada Revised Statutes, NRS 645B.010 *et seq.* (the "Statute"), and Chapter 645B of the Nevada Administrative Code, NAC 645B.001 *et seq.* (the "Regulation") (collectively, the "Act"), governing the licensing and conduct of mortgage agents and mortgage brokers in the State of Nevada; and,

The Commissioner having been granted general supervisory power and control and administrative enforcement authority over all mortgage brokers and mortgage agents doing business in the State of Nevada pursuant to the Act; and,

PRIMECAP LENDING, LLC ("RESPONDENT") having been granted a mortgage broker license (MLD License No. 3943, NMLS ID 1035749) on June 6, 2013, pursuant to provisions of the Act; and,

1 Division of Mortgage Lending (“Division”) staff having commenced an examination of
2 RESPONDENT’S books and records and business practices on or about May 6, 2014, pursuant to
3 authority under the Act; and,

4 The final report of examination (the “Report”) having been issued and delivered to
5 RESPONDENT on or about December 5, 2014, and having identified certain deficiencies and
6 violations of the Act and required RESPONDENT to submit to the Division a detailed written response
7 to the Report, within 30 days of its issuance, which set forth the corrective measures implemented by
8 RESPONDENT to monitor and assure future compliance and provided supporting documentation; and,

9 RESPONDENT having failed to submit the required response to the Division, and on or about
10 June 23, 2015, a Notice of Intent to Impose Discipline and Administrative Fine and Assess Investigative
11 Costs and Notice of Opportunity for Hearing (the “Notice”) was issued to RESPONDENT and advised
12 RESPONDENT that it was entitled to an administrative hearing if RESPONDENT filed a written
13 request for a hearing within 20 days of receipt of the Notice; and,

14 RESPONDENT having failed to request a hearing, on July 20, 2015, a final order, incorporated
15 herein by this reference, was issued and entered revoking RESPONDENT’S mortgage broker license
16 and imposing an administrative fine and investigative costs (the “Order”); and,

17 RESPONDENT having immediately contacted the Division upon receipt of the Order and
18 indicated that it had implemented corrective measures to address the deficiencies identified in the
19 Report but misunderstood that it was required to submit a response to the exam and requested an
20 opportunity to explain its failure to request a hearing and to discuss the corrective measures taken and
21 its desire to retain its license; and,

22 A meeting having been held between RESPONDENT and Division staff on July 30, 2015 to
23 discuss this matter and the facts and circumstances surrounding the Order, and at that meeting
24 RESPONDENT provided certain information and documents concerning the corrective measures
25 implemented and provided subsequent supplemental information; and,

26 RESPONDENT and Division staff having conferred and determined that the revocation of
27 RESPONDENT’S mortgage broker license should be lifted and its mortgage broker license restored
28 subject to the following terms and conditions:

1 1. RESPONDENT agrees to establish, implement, and maintain appropriate policies and
2 procedures to ensure that a) all of RESPONDENT'S monthly activity reports, financial statements, and
3 mortgage call reports are accurately completed and timely submitted, and b) RESPONDENT timely and
4 thoroughly responds to any request from the Division for any information, documents, records or
5 reports that may be required under NRS 645B or to demonstrate or support compliance with this
6 Consent Order.

7 2. RESPONDENT agrees to establish, implement, and maintain a program to monitor and assure
8 compliance with all state and federal laws and regulations pertaining to originating, brokering, making,
9 and servicing of mortgage loans (the "Compliance Program").

10 The Compliance Program will include the designation of a compliance officer who will conduct
11 reviews, not less than quarterly, of a sampling of RESPONDENT'S closed loan files and rejected loan
12 applications and assure compliance with all relevant state and federal laws and regulations.
13 RESPONDENT shall maintain written reports of the results of its file reviews. The reports shall be
14 kept and maintained as required by NRS 645B.080 and NAC 645B.077. The compliance officer must
15 be an employee of RESPONDENT and possess a minimum of 2 years of verifiable experience, during
16 the immediately preceding 5 years, in, or responsible for the oversight of individuals involved in,
17 originating, brokering, making or servicing of mortgage loans and may also serve as RESPONDENT'S
18 qualified employee if he or she otherwise meets the requirements NAC 645B.055.

19 Within 30 days of the date of this Consent Order, RESPONDENT must provide written
20 notification to the Division of the name and contact information for the individual designated as
21 compliance officer. If there is any change in the compliance officer, such change must be reported in
22 writing to the Division within 30 days of the change.

23 3. RESPONDENT agrees to implement a program to educate its officers and employees involved
24 in, or having oversight over an employee involved in, the origination, brokering, making, or servicing of
25 mortgage loans on all applicable state and federal laws and regulations, including, but not limited to
26 Chapter 645B of the Nevada Revised Statutes, Chapter 645B of the Nevada Administrative Code,
27 Chapter 598D of the Nevada Revised Statutes, the Federal Real Estate Settlement Procedures Act, the
28 Federal Truth in Lending Act, the Federal Equal Credit Opportunity Act, the Federal Secure and Fair

1 Enforcement for Mortgage Licensing Act, and the Federal Fair and Accurate Credit Transactions Act.
2 The education will be accomplished by requiring the officers and employees involved in, or having
3 oversight over an employee involved in, the origination, brokering, making, or servicing of mortgage
4 loans to attend and complete a minimum of 10 hours of education courses approved by the National
5 Mortgage Licensing System and Registry during the next 12 months. This paragraph does not apply to
6 a mortgage agent properly licensed and meeting the continuing education requirements under NRS
7 645B. RESPONDENT shall keep a written record and evidence of the education attendance and
8 completion for each officer and employee subject to this provision.

9 4. RESPONDENT agrees that within 30 days of the entry of this Consent Order, RESPONDENT
10 will designate, and obtain the approval of such designation for, an individual to serve as
11 RESPONDENT'S qualified employee at its licensed location. RESPONDENT further agrees that it
12 will not conduct any activity requiring licensure under the Act if the qualified employee is not approved
13 by the Commissioner within 30 days of the entry of this order.

14 5. RESPONDENT agrees that it will not seek licensure under the Act for any branch office
15 locations, or conduct any licensable activity from any branch office location, for a period of 1 year from
16 the date of entry of this Consent Order.

17 6. RESPONDENT agrees to pay to the Division an administrative fine in the amount of \$7,500.00.

18 7. RESPONDENT agrees to pay to the Division its investigative costs in the amount of \$435.00.

19 8. RESPONDENT agrees to pay to the Division its annual assessment under NRS 645F.180 and
20 NRS 645F.290 in the amount of \$169.00.

21 9. RESPONDENT agrees that if it fails to comply with the terms and conditions of this Consent
22 Order such failure is grounds for the revocation of RESPONDENT'S mortgage broker license or the
23 imposition of any other administrative enforcement action under NRS 645B.

24 RESPONDENT having had opportunity to consult with legal counsel of its choosing concerning
25 this matter; and,

26 RESPONDENT having knowingly and voluntarily affixed its authorized signature to the
27 attached voluntary consent, incorporated herein by this reference, has consented to the issuance of this
28 Consent Order with the intent to be legally bound hereby, and has waived and relinquished any and all

1 rights that RESPONDENT may now or hereafter have to an administrative hearing in this matter or to
2 judicial review of, or otherwise challenge or contest, the entry of this Consent Order; and,

3 The Commissioner having made the following FINDINGS and CONCLUSIONS:

4 1. The Commissioner has jurisdiction and authority to issue this Consent Order in this matter,
5 pursuant to the Nevada Administrative Procedures Act (“NAPA”), NRS 233B.010 *et seq.*, and the
6 Mortgage Brokers and Mortgage Agents Act, NRS 645B.010 *et seq.*

7 2. All required notices have been issued in this matter, and the notices and service thereof were
8 appropriate and lawful in all respects.

9 3. The terms of this Consent Order are a reasonable resolution of this matter and in the public
10 interest.

11 4. All applicable provisions of NAPA and NRS 622 have been met.

12 NOW, THEREFORE, IT IS HEREBY ORDERED that:

13 1. The July 20, 2015 order revoking RESPONDENT’S mortgage broker license shall be and
14 hereby is lifted and vacated and its mortgage broker license restored subject to the following terms and
15 conditions:

16 a. RESPONDENT shall establish, implement, and maintain appropriate policies and
17 procedures to ensure that a) all of RESPONDENT’S monthly activity reports, financial statements, and
18 mortgage call reports are accurately completed and timely submitted, and b) RESPONDENT timely and
19 thoroughly responds to any request from the Division for any information, documents, records or
20 reports that may be required under NRS 645B or to demonstrate or support compliance with this
21 Consent Order.

22 b. RESPONDENT shall establish, implement, and maintain a compliance program that
23 meets the requirements set forth in paragraph no. 2 on page 3 above.

24 c. RESPONDENT shall establish and implement an education program that meets the
25 requirements sets forth in paragraph no. 3 on pages 3 through 4 above.

26 d. RESPONDENT shall not seek licensure under the Act for any branch office locations, or
27 conduct any activity subject to the Act from any branch location, for a period of 1 year from the date of
28 entry of this order.

1 e. RESPONDENT shall pay to the Division an administrative fine in the amount of
2 \$7,500.00. The administrative fine shall be and is due upon RESPONDENT'S execution of the
3 attached voluntary consent and shall be tendered to the Division in accordance with the instructions
4 included in the enclosed invoice.

5 f. RESPONDENT shall pay to the Division investigative costs in the amount of \$435.00.
6 The investigative costs shall be and are due upon RESPONDENT'S execution of the attached voluntary
7 consent and shall be tendered to the Division with the administrative fine described above in accordance
8 with the instructions included in the enclosed invoice.

9 g. RESPONDENT shall pay to the Division its annual assessment under NRS 645F.180
10 and NRS 645F.290 in the amount of \$169.00. The annual assessment shall be and is due upon
11 RESPONDENT'S execution of the attached voluntary consent and shall be tendered to the Division
12 with the administrative fine described above in accordance with the instructions included in the
13 enclosed invoice.

14 2. This Consent Order shall be and is effective and enforceable on the date that it is issued, as
15 shown in the caption hereof.

16 3. This Consent Order shall remain effective and enforceable until terminated, modified, set aside
17 or suspended in writing by the Commissioner.

18 4. The Commissioner specifically retains jurisdiction of the matters contained herein and has the
19 authority to issue such further order(s) as he shall deem just, necessary, and appropriate to enforce the
20 Act and protect the public.

21 **IT IS SO ORDERED.**

22
23 DIVISION OF MORTGAGE LENDING

24
25 By: 
26 JAYES WESTRIN, COMMISSIONER