

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:)
Plateau Data Services, LLC, dba) Order No. 2020-006
Ratemarketplace) Case No. 2020-006
Mortgage Broker License No. UNL (unlicensed),)
Respondent.)

**ORDER TO CEASE AND DESIST,
NOTICE OF INTENT TO ISSUE
FINAL ORDER IMPOSING AN ADMINISTRATIVE FINE AND INVESTIGATIVE COSTS,
AND
NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING**

Issued and Entered,
This 11th day of June, 2021,
By Cathy Sheehy,
Commissioner

**ORDER TO CEASE AND DESIST AND
NOTICE OF INTENT TO ISSUE
FINAL ORDER IMPOSING AN ADMINISTRATIVE FINE AND INVESTIGATIVE COSTS**

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 and Chapter 645B of the Nevada Administrative Code (collectively, “the Act”), governing the licensing and conduct of mortgage brokers and/or mortgage companies doing business in the State of Nevada; and,

The Commissioner having been further vested with broad authority to conduct investigations to determine whether any person is violating or has violated any provision of the Act,

The Division of Mortgage Lending (“the Division”) having received information indicating that PLATEAU DATA SERVICES, LLC, dba RATEMARKETPLACE (hereinafter “Ratemarketplace”) is engaged in activity requiring licensure as a mortgage broker and/or mortgage company under the Act;

1 and;

2 The Division having commenced an investigation of RATEMARKETPLACE's business
3 practices pursuant to NRS 645B.060, and having determined from that investigation that
4 RATEMARKETPLACE is engaged in activity requiring licensure as a mortgage broker and/or mortgage
5 company under the Act; and

6 The Division staff having reported the results of its investigation to the Commissioner; and

7 The Commissioner having reviewed the results of the investigation, makes the following
8 FINDINGS OF FACT and CONCLUSIONS OF LAW.

9 **FINDINGS OF FACT**

10 1. NRS 645B.0127, in pertinent part and as effective through December 31, 2019, defines
11 "mortgage broker," as:

12 1. "Mortgage broker" means a person who, directly or indirectly:

13 (a) Holds himself or herself out for hire to serve as an agent for any
14 person in an attempt to obtain a loan which will be secured by a lien on real
15 property;

16 (b) Holds himself or herself out for hire to serve as an agent for any
17 person who has money to lend, if the loan is or will be secured by a lien on
18 real property;

19 2. Additionally, NRS 645B.0127, in pertinent part and as from January 1, 2020, defines
20 "mortgage company," as:

21 1. "Mortgage company" means a person who, directly or indirectly:

22 (a) Holds himself or herself out for hire to serve as an agent for any
23 person in an attempt to obtain a loan which will be secured by a lien on real
24 property;

25 (b) Holds himself or herself out for hire to serve as an agent for any
26 person who has money to lend, if the loan is or will be secured by a lien on
27 real property;

28 3. NRS 645B.900, as effective through December 31, 2019, states:

It is unlawful for any person to offer or provide any of the services of a
mortgage broker or mortgage agent or otherwise to engage in, carry on or
hold himself or herself out as engaging in or carrying on the business of a
mortgage broker or mortgage agent without first obtaining the applicable
license issued pursuant to this chapter, unless the person:

1. Is exempt from the provisions of this chapter; and

2. Complies with the requirements for that exemption.

4. Additionally, NRS 645B.900, as effective from January 1, 2020, states:

It is unlawful for any person to offer or provide any of the services of a
mortgage company or mortgage loan originator or otherwise to engage in,
carry on or hold himself or herself out as engaging in or carrying on the

1 business of a mortgage company or mortgage loan originator without first
2 obtaining the applicable license issued pursuant to this chapter, unless the
3 person:

1. Is exempt from the provisions of this chapter; and
2. Complies with the requirements for that exemption.

4 5. NRS 645B.690, in pertinent part and as effective through December 31, 2019, states:

1. If a person offers or provides any of the services of a mortgage broker
5 or mortgage agent or otherwise engages in, carries on or holds himself or
6 herself out as engaging in or carrying on the business of a mortgage broker
or mortgage agent and, at the time:

7 (a) The person was required to have a license pursuant to this chapter
and the person did not have such a license;

8 ...

the Commissioner shall impose upon the person an administrative fine of
9 not more than \$50,000 for each violation and, if the person has a license,
10 the Commissioner may suspend or revoke it.

11 6. Additionally, NRS 645B.690, in pertinent part and as effective from January 1, 2020,

states:

12 1. If a person offers or provides any of the services of a mortgage
13 company or mortgage loan originator or otherwise engages in, carries on or
holds himself or herself out as engaging in or carrying on the business of a
14 mortgage company or mortgage loan originator and, at the time:

15 (a) The person was required to have a license pursuant to this chapter
and the person did not have such a license;

16 ...

the Commissioner may impose upon the person an administrative fine of
17 not more than \$50,000 for each violation and, if the person has a license,
the Commissioner may suspend or revoke it.

18 7. On or about February 3, 2020, the Division became aware of facts indicating that
19 RATEMARKETPLACE was engaged in activity requiring licensure under the Act. In particular, the
20 Division received an email from, Amber Ruhberg, Licensing Supervisor with the Nevada State
21 Department of Business & Industry, that stated:

22 I have a complaint... This company has been contacting me about refinancing my house.
23 When they call they refuse to tell me who their regulator is and continue to ask personal
financial questions. I looked them up and they are not licensed in Nevada. They call from
24 775-431-1225.
<https://www.ratemarketplace.com/>

25 8. RATEMARKETPLACE is not licensed as a mortgage broker and/or mortgage company
26 in the State of Nevada.

27 9. Based on this complaint, the Division began an investigation into
28 RATEMARKETPLACE. A Division Investigator researched the website www.ratemarketplace.com and

1 found that the company advertised itself as a “lead generator” for various types of mortgage loans. The
2 company advertised the contact information for several “Nevada Mortgage Lenders.” The website did
3 not advertise that the company was licensed to conduct mortgage related business in Nevada but did
4 advertise that it was licensed to do so in other states. The Investigator researched
5 RATEMARKETPLACE in the NMLS and found it to be an “other trade name” for Plateau Data Services,
6 LLC (NMLS#1137890). The investigator researched the company in the Division’s database and found
7 that neither Plateau Data Services, LLC nor RATEMARKETPLACE were licensed nor registered as an
8 exempt company in Nevada.

9 10. On February 5, 2020, the Division investigator sent a letter to Matthew Tillman, president
10 of Plateau Data Services, LLC, parent company of RATEMARKETPLACE. The investigator advised
11 that records show that RATEMARKETPLACE is not licensed in the State of Nevada to conduct
12 mortgage services, to include acting as a “lead generator,” and to provide a response by February 18,
13 2020 including a comprehensive description of the company’s business model, an explanation as to why
14 the company was conducting unlicensed activity, an explanation as to why the company was advertising
15 closed or unlicensed Nevada mortgage companies, and an explanation of the source of the consumer
16 information used to solicit mortgage related business in Nevada. Tillman failed to respond by the due
17 date; a new letter was sent setting a new due date of March 6, 2020.

18 11. On February 24, 2020, the investigator received a phone call from Heath Clinger, Chief
19 Business Officer for Plateau Data Services. He advised they had been out of the office and that a written
20 response to the letter would be sent via email.

21 12. On February 25, 2020, the investigator received an email from Clinger with three
22 attachments, (1) a cover letter, (2) a “Business Summary,” (3) and correspondence between Costas
23 Avrakotos (“Avrakotos”), an attorney with K&L Gates, LLP and retired Deputy Commissioner for the
24 Division, Nancy Corbin (“Corbin”). The Cover letter from Clinger identified RATEMARKETPLACE
25 as a “Lead Generator” and provided an explanation of business activities carried on by
26 RATEMARKETPLACE. It also referenced the correspondence between Corbin and Avrakotos. Clinger
27 indicated, “Our position was that, because the statute defining Mortgage Broker (now Mortgage
28 Company) has not changed, there was no reason to believe the exemption would not still apply. The dates
in the letter from Corbin were redacted but the year of the letter was visible. The letter was written in

1 2011 and was a response to a letter from Avrakotos. The letter states, "It does not appear that the
2 "Company" would need to be licensed based upon the representations within your letter as long as: 1)
3 Nevada consumers will only be contacted by a mortgage broker licensed in Nevada or otherwise exempt
4 from licensing with the Division. 2) The information received will not be used to qualify, negotiate or
5 arrange loan terms or take applications for obtaining a mortgage loan. 3) Compensation is a flat fee and
6 will not be based upon the completed loan transaction by the consumer and compensation is established
7 by a previously arranged contractual agreement. 4) It is disclosed that the "Company" is not a lender and
8 none of their affiliates will loan funds to potential borrowers. The letter that Corbin's 2011 letter was
9 written in response to was not provided by Clinger.

10 13. Clinger did provide a copy of a letter written to Corbin by Avrakotos on July 28, 2014,
11 wherein Avrakotos wrote to confirm the Division's position that a license was not required for
12 RATEMARKETPLACE. In that letter, Avrakotos stated:

13 "As noted above, the purpose of this letter is to request re-confirmation that
14 a licensing obligation does not arise under the Nevada Mortgage Broker and
15 Agents Act for the Company to engage in activities as an on-line lead
16 generator."

17 **Clinger claimed that Corbin never responded to Avrakotos' request for confirmation.**

18 14. A Division Lead Investigator reviewed Division records and found the letter written by
19 Corbin in response to Avrakotos' July 28, 2014 letter. The letter includes the following:

20 "The Division has reviewed the information provided in support of your
21 request. Based upon that review, and in reliance upon the information and
22 representations provided, the Division has concluded that the licensing
23 requirements of NRS 645B *do* apply to the company".

24 15. On February 25, 2020, the investigator wrote to Tillman and Clinger to advise of the
25 discovery of Corbin's 2014 response to Avrakotos in which he was advised that the company needed to
26 be licensed to conduct activities as a "lead generator." The investigator recommended that
27 RATEMARKETPLACE immediately cease and desist from conducting activity as a "lead generator" to
28 include the use of online computer platforms as well as telephone calls.

16. On February 26, 2020, Clinger sent an email to the investigator and advised:

"as previously indicated, we have ceased Nevada lead operations. I also
wish to stress that, at all times, Plateau Data Services has and will act in
good faith regarding our lead generation business in Nevada. To that end, it

1 is our intention to obtain a mortgage broker license in Nevada if the
2 Department will allow it”.

3 17. On March 25, 2020, the investigator received an email from Clinger advising that the
4 company’s plan to seek licensure in Nevada has been “put on hold for the time being.”

5 18. By conducting business as a lead generator, RATEMARKETPLACE engaged in activities
6 and conduct which require licensure as a mortgage broker and/or mortgage company in Nevada.

7 19. RATEMARKETPLACE has neither applied for a license nor has it applied for an
8 exemption.

9 20. NRS 645B.690 authorizes the Commissioner to impose an administrative fine of not more
10 than \$50,000.00, for each violation.

11 21. NRS 645B.070 authorizes the Commissioner to assess investigation costs against a person
12 when the investigation is conducted to investigate the conduct, activities or business of the person
13 pursuant to the Act.

14 22. Any findings of fact that may be deemed a conclusion of law shall be so construed.

15 CONCLUSIONS OF LAW

16 RATEMARKETPLACE is in violation of NRS 645B.900 by engaging in the business of a
17 mortgage broker and/or mortgage company in the state of Nevada without a license from the Division.

18 ORDER

19 The Commissioner having formed the opinion based upon the foregoing that
20 RATEMARKETPLACE has been and is engaged in unlicensed activities in violation of the Act, and
21 concluded and determined that RATEMARKETPLACE should be ordered to: 1) cease and desist from
22 engaging in any activity requiring licensure under NRS 645B; and 2) pay an administrative fine.

23 NOW, THEREFORE, IT IS ORDERED that RATEMARKETPLACE shall immediately CEASE
24 AND DESIST from engaging in, or otherwise carrying on or holding itself out as engaging in or carrying
25 on any activities that require licensure as a mortgage broker and/or mortgage company under the Act,
26 until such time as it is granted a license to do so.

27 IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the total amount of
28 \$50,000.00 shall be and hereby is imposed in accordance with NRS 645B690. The ADMINISTRATIVE

1 FINE shall be due and payable on the 30th day following the effective date of this Order and shall be
2 tendered to the Division in accordance with the attached wire transfer instructions.

3 IT IS FURTHER ORDERED that RATEMARKETPLACE shall be and hereby is assessed the
4 Division's INVESTIGATIVE COSTS in the amount of \$1,110 in accordance with NRS 645B.070 The
5 INVESTIGATIVE COSTS shall be due and payable on the 30th day following the effective date of this
6 Order and shall be tendered to the Division with the ADMINISTRATIVE FINE in accordance with the
7 attached wire transfer instructions.

8 IT IS FURTHER ORDERED that an administrative hearing shall be scheduled in this matter only
9 if RATEMARKETPLACE timely requests an administrative hearing in accordance with the instructions
10 set forth in the section of this Order below entitled Notice of Opportunity for an Administrative Hearing.
11 **If no administrative hearing is requested within 30 calendar days of the effective date of this**
12 **ORDER, RATEMARKETPLACE shall be deemed to have waived and relinquished the right to**
13 **an administrative hearing in this matter and a FINAL ORDER shall be issued in this matter.**

14 IT IS FURTHER ORDERED that this Order shall be and is effective and enforceable on the date
15 that it is issued and entered, as shown in the caption hereof.

16 IT IS FURTHER ORDERED that this Order shall remain effective and enforceable until
17 terminated, modified, set aside, or suspended in writing by the Commissioner.

18 IT IS FURTHER ORDERED that the Commissioner specifically retains jurisdiction over the
19 matters contained herein and has the authority to issue such further order(s) as the Commissioner shall
20 deem just, necessary, and appropriate to enforce the Act and protect the public.

21 **IT IS SO ORDERED.**

22 DIVISION OF MORTGAGE LENDING

23 By: 
24 Cathy Sheehy, Commissioner

25
26 **NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING**

27 The following provisions of the Nevada Revised Statutes and Nevada Administrative Code are relevant
28 to the right to hearing in this matter:

1
2 **NAC 645B.515 Orders to cease and desist from certain activities.**

3 1. If a person engages in an activity in violation of the provisions of this chapter or chapter
4 645B of NRS, the Commissioner may issue an order to the person directing the person to cease
5 and desist from engaging in the activity.

6 2. The order to cease and desist must be in writing and must state that, in the opinion of the
7 Commissioner, the person has engaged in an activity:

8 (a) For which the person has not received a license or certificate of exemption as required by
9 chapter 645B of NRS; or

10 (b) In a manner that violates the provisions of this chapter or chapter 645B of NRS.

11 3. A person who receives an order to cease and desist pursuant to this section shall not engage
12 in any activity governed by chapter 645B of NRS after receiving the order unless the order is
13 suspended or rescinded.

14 4. Not later than 30 calendar days after receiving an order pursuant to this section, the person
15 who receives the order may file a verified petition with the Commissioner to request a hearing.
16 Upon receipt of the verified petition, the Commissioner may, for good cause shown, suspend the
17 order pending the hearing. The Commissioner will hold the hearing on a date not later than 30
18 calendar days after the date the petition is filed unless the Commissioner and the person agree to
19 another date. The order to cease and desist is rescinded if the Commissioner fails to:
20

21 (a) Hold a hearing:

22 (1) Not later than 30 calendar days after the date the petition is filed; or

23 (2) On a date agreed to by the Commissioner and the person; or

24 (b) Render a written decision within 45 days after the date the hearing is concluded.

25 5. The decision of the Commissioner after a hearing is a final decision of the Division for the
26 purposes of judicial review.
27
28

1
2 **NRS 233B.121 Notice of hearing in contested case; contents of notice; representation by**
3 **counsel; opportunity to respond and present evidence and argument; fees and mileage for**
4 **witnesses; informal disposition; voluntary surrender of license in contested case deemed**
5 **disciplinary action; contents of record; transcriptions; findings of fact.**

6 1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable
7 notice.

8 2. The notice must include:

9 (a) A statement of the time, place and nature of the hearing.

10 (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

11 (c) A reference to the particular sections of the statutes and regulations involved.

12 (d) A short and plain statement of the matters asserted. If the agency or other party is unable
13 to state the matters in detail at the time the notice is served, the initial notice may be limited to a
14 statement of the issues involved. Thereafter, upon application, a more definite and detailed
15 statement must be furnished.
16

17 3. Any party is entitled to be represented by counsel.

18 4. Opportunity must be afforded all parties to respond and present evidence and argument on
19 all issues involved. An agency may by regulation authorize the payment of fees and
20 reimbursement for mileage to witnesses in the same amounts and under the same conditions as
21 for witnesses in the courts of this state.

22 5. Unless precluded by law, informal disposition may be made of any contested case by
23 stipulation, agreed settlement, consent order or default. If an informal disposition is made, the
24 parties may waive the requirement for findings of fact and conclusions of law.
25

26 6. The voluntary surrender of a license in a contested case shall be deemed to constitute
27 disciplinary action against the licensee.

28 7. The record in a contested case must include:

1 (a) All pleadings, motions and intermediate rulings.

2 (b) Evidence received or considered.

3 (c) A statement of matters officially noticed.

4 (d) Questions and offers of proof and objections, and rulings thereon.

5 (e) Proposed findings and exceptions.

6 (f) Any decision, opinion or report by the hearing officer presiding at the hearing.

7
8 8. Oral proceedings, or any part thereof, must be transcribed on request of any party. The party
9 making the request shall pay all the costs for the transcription.

10 9. Findings of fact must be based exclusively on a preponderance of the evidence and on
11 matters officially noticed.

12 **NRS 233B.032 "Contested case" defined.**

13 "Contested case" means a proceeding, including but not restricted to rate making and licensing,
14 in which the legal rights, duties or privileges of a party are required by law to be determined by
15 an agency after an opportunity for hearing, or in which an administrative penalty may be imposed.
16

17 **If you wish to exercise your right to an opportunity for an administrative hearing, within**
18 **30 calendar days after receiving this Order, you must file a verified petition with the Commissioner**
19 **to request a hearing.**

20 The verified petition requesting a hearing must be delivered to:

21 Division of Mortgage Lending

22 Attn. Kelley Pacheco

23 3300 W. Sahara Avenue, Suite #285

24 Las Vegas, Nevada 89102

25 **If you fail to timely file a verified petition to request a hearing, your right to a hearing**
26 **to contest this matter will be deemed waived and relinquished and a Final Order will be issued.**
27