

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:

YOLANDA CONTRERAS,
Escrow Agent License No. UNL (unlicensed)

Respondent.

Order No. 2021-006

Case No. 2021-006

**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 28th day of July, 2021,
By Cathy Sheehy,
Commissioner

**NOTICE OF OPPORTUNITY TO SHOW COMPLIANCE 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 645A of the Nevada Revised Statutes and Chapter 645A of the Nevada Administrative Code (collectively, "the Act"), governing the licensing and conduct of escrow agencies and agents 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 YOLANDA CONTRERAS ("CONTRERAS"), engaged in activity that is in violation of the Act; and;

The Division having commenced an investigation into CONTRERAS pursuant to NRS 645A.050, and having determined from that investigation that CONTRERAS, although not licensed as an escrow

1 agent, was performing the duties of an escrow agent and held herself out as an escrow agent in violation
2 of the Act; and

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

4 The Commissioner having reviewed the results of the investigation, makes the following

5 **FINDINGS OF FACT and CONCLUSIONS OF LAW.**

6 **FINDINGS OF FACT**

- 7 1. NRS 645A.010(8), defines "Escrow agency," as:
- 8 8. "Escrow agency" means:
- 9 (a) Any person who employs one or more escrow agents; or
- 10 (b) An escrow agent who administers escrows on his or her own behalf;
- 11 2. NRS 645A.010(9), defines "Escrow agent," as:
- 12 9. "Escrow agent" means any natural person employed by and associated
- 13 with an escrow agency engaged in the business of administering escrows
- 14 for compensation;
- 15 3. NAC 645A.220, states in pertinent part:
- 16 1. Each escrow agent and agency shall conduct the business of the escrow
- 17 agency openly, fairly and honestly, and shall at all times conform to the
- 18 accepted business ethics and practices of the escrow agency business.
- 19 9. An escrow agency shall not accept any change to escrow instructions,
- 20 or to amended or supplemental escrow instructions, unless the change is
- 21 signed or initialed by all persons who signed or initialed the escrow
- 22 instructions before the change was presented.
- 23 4. NRS 645A.015, states in pertinent part:
- 24 1. Except as otherwise provided in subsection 2, it shall be unlawful for
- 25 any person to engage in or carry on, or hold himself or herself out as
- 26 engaging in or carrying on, the business of administering escrows or to act
- 27 in the capacity of an escrow agent or escrow agency within this State or
- 28 with respect to any transaction involving real or personal property located
- in this State without first obtaining a license as an escrow agent or escrow
- agency issued by the Commissioner pursuant to the requirements of this
- chapter.
5. NRS 645A.086, states in pertinent part:
- If a person offers or provides any of the services of an escrow agent or
- escrow agency or otherwise engages in, carries on or holds himself or
- herself out as engaging in or carrying on the business of an escrow agent or
- escrow agency and, at the time:
1. The person was required to have a license pursuant to this chapter
- and the person did not have such a license; or
2. The person's license was suspended or revoked pursuant to this
- chapter,

1 the Commissioner shall impose upon the person an administrative fine of
2 not more than \$25,000 for each violation and, if the person has a license,
3 the Commissioner may suspend or revoke it.

4 6. CONTRERAS is employed as support staff by ACME TITLE AND ESCROW
5 SERVICES ("ACME").

6 7. On or about September 4, 2020, the Division became aware of facts indicating that ACME
7 was engaged in activity in violation of the Act. In particular, the Division received a complaint from
8 Meghan Waters (Meghan), daughter of seller Bridget Waters (Bridget). The complaint alleged that
9 Bridget was due from ACME the proceeds of the sale of Bridget's home. ACME allegedly received an
10 email purporting to be from Bridget's real estate agent, asking that the proceeds be transferred to a Wells
11 Fargo account instead of the previously agreed to account. CONTRERAS wired the proceeds to the
12 requested Wells Fargo account. CONTRERAS did not check with the real estate agent, Meghan, or
13 Bridget prior to changing the bank account information. ACME allegedly became aware that the email
14 purporting to be from the real estate agent was fraudulent. ACME informed Bridget of the fraud and was
15 able to provide a portion of the proceeds to the correct account. ACME failed however to provide all of
16 proceeds due. The Complaint alleged, among other allegations, that ACME failed to provide a date on
17 which Bridget could expect her money and that ACME showed a lack of urgency in remedying the
18 situation. The Complaint asked for a resolution in the form of ACME paying all of the proceeds due to
19 Bridget.

20 8. Based on this complaint, the Division began an investigation into ACME and
21 CONTRERAS. A Division Investigator contacted ACME. The investigator found that as in relation to
22 the allegations discussed in paragraph 7 above, at the end of this real estate transaction, CONTRERAS,
23 support staff for ACME, received an email from the seller's real estate agent on August 11, 2020,
24 requesting ACME make a change in bank account information where the seller's proceeds were to be
25 distributed. At the time of closing, the funds were disbursed using the new account information to Wells
26 Fargo Bank on August 17, 2020.

27 Wells Fargo intercepted this wire of seller's proceeds due to the names not matching and notified ACME
28 of the discrepancy on August 20, 2020. Wells Fargo was able to close the account and saved \$80,467.47
of the seller's proceeds, which were then provided to the correct account. The original amount due to
Bridget was \$123,861.86. CONTRERAS confirmed Bridget does not have a Wells Fargo account on

1 August 20, 2020. During this time, ACME discovered that a breach occurred with the real estate agent's
2 email account, in that the email requesting the change actually came from an email address that was
3 similar, but did not match, the real estate agent's email address.

4 9. ACME made the seller (Bridget) whole with the remaining funds on September 11, 2020,
5 in the amount of \$43,394.39.

6 10. In emails between the Division and Lacy Taylor ("Taylor") from September 4, 2020
7 through June 1, 2021, Taylor stated that ACME designated CONTRERAS as the second person for
8 approvals and input on outgoing wires, and that CONTRERAS is an active employee working on her
9 escrow agent license.

10 11. ACME has a website at acmetitleandescrow.com. The ACME website shows
11 CONTRERAS as an Escrow Officer under the tab "About Us - Our Team".

12 12. During the course of the investigation, and a mortgage servicing examination and a loan
13 file review of a separate and unrelated file, CONTRERAS is listed as the Settlement Agent / Escrow
14 Officer on multiple loan documents. This loan was completed on December 26, 2019. The complete
15 loan file was obtained from the originating company.

16 13. ACME's Model Policies and Procedures 2020 were requested and reviewed. The section
17 under Trust Accounting/Funds Handling Procedures is contradictory and discloses the following:

18 **4. Model Policy and/or Procedure:** Adopt and maintain a strong system
19 of internal controls to safeguard trust funds.

20 Purpose: A system of internal controls allows the escrow settlement agent
21 to effectively manage trust funds in a manner consistent with fiduciary and
22 legal requirements. These processes and procedures ensure accurate records
23 and help prevent instances of the loss of client trust funds. Where
24 appropriate, escrow settlement agents may contract with subject matter
25 experts to advise and implement certain procedures or protocols or provide
26 services consistent with these responsibilities.

24 Recommended Procedures:

25 j) Only those employees whose authority has been defined to authorize
26 bank transactions may do so. Appropriate authorization levels are set by the
27 Company and reviewed for updates on a regular basis.

27 14. The investigator found that CONTRERAS is a current employee of ACME.

28 15. CONTRERAS applied with the Division to obtain an Escrow Agent license and the
original application was received by the Division on April 20, 2020.

1 Order and shall be tendered to the Division with the ADMINISTRATIVE FINE in accordance with the
2 attached wire transfer instructions.

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


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

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

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

16 **IT IS SO ORDERED.**

17 DIVISION OF MORTGAGE LENDING

18 By: 
19 Cathy Sheehy, Commissioner

20 **NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING**

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

23 **NAC 645A.350 Orders to cease and desist from certain activities.**

24 1. If a person engages in an activity in violation of the provisions of this
25 chapter or chapter 645A of NRS or an order of the Commissioner, the
26 Commissioner may issue an order to the person directing the person to cease
and desist from engaging in the activity.

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

28 (a) For which the person has not received a license as required by this
chapter or chapter 645A of NRS; or

1 (b) In a manner that violates the provisions of this chapter or chapter
2 645A of NRS or an order of the Commissioner.

3 3. A person who receives an order to cease and desist pursuant to this
4 section shall not engage in any activity governed by this chapter or chapter
5 645A of NRS after receiving the order unless the order is suspended or
6 rescinded.

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

15 (a) Hold a hearing:

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

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

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

21 5. The decision of the Commissioner after a hearing is a final decision
22 of the Commissioner for the purposes of judicial review.

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

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

2. The notice must include:

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

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

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

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

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

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

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

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

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

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

9 (b) Evidence received or considered.

10 (c) A statement of matters officially noticed.

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

12 (e) Proposed findings and exceptions.

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

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

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

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

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

25 **If you wish to exercise your right to an opportunity for an administrative hearing, within**
26 **30 calendar days after receiving this Order, you must file a verified petition with the Commissioner**
27 **to request a hearing.**

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

Division of Mortgage Lending

Attn. Kelley Pacheco

3300 W. Sahara Avenue, Suite #285

Las Vegas, Nevada 89102

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