

1 STATE OF NEVADA
2 DEPARTMENT OF BUSINESS AND INDUSTRY
3 DIVISION OF MORTGAGE LENDING

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5 In re:
6 THOMAS A. CASS,
7 Respondent.

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10 **FINAL ORDER**

11 The State of Nevada, Department of Business and Industry, Division of Mortgage
12 Lending Division (hereinafter, the "DIVISION"), having served the Respondent, THOMAS A
13 CASS, hereinafter, "RESPONDENT") on 12/3/2007, with its Order Revoking License and
14 Order Imposing Fine and Notice of Right to Request Hearing, attached hereto as Exhibit "1"
15 and incorporated herein by reference, which notified RESPONDENT that a final order would
16 issue in this matter unless, within twenty (20) days of entry and receipt of said Order,
17 RESPONDENT requested a hearing to contest the charges against it, with said request to be
18 made in writing, and;

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20 Said Order having been sent to RESPONDENT via certified mail and regular mail and
21 received by RESPONDENT on 12/06/2007, and;

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23 RESPONDENT having requested a hearing in this matter on 1/3/2008, and having an
24 Order of Dismissal issued on 2/2/2008, and in good cause appearing:

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EXHIBIT “1”

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

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In re:
THOMAS A. CASS,
Respondent.

**ORDER REVOKING LICENSE AND
ORDER IMPOSING FINE
AND NOTICE OF RIGHT TO REQUEST HEARING**

The licensing and regulation of mortgage brokers and mortgage agents in the State of Nevada is governed by Chapter 645B of the Nevada Revised Statutes (hereinafter, "NRS") and Chapter 645B of the Nevada Administrative Code (hereinafter, "NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter, the "DIVISION") has the general duty to exercise supervision and control over mortgage brokers, mortgage agents and mortgage brokering activity. See, NRS 645B.060(1), NRS 645B.690(1)(a) and NRS 645B.670. Pursuant to that authority, the DIVISION makes the following Factual Allegations, Violations of Law, and Order as follows:

FACTUAL ALLEGATIONS

1. THOMAS A. CASS. (hereinafter, "RESPONDENT") is a licensed mortgage agent operating within the State of Nevada. RESPONDENT was issued a mortgage agent's license pursuant to Chapter 645B of the Nevada Revised Statutes on May 23, 2005. The DIVISION currently classifies RESPONDENT'S license as inactive as of March 6, 2007.

2. On February 5, 2007, the DIVISION received a Complaint regarding RESPONDENT, who was allegedly working as a mortgage agent on behalf of Ascent Home

1 Loans, Inc. (hereinafter, "ASCENT"). Specifically, this Complaint concerned RESPONDENT'S
2 operation of an alleged "credit restoration" business, while brokering and processing loans on
3 ASCENT'S behalf. It was further alleged that RESPONDENT conducted numerous credit repair
4 activities by way of information gained in his capacity as ASCENT'S agent, notwithstanding
5 ASCENT'S complete lack of knowledge of RESPONDENT'S activities. It was also alleged that
6 an unlicensed individual named Joshua Eckles (hereinafter, "ECKLES") had represented to
7 clients of ASCENT that he was, in fact, a licensed mortgage agent and had gone so far as to
8 execute loan documents to this effect.

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10 3. Pursuant to NRS 645B.060, the DIVISION is charged with conducting "...such
11 investigations as may be necessary to determine whether any person has violated any provision
12 of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner."
13 See, NRS 645B.060(2)(b).

14 4. Pursuant to NRS 645B.060, the DIVISION is further charged with conducting
15 "...such other examinations, periodic or special audits, investigations and hearings as may be
16 necessary and proper for the efficient administration of the laws of this State regarding
17 mortgage brokers and mortgage agents..." See, NRS 645B.060(2)(d).

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19 5. Pursuant to NRS 645B.610, the DIVISION is further charged with investigating
20 "...each violation alleged in [a] complaint..." received by the DIVISION and "...shall determine
21 from the investigation whether there is reasonable cause to believe that the [accused]
22 committed the alleged violation..." See, NRS 645B.610(1), (3).

23 6. Pursuant to NAC 645B.320(4), "...the Commissioner ... may order the [person
24 against whom a complaint is filed pursuant to NRS 645B.600]... to respond in writing to the
25 written complaint within a period of time specified by the Commissioner..." See, NAC
26 645B.320(4).

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2 7. After receiving the above-described Complaint regarding RESPONDENT, the
3 DIVISION conducted an investigation of the allegations in question. This investigation revealed
4 the following:

5 a. Representatives of the DIVISION made inquiries of RESPONDENT in
6 connection with his "credit restoration" business, known as "702 FINANCIAL, LLC". After
7 attempting to speak with RESPONDENT on four (4) occasions, at both his business and
8 residential addresses, RESPONDENT has yet to respond to the DIVISION in any way.

9 b. Ultimately, ASCENT provided DIVISION representatives with three (3) loan
10 files that RESPONDENT had originated. Upon its review of these files, the DIVISION learned
11 the following:

12 1) **Ascent Loan File #1:** The DIVISION'S review of this file revealed
13 the presence of a credit report that ASCENT had purportedly requested on October 5, 2006.
14 Said report was prepared for, and sent to ASCENT at "1700 E. Desert Inn Road, #315". Further
15 research by the DIVISION showed that this address had no actual connection to ASCENT, but
16 was, in fact, a business address for "702 FINANCIAL, LLC", RESPONDENT'S credit repair firm.

17 Additionally, the "Residential Loan Application Form 1003" (hereinafter,
18 referred to as the "1003") for this loan was dated November 13, 2006, bearing ECKLES'
19 signature and reflecting ECKLES' status as the interviewer for the completion of said form.
20 Upon information and belief, RESPONDENT employed ECKLES, an unlicensed individual, to
21 work both at his "credit restoration" business as well as in an office support capacity with
22 ASCENT.
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24 This 1003 further reflects ECKLES' representation that he was employed
25 with ASCENT at "3318 North Decatur Blvd., Suite #2076"; another business address for "702
26 FINANCIAL, LLC". DIVISION records also indicate that ECKLES was not yet licensed as a loan
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1 officer in the State of Nevada, as of November 13, 2006. Thus, upon information and belief,
2 ECKLES' execution of the 1003 on November 13, 2006 was improper and all of the above-
3 described activities involving ECKLES occurred with the knowledge, if not the direct participation
4 of RESPONDENT.

5 2) **Ascent Loan File #2:** The DIVISION'S review of this file revealed
6 the presence of a credit report that ASCENT had purportedly requested, which was prepared for
7 and sent to ASCENT at "3318 North Decatur, Suite #2076", a business address for "702
8 FINANCIAL, LLC". Additionally the 1003 for this loan, as ASCENT provided, was dated
9 October 3, 2006 and was signed "Tom Cass by Rachel Wixon".
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11 When subsequently questioned about the identity of "Rachel Wixon"
12 (hereinafter, "WIXON"), ASCENT stated that she worked in their secondary department as a
13 "loan shipper / funder". However, a review of DIVISION records indicates that WIXON has
14 never held a license of any kind with the DIVISION. This file further contained a facsimile of
15 October 5, 2006, which purported to be from ECKLES to ASCENT'S corporate office. This
16 facsimile was issued on "702 FINANCIAL, LLC" letterhead and included the borrower's waiver
17 of their right to rescind their loan with ASCENT.
18

19 Thus, upon information and belief, WIXON'S execution of the 1003 in
20 connection with this loan was improper and all of the above-described activities involving
21 ECKLES and WIXON occurred with the knowledge, if not the direct participation of
22 RESPONDENT.

23 3) **Ascent Loan File #3:** The DIVISION'S review of this file revealed
24 the presence of a credit report that ASCENT had requested on August 8, 2006. Said report
25 was prepared for, and sent to ASCENT at "1700 E. Desert Inn Road, #315". Once again, this
26 address had no actual connection to ASCENT, but was, in fact, a business address for "702
27 FINANCIAL, LLC; an entity under RESPONDENT'S ownership. This file also contains a letter
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1 from "Financial Title Co." (hereinafter, "TITLE") to ASCENT at the "1700 E. Desert Inn Road,
2 #315" address specified above, in which TITLE had enclosed a closing statement and a check
3 in the amount of \$6,078.00, representing the proceeds to ASCENT from this transaction. Thus,
4 RESPONDENT'S diversion of funds away from ASCENT'S designated office to another
5 unrelated destination was improper.

6 d. In speaking with ASCENT concerning the allegations raised against
7 RESPONDENT, ASCENT also claimed to be unaware that RESPONDENT had hired ECKLES
8 to work at RESPONDENT'S "702 FINANCIAL, LLC" offices. ASCENT further claimed not to
9 know that ECKLES had represented to others in October and November 2006 that he was a
10 "mortgage agent" employed with ASCENT, as documented in the above-referenced loan files.

11 e. The DIVISION'S investigation further revealed that ASCENT hired
12 ECKLES in an office support capacity on December 23, 2006, and that ECKLES finally received
13 his mortgage agent's license from the DIVISION on January 8, 2007.

14 8. Pursuant to NRS 645B.900, "...it is unlawful for any person to offer or provide any
15 of the services of a mortgage broker or mortgage agent or otherwise to engage in, carry on or
16 hold himself out as engaging in or carrying on the business of a mortgage broker or agent
17 without first obtaining the applicable license issued pursuant to this chapter..." See, NRS
18 645B.900.

19 9. Pursuant to NRS 645B.690, "...if a person offers or provides any of the services
20 of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself
21 out as engaging in or carrying on the business of a mortgage broker or mortgage agent and ,at
22 the time... [t]he person was required to have a license pursuant to this chapter and the person
23 did not have such a license..." See, NRS 645B.690(1)(a).

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1 10. Pursuant to NRS 645B.670, "...for each violation committed by a mortgage
2 agent, the Commissioner may impose upon the mortgage agent an administrative fine of not
3 more than \$10,000, may suspend, revoke or place conditions upon his license, or may do
4 both, if the mortgage agent, whether or not acting as such... [h]as repeatedly violated the
5 policies and procedures of the mortgage broker with whom he is associated or by whom he is
6 employed... or [h]as violated any provision of this chapter, a regulation adopted pursuant to
7 this chapter or an order of the Commissioner or has assisted or offered to assist another
8 person to commit such a violation..." See, NRS 645B.670(3)(i), (j).
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10 11. After reviewing the available investigative material in this matter, the DIVISION
11 finds that RESPONDENT has, on repeated occasions, engaged in mortgage related activity
12 from a location not licensed with the DIVISION, thereby violating ASCENT'S policies and
13 procedures for the handling of its loans. RESPONDENT'S activities in this regard also had the
14 effect of aiding ECKLES, an unlicensed individual, in engaging in mortgage activity in the State
15 of Nevada. Said conduct represents violations of NRS 645B.670(3)(i) and (j), respectively.
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17 12. The DIVISION further finds that RESPONDENT'S pattern of conducting
18 mortgage related activity at his "702 FINANCIAL LLC" offices and not that of ASCENT, has
19 held himself out as engaging in the business of a mortgage broker without license to do so at
20 that location, thereby violating NRS 645B.900.

21 13. Finally, RESPONDENT'S decision to ignore the DIVISION'S requests for loan
22 files and other materials related to his transactions with ASCENT, represent an impermissible
23 refusal to abide by a lawful order of the DIVISION and, therefore, gives rise to a violation of
24 NAC 645B.320(4).
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VIOLATIONS OF LAW

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2 1. Upon investigation, it has been determined that RESPONDENT has repeatedly
3 violated the policies and procedures of his employer, ASCENT, and has supported another
4 (i.e., ECKLES) in doing so, thereby violating NRS 645B.670(3)(i) and (j), respectively.

5 2. Upon investigation, it has further been determined that RESPONDENT has
6 engaged in unlicensed mortgage brokering activity in the State of Nevada, thereby violating NRS
7 645B.900.

8 3. Upon investigation, it has further been determined that RESPONDENT'S refusal
9 to respond to DIVISION requests for information in connection with this matter, gives rise to a
10 violation of NAC 645B.320(4).
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ORDER

12 **NOW, THEREFORE**, pursuant to NRS 622.080, the **COMMISSIONER** of the **DIVISION**
13 **HEREBY ORDERS** that, pursuant to NRS 645B.670(3) and NRS 645B.750, the mortgage
14 agent license of RESPONDENT be **REVOKED**.
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16 **IT IS HEREBY FURTHER ORDERED** that, pursuant to NRS 645B.670 and NRS
17 645B.690, RESPONDENT will be subject to an administrative fine in the amount of TEN
18 THOUSAND DOLLARS (\$10,000.00);
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20 **IT IS FURTHER ORDERED** that the sum of said administrative fine be paid in full within
21 **thirty (30) days** of entry of the instant Order;

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CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on February 13, 2009, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, FINAL ORDER for THOMAS A CASS, addressed as follows:

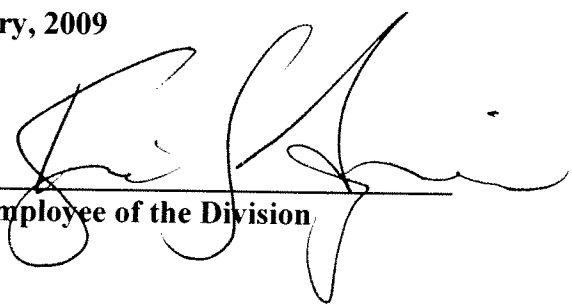
Thomas A. Cass
358 Jorge Way
Henderson, NV 89014

Certified Receipt Number: 7006 2760 0000 0876 2995

DATED this 13th day of February, 2009

By:

Employee of the Division



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