

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4 * * *

5 In re:

6 ALEX SORIA,

7 Respondent.

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10 **ORDER TO CEASE AND DESIST AND**
11 **NOTICE OF REVOCATION;**
12 **INTENT TO IMPOSE FINE, AND**
13 **NOTICE OF RIGHT TO REQUEST HEARING**

14 The licensing and regulation of mortgage brokers, mortgage agents, and related
15 professions in the State of Nevada is governed by Chapters 645B and 645F of the Nevada
16 Revised Statutes (hereinafter, "NRS") and Chapter 645B of the Nevada Administrative Code
17 (hereinafter, "NAC"). The State of Nevada, Department of Business and Industry, Division of
18 Mortgage Lending (hereinafter, the "DIVISION") has the general duty to exercise supervision
19 and control over mortgage brokers, mortgage agents, and related professions. See, NRS
20 645B.060(1) and NRS 645F.250. Pursuant to that authority, the DIVISION makes the
21 following Findings of Fact, Conclusions of Law, and Order as follows:

22 **FACTUAL ALLEGATIONS**

23 1. Upon information and belief, ALEX SORIA (hereinafter, "RESPONDENT") was
24 previously licensed as a mortgage agent in the State of Nevada, which expired April 29, 2008.

25 2. Upon information and belief, RESPONDENT was the Qualified Employee with
26 Amwest Capital Mortgage, Inc. in the State of Nevada until June 1, 2008.

27 3. On February 12, 2009, the DIVISION received a Complaint alleging
28 RESPONDENT engaged in the activity of a foreclosure consultant as that term is defined
pursuant to NRS 645F.300, et. seq. and collected advance fees from Mickel, after said

1 Mickel had been issued a notice of default by their lender(s), and prior to the services of a
2 foreclosure consultant being fully performed in violation of NRS 645F.400(1).

3 4. After receiving the Complaint regarding RESPONDENT, the DIVISION
4 commenced an investigation, the results of which established RESPONDENT engaged in the
5 activity of a foreclosure consultant and collected \$1000.00 in advance fees from Mickel after
6 said Mickel had been issued a notice of default by their lender(s), and prior to the services of
7 a foreclosure consultant being fully performed in violation of NRS 645F.400(1).

8 5. Pursuant to NRS 645F.250, the DIVISION is charged with administering the
9 foreclosure consultant chapter.

10 6. Pursuant to NRS 645F.410, the Commissioner of the DIVISION may impose an
11 administrative penalty of not more than \$10,000 on a foreclosure consultant who violates any
12 provision of NRS 645F.400.

13 7. Pursuant to NRS 645F.320, a "foreclosure consultant" is defined, in pertinent
14 part, as "...a person who directly or indirectly, makes any solicitation, representation or offer to
15 a homeowner to perform for compensation, or who, for compensation, performs any covered
16 service that the person represents will do any of the following: 1) Prevent or postpone a
17 foreclosure sale; 2) Obtain any forbearance from any mortgagee or beneficiary of a deed of
18 trust; 3) Assist the homeowner to exercise the right of reinstatement provided in the legal
19 documents; 4) Obtain any extension of the period within which the homeowner may reinstate
20 the homeowner's obligation; 5) Obtain any waiver of an acceleration clause contained in any
21 promissory note or contract secured by a mortgage on a residence in foreclosure or included in
22 the mortgage or deed of trust; 6) Assist the homeowner in foreclosure or loan default to obtain
23 a loan or advance of money; 7) Avoid or ameliorate the impairment of the homeowner's credit
24 resulting from the recording of a notice of default or the conduct of a foreclosure sale; 8) Save
25 the homeowner's residence from foreclosure; or 9) Assist the homeowner to obtain a
26 foreclosure reconveyance." See, NRS 645F.320.

27 8. Pursuant to NRS 645F.310, a "covered service" includes without limitation:

28 1) Financial counseling, including, without limitation, debt counseling and budget counseling.

1 2) Receiving money for the purpose of distributing it to creditors in payment or partial
2 payment of any obligation secured by a mortgage or other lien on a residence in foreclosure.
3 3) Contacting a creditor on behalf of a homeowner. 4) Arranging or attempting to arrange for
4 an extension of the period within which a homeowner may cure his default and reinstate his
5 obligation pursuant to a note, mortgage or deed of trust. 5) Arranging or attempting to arrange
6 for any delay or postponement of the time of a foreclosure sale. 6) Advising the filing of any
7 document or assisting in any manner in the preparation of any document for filing with a
8 bankruptcy court. 7) Giving any advice, explanation or instruction to a homeowner which in
9 any manner relates to the cure of a default in or the reinstatement of an obligation secured by
10 a mortgage or other lien on the residence in foreclosure, the full satisfaction of the obligation,
11 or the postponement or avoidance of a foreclosure sale.

12 9. Pursuant to NRS 645F.360, a "homeowner" is defined as the record owner of a
13 residence in foreclosure at the time ... the notice of default and election to sell is recorded
14 See, NRS 645F.360.

15 10. Pursuant to NRS 645F.400 (1), a foreclosure consultant shall not: "Claim,
16 demand, charge, collect or receive any compensation until after the foreclosure consultant has
17 fully performed each covered service that he contracted to perform or represented that he
18 would perform." See, NRS 645F.400(1).

19 11. The DIVISION'S investigation also provided evidence RESPONDENT
20 engaged in mortgage loan activity in Nevada (Garcia) without being licensed as either a
21 mortgage agent or mortgage broker in Nevada.

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

26 13. Pursuant to NRS 645B.610, the DIVISION is further charged with investigating
27 "...each violation alleged in [a] complaint..." received by the DIVISION and "...shall determine
28

1 from the investigation whether there is reasonable cause to believe that the [accused]
2 committed the alleged violation..." See, NRS 645B.610(1)(3).

3 14. Pursuant to NRS 645B.0127, a "mortgage broker" is defined, in pertinent part, as
4 "...a person who directly or indirectly... holds himself out for hire to serve as an agent for any
5 person in an attempt to obtain a loan which will be secured by a lien on real property..." or
6 "...holds himself out as being able to make loans secured by liens on real property..." See,
7 NRS 645B.0127(1)(a)(c).

8 15 Pursuant to NRS 645B.0125, a "mortgage agent" is defined, in part, as "...a
9 natural person who... is an employee or independent contractor of a mortgage broker who is
10 required to be licensed pursuant to this chapter..." and "...is authorized by the mortgage
11 broker to engage in, on behalf of the mortgage broker, any activity that would require the
12 person, if he were not an employee or independent contractor of the mortgage broker, to be
13 licensed as a mortgage broker pursuant to this chapter..." See, NRS 645B.0125 (1)(a)(b).

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

19 17. 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... the person was required to have a license pursuant to this chapter and the person
23 did not have such a license... the Commissioner shall impose upon the person an
24 administrative fine of not more than \$10,000 for each violation and, if the person has a license,
25 the Commissioner shall revoke it..." See, NRS 645B.690(1)(a).

26 VIOLATIONS OF LAW

27 1. Having investigated the RESPONDENT'S conduct in this matter and received
28 competent evidence that RESPONDENT has engaged in the activity of a foreclosure

1 consultant and collected compensation prior to fully performing each service that he
2 represented he would perform, i.e. loan modification in the State of Nevada in order to
3 prevent or postpone a foreclosure sale, it has been determined that RESPONDENT did, in
4 fact, violate NRS 645F.400 (1).

5 2. Moreover, the investigation also established RESPONDENT engaged in the
6 business of a mortgage agent or mortgage broker in the State of Nevada without either an
7 agent license or a mortgage broker license entitling him to do the same, thereby violating
8 NRS 645B.690(1)(a) and NRS 645B.900.

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10 **ORDER**

11 **NOW, THEREFORE,** pursuant to NRS 622.080 and NAC 645B.340, the
12 **COMMISSIONER** of the **DIVISION HEREBY ORDERS** that RESPONDENT **CEASE AND**
13 **DESIST** from conducting any and all unlicensed mortgage brokering and/or agent activity in
14 the State of Nevada.

15 **IT IS FURTHER ORDERED** the **COMMISSIONER** of the **DIVISION HEREBY**
16 **DETERMINES** that, pursuant to NRS 645B.670(3),RESPONDENT'S mortgage agent license
17 shall be revoked.

18 **IT IS FURTHER ORDERED** that pursuant to NRS 645F.410, NRS 645B.750 and NAC
19 645B.340(4), upon written application to the Division within **twenty (20) days** of the date of this
20 order, RESPONDENT shall be entitled to a hearing with regard to the contents of this Order.
21 At that hearing, the DIVISION will also seek:

22 a. The imposition of an administrative fine in the amount of Ten Thousand Dollars
23 and No Cents (\$10,000.00) for RESPONDENT'S violations of NRS Chapters 645F and 645B,
24 as well as the DIVISION'S investigative costs in the amount of Three Hundred Twenty Dollars
25 and No Cents (\$320.00) and attorney's fees, incurred herein, to be proven at the hearing; and

26 b. RESPONDENT'S payment, in full, of the administrative fine, costs and fees to the
27 DIVISION within **thirty (30) days** of the entry of the Final Order.

1 Should RESPONDENT not request a hearing within **twenty (20) days** of the date of this
2 Order, the DIVISION will enter a Final Order in this matter against RESPONDENT, as required
3 by NRS 645B.750(2)

4 **RESPONDENT** is advised that the provisions of this Order are effective immediately
5 upon RESPONDENT being served therewith, whether or not RESPONDENT requests a
6 hearing.

7 DATED this *22nd* day of April, 2009.

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9 **IT IS SO ORDERED.**

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11 **STATE OF NEVADA**
12 **DEPARTMENT OF BUSINESS AND INDUSTRY**
13 **DIVISION OF MORTGAGE LENDING**

14 By: *Joseph L. Waltuch*
15 **JOSEPH L. WALTUCH, COMMISSIONER**

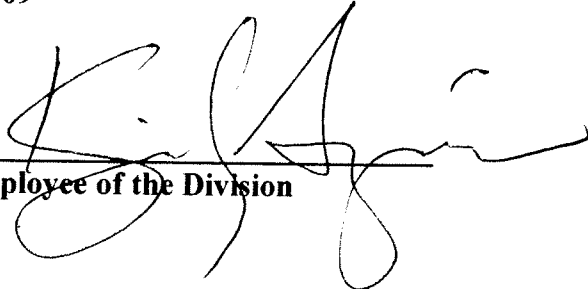
CERTIFICATE OF SERVICE

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3 **I certify that I am an employee of the State of Nevada, Department of Business and Industry,**
4 **Division of Mortgage Lending, and that on April 27, 2009, I deposited in the U.S. mail, postage**
5 **prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of**
6 **the foregoing, ORDER TO CEASE AND DESIST AND NOTICE OF REVOCATION; INTENT**
7 **TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for ALEX SORIA,**
8 **addressed as follows:**
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11 **Alex Soria**
12 **2620 Regatta Drive, #239 & 102**
13 **Las Vegas, NV 89128**
14

15 **Certified Receipt Number: 7006 2760 0000 0875 9650**
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19 **DATED this 24th day of April, 2009**
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22 **By:** 
23 **Employee of the Division**
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