

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

4 * * *

5 In re:
6 KEMPER MORTGAGE INC,
7 an Illinois corporation,
8 Respondent.
9

10 FINAL ORDER

11 The State of Nevada, Department of Business and Industry, Division of Mortgage
12 Lending (hereinafter, the "DIVISION"), having served the Respondent, KEMPER MORTGAGE
13 INC (hereinafter, "RESPONDENT") on April 10, 2009, with its Amended Notice of Intent to
14 Revoke Mortgage Broker License, Notice of Intent to Impose Fine and Notice of Right to
15 Request Hearing, attached hereto as Exhibit "1" and incorporated herein by reference, which
16 notified RESPONDENT that a final order would issue in this matter unless, within twenty (20)
17 days of entry and receipt of said Order, RESPONDENT requested a hearing to contest the
18 charges against it, with said request to be made in writing, and;
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20 Said Order having been sent to RESPONDENT via certified mail and regular mail on
21 April 10, 2009, and received by RESPONDENT on April 19, 2009, and;
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23 RESPONDENT having failed to request a hearing in this matter, and good cause
24 appearing:

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1 NOW, THEREFORE, **IT IS HEREBY ORDERED** that, pursuant to NRS 645B.670,
2 RESPONDENT'S mortgage broker license in the State of Nevada is **REVOKED**.

3 **IT IS FURTHER ORDERED** that pursuant to NRS 645B.670 and NRS 645B.690,
4 RESPONDENT will be subject to the administrative fines, fees and/or costs as set forth in the
5 original Order attached hereto as Exhibit "1".

6 **IT IS FURTHER ORDERED** that the sum of said administrative fines, fees and/or costs
7 be paid in full within **thirty (30) days** of entry of the Order;

8 Dated this 5th day of May, 2009.

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

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16 By: Joseph L. Waltuch
17 **JOSEPH L. WALTUCH, COMMISSIONER**
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EXHIBIT “1”

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

In re:

Kemper Mortgage, Inc., an Illinois corporation,

Respondent.

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AMENDED

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**NOTICE OF INTENT TO REVOKE MORTGAGE BROKER
LICENSE, NOTICE OF INTENT TO IMPOSE FINE AND
NOTICE OF RIGHT TO REQUEST HEARING**

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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 ("NRS") and Chapter 645B of the Nevada Administrative Code ("NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Division") has the general duty to exercise supervision and control over mortgage brokers and mortgage agents, as well as mortgage broker and mortgage agent activity. See, NRS 645B.060(1), NRS 645B.670 and NRS 645B.690. Pursuant to that authority, the Division makes the following Factual Allegations, Violations of Law, and Initial Order, as follows:

FACTUAL ALLEGATIONS

1. Kemper Mortgage, Inc. ("Respondent") is an Illinois corporation. On July 21, 2005, Respondent was issued a mortgage broker license pursuant to Chapter 645B of NRS. Respondent operated within the State of Nevada as a licensed mortgage broker until its license expired on June 30, 2008, for failure to renew. See, NRS 645B.050(1). The Division currently classifies Respondent's license as closed. All factual allegations occurred while Respondent held an active mortgage broker license.

1 2. Pursuant to NRS 645B.060, the Commissioner shall exercise general supervision
2 and control over mortgage brokers and mortgage agents doing business in this State and, "is
3 charged with conducting...such investigations as may be necessary to determine whether any
4 person has violated any provision of this chapter, a regulation adopted pursuant to this chapter
5 or an order of the Commissioner." See, NRS 645B.060(2)(c).

6 3. Pursuant to NRS 645B.610, if a person properly files a complaint with the Division,
7 the Division is further charged with investigating "...each violation alleged in the complaint..."
8 and the Division "...shall determine from the investigation whether there is reasonable cause to
9 believe that the person committed the alleged violation...." See, NRS 645B.610(1), (3).

10 4. On April 24, 2007, the Division received a complaint from a widow, Ms. Dorothy S.
11 Warren, alleging that a deceptive advertisement had been sent to her husband who had been
12 dead for more than 23 years. The advertisement referenced a "Personal Identification
13 Number" as well as a reduction of her deceased husband's mortgage payment, but there was
14 no mortgage on the home.

15 5. By letter dated July 12, 2007, addressed to Respondent, Supervisory Examiner
16 Sheila Walther of the Division advised Respondent that "...NRS 645B.189 prohibits deceptive
17 advertising. Making statements regarding false sources of receipt of information, misleading
18 recipients that the mailing was sent from another entity, indicating the mailing is related to a
19 'New Pin Number', promoting that the recipient is qualified for a limited program now available
20 due to changes in government guidelines that only entails a call to begin 'processing their new
21 payment' appear deceptive...."

22 6. The Division received a complaint from John Nelson in June 2007, alleging that he
23 had received an advertisement from Respondent which referenced the enclosure of a "New
24 PIN." By letter dated August 7, 2007, addressed to Respondent, Sheila Walther, Supervisory
25 Examiner of the Division, advised Respondent that that verbiage "...would indicate that the
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1 correspondence is related to an existing account, not a new solicitation, and is deceptive...."

2 The Division instructed Respondent to "cease and desist use of this term immediately from
3 any further correspondences." Further, notwithstanding written assurances from Respondent
4 that Mr. Nelson had been removed from their mailing list, Mr. Nelson received an additional
5 solicitation.

6 7. On or about September 27, 2007, the Division received two additional complaints
7 alleging deceptive advertising by Respondent. Senior Investigator Tony Frascarelli of the
8 Division advised Respondent in an October 5, 2007 e-mail that use of solicitations utilizing an
9 unaffiliated entity's name was deceptive under NRS 598.
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11 8. After receiving the complaints regarding Respondent, the Division commenced an
12 investigation and determined the following:

13 a. RESPONDENT had engaged in a pattern of deceptive trade practices, as
14 defined in NRS 598.0915, and a pattern of deceitful, fraudulent or dishonest business
15 practice by publishing and disseminating advertisements where Respondent had knowingly
16 made false representations as to an existing account by referencing a Personal Identification
17 Number or the enclosure of a "New PIN" number and false representations as to an affiliation,
18 connection or association with another entity where no such affiliation, connection or
19 association existed, in violation of NRS 645B.189(4)(a), NRS 645B.670(2)(o) and NRS
20 598.0915(3) and (15); and
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22 b. Respondent continued to engage in a pattern of deceptive trade practices
23 through its advertising material, even after being advised by the Division to cease and desist
24 from these activities.

25 9. The Division discovered during the course of investigating another complaint
26 against Respondent that Respondent had hired Brad Carr ("Carr") as a full-time,
27 commissioned mortgage agent on February 5, 2007. However, Carr did not submit a
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1 mortgage agent application to the Division pursuant to NRS 645B.410 until June 22, 2007.
2 Respondent paid commissions to Carr on three loans originated and closed prior to Carr's
3 licensure, in violation of NRS 645B.450(2).

4 10. On June 12, 2008, the Division commenced its annual examination of
5 Respondent. The examination concluded on or about August 5, 2008. During the
6 examination, the Division discovered violations of laws and regulations by Respondent, as
7 follows:

8 a. Respondent failed to submit to the Division an annual financial statement for
9 fiscal year 2007 prepared from Respondent's books and records by a Nevada licensed
10 independent public accountant, as required by NRS 645B.085. b.

11 Respondent failed to submit monthly activity reports for the months of October 2007 through
12 August 2008, as required by NRS 645B.080(2) and NAC 645B.070(1).
13

14 c. Respondent failed to pay the fiscal year 2008 certified public accountant
15 assessment in the amount of \$71.50 plus the 10% late fee in the amount of \$7.15, as
16 required by NAC 645B.064.
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18 d. Respondent failed to pay the fiscal year 2008 Attorney General assessment
19 in the amount of \$560.44 plus the 10% late fee in the amount of \$56.04, as required by NRS
20 645F.290.

21 e. Respondent failed to pay the 2008 examination fee in the amount of
22 \$3,180.00 plus the 10% late fee in the amount of \$318.00, as required by NAC 645B.060.

23 f. During the examination, Respondent failed to provide all documentation
24 required to complete the examination, including the completed Manager's Questionnaire, 12
25 months of quick books complete with descriptions on all transactions, copies of complete
26 payroll records to include copies of 1099's and/or W2's, a copy of an interim financial
27 statement from the latest month end, a list of warehouse lines of credit reflecting with whom,
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1 the amount of each and a copy of the contracts and the last 15 denied or withdrawn files, as
2 required by NAC 645B.072.

3 g. The loan files reviewed were also missing "complete and suitable records," as
4 required by NAC 645B.072(1). The items that were missing from the loan files included the
5 following: 1 loan file did not contain a copy of the note; 11 loan files did not contain copies of
6 the recorded deeds of trust; 12 loan files did not contain copies of the final title policies; 2 loan
7 files did not contain copies of the appraisals; 3 loan files did not contain copies of the lender
8 approvals; 2 loan files did not contain copies of the final settlement statements; 5 loan files
9 did not contain copies of the credit score notices; 1 loan file did not contain a copy of the FHA
10 loan analysis; and 1 loan file did not contain a copy of the complete loan application.
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12 h. Based upon settlement statements in 8 loan files reviewed, Respondent
13 charged and collected discount fees. However, the fees did not buy down the interest rates
14 and there were no services performed specific to this fee, in violation of Regulation X, 24 CFR
15 §3500.14(c).
16

17 i. In 2 of the loan files reviewed, Respondent disclosed an inaccurate annual
18 percentage rate and provided incomplete Truth in Lending disclosures, in violation of
19 Regulation Z, federal Truth in Lending Act, 12 CFR §226.18(e).
20

21 VIOLATIONS OF LAW

22 Having investigated Respondent's activities, as more fully set forth above, the Division
23 has found that Respondent violated NRS 645B.189(4)(a), NRS 645B. 670(2)(o), NRS
24 598.0915(3) and (15), NRS 645B.080(1) and (2), NRS 645B.450(2), NRS 645B.085, NAC
25 645B.070(1), NAC 645B.064, NRS 645F.290, NAC 645B.060, NAC 645B.072, Regulation X,
26 24 CFR §3500.14(c), and Regulation Z, federal Truth in Lending Act, 12 CFR §226.18(e), as
27 follows:
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1. Respondent violated NRS 645B.189(4)(a) and NRS 598.0915(3) and (15) by

1 engaging in a pattern of deceptive trade practices and a pattern of deceitful, fraudulent or
2 dishonest business practice by publishing and disseminating advertisements where
3 Respondent knowingly made false representations as to an existing account or affiliations,
4 connections or associations, and continued these practices after being advised by the
5 Division to cease and desist.

6 2. Respondent violated NRS 645B.450(2) by compensating an unlicensed
7 mortgage agent.

8 3. Respondent failed to submit to the Division an annual financial statement for
9 fiscal year 2007 prepared from Respondent's books and records by a Nevada licensed
10 independent public accountant, in violation of NRS 645B.085.

11 4. Respondent failed to submit monthly activity reports for 11 months, as
12 required by NRS 645B.080(1) and (2) and NAC 645B.070(1).

13 5. Respondent failed to pay assessments and examination fees, as required
14 by NAC 645B.064, NRS 645F.290 and NAC 645B.060.

15 6. Respondent failed to maintain and provide to the Division during an
16 examination all documentation required by NRS 645B.080 and NAC 645B.072.

17 7. Respondent charged and collected loan discount fees on 8 brokered loans.
18 However, the fees did not buy down the rate and there were no specific services
19 performed for these fees, in violation of Regulation X, 24 CFR §3500.14(c).

20 8. Respondent disclosed an inaccurate annual percentage rate and provided
21 incomplete Truth in Lending disclosures, in violation of Regulation Z, federal Truth in Lending
22 Act, 12 CFR §226.18(e).

23 **INITIAL ORDER**

24 **IT IS HEREBY ORDERED** that, within thirty (30) days of the date of this Order,
25 Respondent shall pay to the Division the sum of four thousand one hundred ninety-three dollars
26 and thirteen cents (\$4,193.13) representing:
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1 a. The fiscal year 2008 certified public accountant assessment of seventy-one dollars
2 and fifty cents (\$71.50) plus a 10% late fee in the amount of seven dollars and fifteen cents
3 (\$7.15), for a total of seventy-eight dollars and sixty-five cents (\$78.65);

4 b. The fiscal year 2008 Attorney General assessment of five hundred sixty dollars and
5 forty-four cents (\$560.44) plus a 10% late fee in the amount of fifty-six dollars and four cents
6 (\$56.04), for a total of six hundred sixteen dollars and forty-eight cents (\$616.48); and

7 c. The 2008 examination fee of three thousand one hundred eighty dollars and no cents
8 (\$3,180.00) plus a 10% late fee in the amount of three hundred eighteen dollars and no
9 cents (\$318.00), for a total of three thousand four hundred ninety-eight dollars and no cents
10 (\$3,498.00).
11

12 **IT IS FURTHER ORDERED** that within thirty (30) days of the date of this Order,
13 Respondent shall pay the Division investigative costs in the amount of seven hundred forty
14 dollars and no cents (\$740.00) in connection with this matter.

15 **IT IS FURTHER ORDERED** that within thirty (30) days of the date of this Order,
16 Respondent shall pay the Division an administrative fine in the amount of Fifty Thousand
17 Dollars (\$50,000.00) for Respondent's violations of NRS Chapters 645B, 645F and 598, NAC
18 645B, Regulation X and Regulation Z.
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20 **IT IS FURTHER ORDERED** that Respondent's mortgage broker license is revoked.

21 **IT IS FURTHER ORDERED** that this matter will be deemed concluded upon
22 compliance with each and every one of the above provisions.
23

24 **Notice of Right to Request Hearing**

25 Pursuant to NRS 645B.750, upon the timely filing of an application with the Division,
26 Respondent shall be entitled to a hearing with regard to the contents of this Initial Order. At that
27 hearing, pursuant to NRS 645B.670(2), the Division will seek to order all of the items contained
28 in this Initial Order.

1 Should Respondent not request a hearing within twenty (20) days of the date of this
2 Notice, the Division will enter a Final Order in this matter against Respondent , as required by
3 NRS 645B.750(2), which provides, among other things, for:

- 4 a. The revocation of Respondent's mortgage broker license;
- 5 b. Respondent's immediate surrender of its mortgage broker license; and
- 6 c. The conclusion of this matter upon the revocation of Kemper's mortgage
7 broker license and Respondent's surrender of same, the Division's receipt of an annual financial
8 statement for fiscal year 2007 prepared from Respondent's books and records by a Nevada
9 licensed independent public accountant, the Division's receipt of payment, in full, of the
10 administrative fine, costs and fees, fiscal year 2008 certified public accountant assessment,
11 fiscal year 2008 Attorney General assessment, 2008 examination fee and the respective
12 associated late fees.

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14 Dated this 10th day of April, 2009.

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16 **STATE OF NEVADA**
17 **DEPARTMENT OF BUSINESS AND INDUSTRY**
18 **DIVISION OF MORTGAGE LENDING**

19 By: Joseph L. Waltuch
20 **JOSEPH L. WALTUCH, COMMISSIONER**

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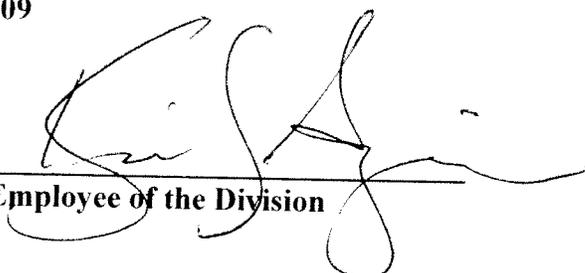
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on May 6, 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 KEMPER MORTGAGE INC., addressed as follows:

Kemper Mortgage Inc.
c/o Eric D. Kaplan
Kaplan Papadakis & Gournis PC
180 North Lasalle Street
Chicago, IL 60601

Certified Receipt Number: 7006 2760 0000 0875 9629

DATED this 5th day of May, 2009

By: 
Employee of the Division