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

In re:

Palacios, J.H.S. Moxie Corp., and Jacqueline O'Shaughnessy,

Hard Money Partners, LLC, Alfredo

Respondents.

ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO IMPOSE FINES 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 ("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. <u>See</u>, NRS 645B.060(1), NRS 645B.670 and NRS 645B.690. Pursuant to that authority, the Division makes Factual Allegations, Violations of Law. and Order, as follows:

FACTUAL ALLEGATIONS

- 1. Based upon information and belief, Respondent, Hard Money Partners, LLC ("Hard Money"), is a limited liability company organized and existing under the laws of the State of Nevada since on or about November 15, 2007. Currently, Hard Money's status with the Nevada Secretary of State is "default."
- 2. Hard Money has never been issued a mortgage broker license by the Division pursuant to Chapter 645B of NRS.
 - 3. Based upon information and belief, at relevant times herein mentioned, Alfredo

Palacios ("Palacios") and George Polick aka Jorge Polick ("Polick") were/are the managers of the Hard Money office located at 6655 W. Sahara Avenue, Las Vegas, Nevada 89146 and conducted mortgage lending activity in Nevada on behalf of Hard Money.

- 4. Neither Palacios nor Polick has ever been issued a mortgage broker or mortgage agent license by the Division pursuant to Chapter 645B of NRS.
- 5. Based upon information and belief, Respondent, J.H.S. Moxie Corp. ("J.H.S. Moxie") was incorporated in the State of Nevada on or about April 5, 2004. Currently, J.H.S. Moxie's status with the Nevada Secretary of State is "active."
- 6. J.H.S. Moxie has never been issued a mortgage broker license by the Division pursuant to Chapter 645B of NRS.
- 7. Based upon information and belief, Jacqueline O'Shaughnessy ("O'Shaughnessy") is and has been the president, secretary, treasurer, director and registered agent of J.H.S. Moxie since its incorporation.
- 8. On June 21, 2000, O'Shaughnessy was registered with the Financial Institutions Division ("FID") and was subsequently licensed by the Division as a mortgage agent (License No. 6603) pursuant to Chapter 645B of NRS on June 29, 2004.
- 9. Based upon information and belief, RCFC, Inc. ("RCFC") is a corporation organized and existing under the laws of the State of Nevada since on or about October 21, 1993. Currently, RCFC's status with the Nevada Secretary of State is "active."
- 10. Based upon information and belief, at relevant times herein mentioned, RCFC was doing business in the State of Nevada as American Mortgage Services ("American Mortgage").
- 11. On January 12, 1994, American Mortgage was registered with FID and was subsequently licensed by the Division as a mortgage broker (License No. 207) on June 29, 2005. Currently, American Mortgage's status with the Division is "active."

- 12. Based upon information and belief, from November 18, 2004, to the present, O'Shaughnessy is and has been affiliated with, or employed by, American Mortgage as a mortgage agent. Currently, O'Shaughnessy's status with the Division is "active licensed."
- 13. O'Shaughnessy has never been issued a mortgage broker license by the Division pursuant to Chapter 645B of NRS.
- 14. Based upon information and belief, Calaveras Development, Inc. ("Calaveras Development") was incorporated in the State of Nevada on or about July 15, 1994. Currently, Calaveras Development's status with the Nevada Secretary of State is "active."
- 15. Calaveras Development has never been issued a mortgage broker or mortgage banker license by the Division pursuant to Chapter 645B or Chapter 645E of NRS.
- 16. Based upon information and belief, at relevant times herein mentioned, complainant herein, FS ("Complainant FS") was the owner of certain real property located at 4809 Ashbrook Place, Las Vegas, Nevada 89147 ("the Property").
- 17. Further, on or about October 26, 2007, the Division received a written complaint ("the FS Complaint") from Complainant FS, including a letter dated October 22, 2007, from FS's attorney, BKB, alleging, among other things, with respect to a hard money loan for the purchase of the Property by Polick, as buyer, from Complainant FS, as seller, that:
- a. Palacios, manager of Hard Money, and O'Shaughnessy, as president of J.H.S. Moxie, brokered the loan to Calaveras Development;
- b. At the time that Palacios and O'Shaughnessy brokered the loan to Calaveras Development, neither Hard Money nor J.H.S. Moxie was licensed by the Division as a mortgage broker under Chapter 645B of NRS;
 - c. The transaction closed on May 18, 2007;
- d. Complainant FS agreed to pay and was charged \$17,700.00 in lender costs, including a \$6,500.00 broker fee to Palacios of Hard Money, a \$6,500.00 broker fee to J.H.S.

Moxie, and a \$4,700.00 investor fee to Calaveras Development, as reflected on the settlement statement, a true and correct copy of which (except redacted Complainant FS information) is attached hereto as **Exhibit "A"** and incorporated herein by reference as though set forth in full;

- e. The names J.H.S. Moxie, Hard Money and Palacios never appeared anywhere in the loan documents before the closing statement; and
- f. After conducting an online search of Palacios, Hard Money, J.H.S. Moxie, O'Shaughnessy, and Calaveras Development, Complainant FS "learned that none of the lenders are licensed as mortgage lenders in the state of Nevada...."
- 18. Based upon information and belief, subsequent to the closing of the FS loan transaction, Palacios and O'Shaughnessy continued to receive broker fees for arranging hard money loans through their respective unlicensed companies, Hard Money and J.H.S. Moxie.
- 19. Pursuant to NRS 645B.060, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State and "is charged with conducting...such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner." <u>See</u>, NRS 645B.060(2)(c).
- 20. Pursuant to NRS 645B.610, the Division is also charged with investigating "...each violation alleged in [a] complaint..." received by the Division and "...shall determine from the investigation whether there is reasonable cause to believe that the person committed the alleged violation..." See, NRS 645B.610(1), (3).
- 21. Pursuant to NRS 645B.060, the Division is further charged with conducting "...such other investigations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents...." See, NRS 645B.060(2)(e).
 - 22. Pursuant to NRS 645B.900, unless a person is exempt from the provisions of

Chapter 645B of NRS and complies with the exemption requirements, "(i)t 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 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...."

- 23. After the examination of American Mortgage on August 8, 2007, and after receiving the FS Complaint regarding Hard Money and J.H.S. Moxie, the Division conducted an investigation of the allegations in question, which included:
- a. Sending Palacios of Hard Money a letter, via certified mail, on January 4, 2008, which was signed for on January 7, 2008, to which Palacios failed to respond; and
- b. Conducting telephonic interviews with Bill Phillips of Calaveras Development and O'Shaughnessy of J.H.S. Moxie.
 - 24. The Division's investigation revealed among other things, that:
- a. Hard Money has never been licensed by the Division to conduct mortgage broker activity in the State of Nevada pursuant to Chapter 645B of NRS;
- b. J.H.S. Moxie has never been licensed by the Division to conduct mortgage broker activity in the State of Nevada pursuant to Chapter 645B of NRS;
- c. Palacios has never been licensed by the Division to conduct mortgage broker activity in the State of Nevada pursuant to Chapter 645B of NRS;
- d. O'Shaughnessy has never been licensed by the Division to conduct mortgage broker activity in the State of Nevada pursuant to Chapter 645B of NRS;
- e. Hard Money, through Palacios, brokered the loan to Calaveras Development and received a broker fee on the subject loan transaction in approximately May 2007;
- f. At the time of offering or providing the above-referenced services of a mortgage broker, Hard Money was neither licensed by the Division as a mortgage broker nor

exempt from licensing pursuant to the provisions of Chapter 645B of NRS;

- g. J.H.S. Moxie, through O'Shaughnessy, brokered the loan to Calaveras Development and received a broker fee on the subject loan transaction in approximately May 2007; and
- h. At the time of offering or providing the above-referenced services of a mortgage broker, J.H.S. Moxie was neither licensed by the Division as a mortgage broker nor exempt from licensing pursuant to the provisions of Chapter 645B of NRS.
- 25. Pursuant to NRS 645B.690, "(i)f a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time...the person was required to have a license pursuant to this chapter and the person did not have such a license...the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation...." See, NRS 645.690(1)(a).
- 26. Pursuant to NAC 645B.340, "(i)f a person engages in an activity in violation of the provisions of this chapter or chapter 645B of NRS, the Commissioner may issue an order to the person directing the person to cease and desist from engaging in the activity...." <u>See</u>, NAC 645B.340(1).

VIOLATIONS OF LAW

After investigating this matter, it has been determined that:

a. By brokering the loan to Calaveras Development and by being paid a broker fee on the subject loan transaction in approximately May 2007, Hard Money Loans, through Palacios, offered or provided services of a mortgage broker or otherwise engaged in, carried on or held itself out as engaging in or carrying on the business of a mortgage broker without first obtaining the applicable license issued pursuant to Chapter 645B of NRS, in violation of NRS 645B.900; and

b. By brokering the loan to Calaveras Development and by being paid a broker fee on the subject loan transaction in approximately May 2007, J.H.S. Moxie, through O'Shaughnessy, offered or provided services of a mortgage broker or otherwise engaged in, carried on or held itself out as engaging in or carrying on the business of a mortgage broker without first obtaining the applicable license issued pursuant to Chapter 645B of NRS, in violation of NRS 645B.900.

ORDER

NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS, pursuant to NRS 622.080 and NAC 645B.340, after having determined that Hard Money, through Palacios, and J.H.S. Moxie, through O'Shaughnessy, offered or provided services of a mortgage broker for which they had not received a license or a certificate of exemption, in violation of Chapter 645B of NRS, that:

- 1. HARD MONEY AND J.H.S. MOXIE IMMEDIATELY CEASE AND DESIST from the following activities:
- a. Offering or providing any of the services of a mortgage broker, or otherwise engaging in, carrying on or holding itself out as engaging in or carrying on the business of a mortgage broker in the State of Nevada for which they have not received a license or a certificate of exemption from the Division;
- b. Advertising for and/or soliciting mortgage broker business in the State of Nevada without having first received a license or a certificate of exemption from the Division; and
- c. Claiming, demanding, charging, collecting or receiving any fee, interest or other compensation for offering or providing any of the services of a mortgage broker in the State of Nevada without having first received a license or a certificate of exemption from the Division;

2. PALACIOS AND O'SHAUGHNESSY IMMEDIATELY CEASE AND DESIST from the following activities:

- a. Brokering loans through persons that offer or provide any of the services of a mortgage broker, or otherwise engage in, carry on or hold themselves out as engaging in or carrying on the business of a mortgage broker in the State of Nevada without the person having first received a license or a certificate of exemption from the Division; and
- b. Claiming, demanding, charging, collecting or receiving any fee, interest or other compensation for brokering loans through persons that offer or provide any of the services of a mortgage broker in the State of Nevada without the person having first received a license or a certificate of exemption from the Division.

petition with the Division within **thirty (30) days** of receipt of this Order to Cease and Desist, Hard Money, Palacios, J.H.S. Moxie and/or O'Shaughnessy shall be entitled to a hearing with regard to the contents of this Order to Cease and Desist. Hard Money, Palacios, J.H.S. Moxie and O'Shaughnessy are advised, however, that the provisions of this Order to Cease and Desist are effective immediately upon Hard Money, Palacios J.H.S. Moxie and/or O'Shaughnessy being served therewith, whether or not Hard Money, Palacios, J.H.S. Moxie and/or O'Shaughnessy request(s) a hearing.

NOTICE TO HARD MONEY, PALACIOS, J.H.S. MOXIE AND O'SHAUGHNESSY: If you request a hearing, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through your counsel of choice at your own expense. At the hearing, if one is timely requested, the Division will call witnesses and present evidence against you. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and examine witnesses,

introduce exhibits and cross-examine opposing witnesses on any matter relevant to the issues involved.

If the Division prevails at any hearing, it may request that attorney's fees and costs be awarded pursuant to NRS 622.400.

IT IS FURTHER ORDERED, pursuant to NRS 645B.750, that upon written application to the Division within **twenty (20) days** of the date of this Order, Hard Money and/or J.H.S. Moxie shall be entitled to a hearing with regards to the contents of this Order referenced below. At that hearing the Division will seek to:

- 1. Impose an administrative fine against Hard Money and J.H.S. Moxie, each in the amount of Ten Thousand Dollars and No Cents (\$10,000.00), payable to the Division on account of Hard Money's and J.H.S. Moxie's violations of Chapter 645B of NRS, the Division's investigative costs in the amount of Seven Hundred Forty-Seven Dollars and No Cents (\$747.00) as well as the Division's attorney's fees, if any, incurred herein, to be proven at the hearing;
- 2. Require Hard Money's payment, in full, to the Division of the administrative fine against Hard Money in the amount of Ten Thousand Dollars and No Cents (\$10,000.00) within **thirty (30) days** of entry of the Final Order;
- 3. Require J.H.S. Moxie's payment, in full, to the Division of the administrative fine against J.H.S. Moxie in the amount of Ten Thousand Dollars and No Cents (\$10,000.00) within **thirty (30) days** of entry of the Final Order; and
- 4. Require payment, in full, to the Division of the Division's investigative costs as well as the Division's attorney's fees, if any, by Hard Money and/or J.H.S. Moxie, who shall be jointly and severally liable, within **thirty (30) days** of entry of the Final Order.

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Should Hard Money and/or J.H.S. Moxie not request a hearing within **twenty (20) days** of the date of this Order, the Division will enter a Final Order in this matter against Hard Money and J.H.S. Moxie, as required by NRS 645B.750(2).

Dated this $\frac{\sqrt{57}}{}$ day of May, 2009.

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

By: / / / / / / / / JOSEPH L. WALTUCH, COMMISSIONER

EXHIBIT "A"

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AT FACIFMENT TO HUD I Settlement Date: 5/18/2007

Escrow No.

07-05-0098CK 07-05-009RLP

little No

Page

EXHIBIT A (HUD Section 500)

Reductions In Amount Due To Seller: - Loan Payoff Brenkdown:

Buyer Amount Seller Amount

Country wide Home Loans Servicing LP

Principal Balance To. Countrywide Home Loans Servicing LP

56 397 51 56,397.51

Countrywide Home Loans Servicing LP

Principal Balance To: Countrywide Home Loans Servicing LP

350.00

fotal:

Total:

Total.

150.00

EXHIBIT B (HUD Section 1100)

Little Charges:

Buyer Amount Seller Amount

Administration Fee to Southwest Title Company Reconveyance Fee to Southwest Title Company

150.00

30 00

2nd Loan Coverage \$ 0.00 Premium: \$220.00 To Southwest Title Company Recording Service Fees to Southwest Title Company

220.00 90.00

180.00

310 00

	CERTIFICATE OF SERVICE	
	2	
	I certify that I am an employee of the State of Nevada, Department of Business and Indus	4
	Division of Mortgage Lending, and that on May 19, 2009 I deposited in the U.S.	try,
	prepaid via First Class Mail and Certified Return Possint Daniel Daniel	age
	the foregoing ORDER TO CEASE AND PROVED are	/ of
	the foregoing, ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO IMPOSE FIN	ES
	8 AND NOTICE OF RIGHT TO REQUEST HEARING for HARD MONEY PARTNERS, LI	.C,
9	ALFREDO PALACIOS, J.H.S. MOXIE CORP., AND JACQUELINE O'SHAUGHNESS	· V
10	addressed as follows:	,
11		
12	Hard Money Partners and Alfredo Palacios	
13	6655 W. Sahara Avenue, B102 Las Vegas, NV 89146	
14	Certified Receipt Number: 7006 2760 0000 0876 4739	
15	Jacqueline O'Shaughnessy	
16	American Mortgage Services	
17	4550 W. Oakey Blvd., #104B Las Vegas, NV 89102	
18	Certified Receipt Number: 7006 2760 0000 0876 4746	
19		
20	JHS Moxie Corp. 2436 Silver Shadow Drive	
21	Las Vegas, NV 89108	
22	Certified Receipt Number: 7006 2760 0000 0876 4753	
23		
24		
25	DATED this 15th day of May, 2009	
26		1

Employee of the Division