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

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In re:
Heather Barnes,

Respondent.

FINAL ORDER

The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter, the "Division"), having served the Respondent, Heather Barnes, (hereinafter, "Respondent") on May 11, 2009, with its Notice of Intent to Revoke Mortgage Agent License, Notice of Intent to Impose Fine and Notice of Right to Request Hearing, attached hereto as Exhibit "1" and incorporated herein by reference, which notified Respondent that a final order would issue in this matter unless, within twenty (20) days of entry and receipt of said Order, Respondent requested a hearing to contest the charges against it, with said request to be made in writing, and;

Said Order having been sent to Respondent via certified mail and regular mail, and the certified mail being left "Unclaimed" since May 13, 2009;

Respondent having failed to request a hearing in this matter, and good cause appearing:

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2 **IT IS HEREBY ORDERED** that, pursuant to NRS 645B.670(3) and NRS 645B.750,
3 Respondent's mortgage agent license in the State of Nevada is **REVOKED**.

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

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

9 Dated this 15th day of June, 2009.

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

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17 By: Joseph L. Waltuch
18 **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: * * *
HEATHER BARNES,
Respondent.

**NOTICE OF INTENT TO REVOKE MORTGAGE AGENT
LICENSE, NOTICE OF INTENT TO IMPOSE 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 and mortgage agents, as well as 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 Findings of Fact, Conclusions of Law, and Order as follows:

FACTUAL ALLEGATIONS

1. On June 21, 2007, Heather Barnes (hereinafter "RESPONDENT") was issued a mortgage agent license pursuant to Chapter 645B of the NRS. The DIVISION currently classifies RESPONDENT'S license status as closed.
2. Prior to her date of licensure, through the mortgage brokerage firm Excel Funding, LLC., RESPONDENT originated a loan (Jordan) for the purchase of a residence in Henderson, Nevada on April 26, 2007.
3. On October 11, 2007, the DIVISION received a Complaint alleging RESPONDENT'S sister Briget Barnes originated and closed a loan (Jordan) for the purchase

1 of a residence in the State of Nevada without having a mortgage broker or mortgage agent
2 license in Nevada.

3 4. After receiving the Complaint regarding RESPONDENT'S sister Briget Barnes,
4 the DIVISION commenced an investigation, the results of which established RESPONDENT
5 originated the Jordan loan and received a commission for the loan on complainant's property in
6 the State of Nevada, despite not being licensed as a mortgage broker or agent in Nevada.

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

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

18 7. Pursuant to NRS 645B.400, "(a) person shall not act as or provide any of the
19 services of a mortgage agent or otherwise engage in, carry on or hold himself out as
20 engaging in or carrying on the activities of a mortgage agent unless the person has a license
21 as a mortgage agent issued pursuant to NRS 645B.410." See, NRS 645B.400.

22 8. Pursuant to NRS 645B.900, unless a person is exempt from Chapter 645B of
23 NRS and complies with exemption requirements, "(i)t is unlawful for any person to offer or
24 provide any of the services of a mortgage broker or mortgage agent or otherwise to engage
25 in, carry on or hold himself out as engaging in or carrying on the business of a mortgage
26 broker or mortgage agent without first obtaining the applicable license issued pursuant to this
27 chapter...." See, NRS 645B.900.
28

1 **ORDER**

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3 **NOW, THEREFORE, IT IS HEREBY ORDERED** that, pursuant to NRS 645B.750,
4 upon the timely filing of an application with the Division within **twenty (20) days** of the date of
5 this Order, RESPONDENT shall be entitled to a hearing with regard to the contents of this
6 Order. At that hearing, pursuant to NRS 645B.690(1)(a), the Division will seek:

7 a. To revoke RESPONDENT'S mortgage agent license for RESPONDENT'S
8 violations of NRS 645B.400 and NRS 645B.900;

9 b. The imposition of an administrative fine against RESPONDENT in the amount
10 of Five Thousand Dollars and No Cents (\$5,000.00) for RESPONDENT'S violations of NRS
11 645B.900, as well as the Division's investigative costs of One Hundred Eighty Dollars and No
12 Cents (\$180.00) and attorney's fees, if any, incurred herein, to be proven at the hearing; and

13 c. RESPONDENT'S payment, in full, of the administrative fine, investigative costs
14 and fees to the Division within **thirty (30) days** of entry of the Final Order.
15

16 **NOTICE TO RESPONDENT:** If you request a hearing, you are specifically informed
17 that you have the right to appear and be heard in your defense, either personally or through
18 your counsel of choice at your own expense. At the hearing, if one is timely requested, the
19 Division will call witnesses and present evidence against you. You have the right to respond
20 and to present relevant evidence and argument on all issues involved. You have the right to
21 call and examine witnesses, introduce exhibits and cross-examine opposing witnesses on any
22 matter relevant to the issues involved.
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24 If the Division prevails at any hearing, it may request that attorney's fees and costs be
25 awarded pursuant to NRS 622.400.
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CERTIFICATE OF SERVICE

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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 12, 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, NOTICE OF INTENT TO REVOKE MORTGAGE AGENT LICENSE, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for HEATHER BARNES, addressed as follows:

**Heather Barnes
5069 Wright View
Las Vegas, NV 89120**

Certified Receipt Number: 7006 2760 0000 0876 4937

DATED this 11th day of May, 2009

By: Susan Slack
Employee of the Division

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 June 17, 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, FINAL ORDER for HEATHER BARNES, addressed as follows:
7

8
9 **Heather Barnes**
10 **5069 Wright View Avenue**
11 **Las Vegas, NV 89120**

12 **Certified Receipt Number: 7004 1350 0002 8152 1526**

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15 **DATED this 16th day of June, 2009**

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17 By: *Susan Slack*
18 **Employee of the Division**

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