

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4 In re:

5 Village Oaks Financial, Inc., dba
6 Village Oaks Mortgage,

7 Respondent.
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10 **ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO**
11 **IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING**

12 The licensing and regulation of mortgage brokers and mortgage agents in the State of
13 Nevada is governed by Chapter 645B of the Nevada Revised Statutes ("NRS") and Chapter
14 645B of the Nevada Administrative Code ("NAC"). The State of Nevada, Department of
15 Business and Industry, Division of Mortgage Lending ("the Division") has the general duty to
16 exercise supervision and control over mortgage brokers and mortgage agents, as well as
17 mortgage broker and mortgage agent activity. See, NRS 645B.060(1), NRS 645B.670 and
18 NRS 645B.690. Pursuant to that authority, the Division makes the following Factual
19 Allegations, Violations of Law, and Order:
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21 **FACTUAL ALLEGATIONS**

22 1. Based upon information and belief, Village Oaks Financial Group, Inc. ("Village
23 Oaks Financial") is a corporation organized and existing under the laws of the State of
24 Nevada since its incorporation on approximately November 7, 1997. Presently, Village Oaks
25 Financial's status with the Nevada Secretary of State is "active."
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27 2. Based upon information and belief, on approximately September 9, 1999, Village
28 Oaks Financial dba Village Oaks Mortgage ("Village Oaks Mortgage") was registered with,

1 and issued a mortgage broker license (No. 375) by, the Financial Institutions Division,
2 Department of Business and Industry, State of Nevada ("FID") pursuant to Chapter 645B of
3 NRS.

4 3. On approximately July 1, 2004, the Division commenced licensing and supervising
5 mortgage brokers and mortgage agents pursuant to Chapter 645B of NRS.

6 4. Based upon information and belief, from approximately September 9, 1999, to date,
7 Respondent, Village Oaks Mortgage ("Respondent") has been operating within the State of
8 Nevada as a licensed mortgage broker.

9 5. The Division currently classifies Respondent's license as "active."
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11 6. Based upon information and belief, on approximately January 5, 2001, Lawrence
12 Sherman aka Larry Sherman ("Sherman") was issued a mortgage agent license (No. 2179) by
13 FID pursuant to Chapter 645B of NRS.

14 7. Based upon information and belief, from approximately January 5, 2001, until
15 approximately January 6, 2006, Sherman was affiliated with, or employed by, Respondent as
16 a licensed mortgage agent at Respondent's principal office in Henderson, Nevada.

17 8. On approximately January 6, 2006, Sherman's mortgage agent license was
18 cancelled for failure to renew. See, NRS 645B.430(1).
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20 9. Based upon information and belief, commencing on approximately May 31, 2006,
21 Sherman was the qualified employee for Respondent's branch office in Laughlin, Nevada and
22 conducted mortgage lending activity at that office until approximately May 8, 2008, when the
23 branch office closed. The Division currently classifies Sherman's mortgage agent status as
24 "license application pending."

25 10. Based upon information and belief, from approximately June 2008 and continuing
26 thereafter, Sherman conducted, and continues to conduct, mortgage activity on behalf of
27 Respondent and otherwise held himself out, and continues to hold himself out, as engaging in
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1 or carrying on the activities of a mortgage agent licensed by the Division pursuant to Chapter
2 645B of NRS, as evidenced by a custom rate sheet, a true and correct copy of which is
3 attached hereto as **Exhibit "A"** and incorporated herein by reference as though set forth in
4 full.

5 11. On April 28, 2009, the Division received a written complaint ("Complaint") from an
6 individual, GW ("Complainant") alleging, among other things, that Sherman:

- 7 a. Is an unlicensed mortgage agent;
8 b. Continues to solicit mortgage business from realtors; and
9 c. Tells the realtors that he does not have a mortgage agent license, but the
10 owner of Respondent allows him to originate mortgage loans and then pays him "under the
11 table."
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13 12. In her letter to the Division dated May 8, 2009, in response to the Complaint, the
14 qualified employee of Respondent, Heather Zaborsky ("Zaborsky") stated, among other
15 things, that:

- 16 a. Sherman's lapse in licensing was an "honest mistake;"
17 b. Respondent thought that because Sherman was the qualified employee for
18 its branch office in Laughlin, Nevada and had previously been an employee of its principal
19 office in Henderson, Nevada, that Respondent "only had to transfer (Sherman's) license back
20 to (Respondent)...; and
21 c. Respondent "could not see having to punish...Sherman by not allowing him
22 to still work when he...worked for (Respondent) for over 8 years...."
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24 13. In his letter dated May 12, 2009, to Zaborsky, Michael D. Haley, a Division
25 compliance audit investigator:

- 26 a. Advised Zaborsky that Sherman was not licensed as a mortgage agent by
27 the Division; and
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1 b. Ordered Sherman to “cease any activities on behalf of (Respondent) that
2 requires licensing under NRS 645B. Further, (Sherman) CANNOT be paid for any loan that
3 has been originated and is currently in the ‘pipeline’ but not yet closed....”

4 14. In her letter dated May 25, 2009, in further response to the Division, Zaborsky:

5 a. Confirmed that “Sherman is paid a draw twice a month...;” and

6 b. Provided a spreadsheet of 48 loans originated by Sherman from May 16,
7 2008, to May 11, 2009, while he was unlicensed.

8 A true and correct copy of Zaborsky’s May 25, 2009, letter to the Division and the
9 spreadsheet are attached hereto as **Exhibit “B”** and incorporated herein by reference as
10 though set forth in full.

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

15 16. Pursuant to NRS 645B.060, the Division is further charged with conducting
16 “...such other investigations, periodic or special audits, investigations and hearings as may be
17 necessary for the efficient administration of the laws of this State regarding mortgage brokers
18 and mortgage agents....” See, NRS 645B.060(2)(e).

19 17. Pursuant to NRS 645B.610, if a person properly files a complaint with the Division,
20 the Division is further charged with investigating “...each violation alleged in the complaint...
21 and the Division”...shall determine from the investigation whether there is reasonable cause
22 to believe that the person committed the alleged violation....” See, NRS 645B.610(1), (3).

23 18. Pursuant to NRS 645B.400, “(a) person shall not act as or provide any of the
24 services of a mortgage agent or otherwise engage in, carry on or hold himself out as
25 engaging in or carrying on the activities of a mortgage agent unless the person has a license
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1 as a mortgage agent issued pursuant to NRS 645B.410.”

2 19. Pursuant to NRS 645B.900, unless a person is exempt from Chapter 645B of NRS
3 and complies with exemption requirements, “(i)t is unlawful for any person to offer or provide
4 any of the services of a mortgage broker or mortgage agent or otherwise to engage in, carry
5 on or hold himself out as engaging in or carrying on the business of a mortgage broker or
6 mortgage agent without first obtaining the applicable license issued pursuant to this
7 chapter....”

8 20. Pursuant to NRS 645B.450, “(a) mortgage broker shall not associate with or
9 employ a person as a mortgage agent or authorize a person to be associated with the
10 mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division
11 pursuant to NRS 645B.410. See, NRS 645B.450(2).
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13 21. In response to the Complaint, the Division conducted an investigation of the
14 allegations in question which revealed, among other things, that:

15 a. At no time, since approximately January 6, 2006, when his license was
16 cancelled for failure to renew, has Sherman been licensed as a mortgage agent by the
17 Division pursuant to Chapter 645B of NRS;
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19 b. At relevant times herein mentioned, Respondent allowed Sherman, while
20 unlicensed, to:

21 (i) Affiliate with or be employed by, Respondent, in violation of NRS
22 645B.450(2) and NRS 645B.670(2)(c), (q);

23 (ii) Hold himself out as being affiliated with or employed by Respondent,
24 as evidenced by the custom rate sheet (**Exhibit “A”**), in violation of NRS 645B.450(2) and
25 NRS 645B.670(2)(c), (q); and
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27 (iii) Conduct mortgage activity on its behalf, including soliciting
28 prospective clients and performing mortgage agent activity in connection with 48 mortgage

1 loans, which activity generated \$97,828.63 for Respondent and \$52,651.63 for Sherman, as
2 evidenced by the spreadsheet provided by Respondent (**Exhibit "B"**), in violation of NRS
3 645B.450(2) and NRS 645B.670(2)(c), (q);

4 c. By the above-mentioned conduct, Respondent failed to exercise reasonable
5 supervision over the activities of its mortgage agents, in violation of NRS 645B.460(1)(b)(1)
6 and NRS 645B.670(2)(c),(q); and

7 d. Complainant's allegation that Respondent was paying Sherman "under the
8 table" was unsubstantiated.

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10 22. Pursuant to NRS 645B.670, "(f)or each violation committed by a mortgage broker,
11 the Commissioner may impose upon the mortgage broker an administrative fine of not more
12 than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if
13 the mortgage broker, whether or not acting as such...(h)as violated any provision of this
14 chapter, a regulation adopted pursuant to this chapter or an order of the
15 Commissioner...(h)as failed to exercise reasonable supervision over the activities of a
16 mortgage agent as required by NRS 645B.460...." See, NRS 645B.670(2)(c), (q).

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18 23. Pursuant to NAC 645B.340, "...if a person engages in an activity in violation of the
19 provisions of this chapter or chapter 645B of NRS, the Commissioner may issue an order to
20 the person directing the person to cease and desist from engaging in the activity. See, NAC
21 645B.340(1).

22 VIOLATIONS OF LAW

23 After investigating this matter, it has been determined that at relevant times herein
24 mentioned, on approximately 48 occasions, Respondent allowed Sherman, while unlicensed,
25 to:

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27 1. Affiliate with or be employed by, Respondent, in violation of NRS 645B.450(2) and
28 NRS 645B.670(2)(c), (q);

1 2. Hold himself out as being affiliated with or employed by Respondent, in violation of
2 NRS 645B.450(2) and NRS 645B.670(2)(c), (q); and

3 3. Conduct mortgage activity on Respondent's behalf, including soliciting prospective
4 clients and performing mortgage agent activities in connection with 48 mortgage loans, in
5 violation of NRS 645B.400, NRS 645B.900 and NRS 645B.670(2)(c), (q).

6 **ORDER**

7 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS,**
8 pursuant to NRS 622.080 and NAC 645B.340, after having determined that Respondent
9 allowed Sherman, while unlicensed, to (a) affiliate with or be employed by Respondent, (b)
10 hold himself out as being affiliated with or employed by Respondent; and (c) conduct
11 mortgage activity on behalf of Respondent, in violation of Chapter 645B of NRS, that
12 **RESPONDENT IMMEDIATELY CEASE AND DESIST** from the following activities:
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14 1. Affiliating with or employing any person as a mortgage agent, or authorizing any
15 person to be affiliated with Respondent as a mortgage agent, if the person is not licensed by
16 the Division pursuant to NRS 645B.410.

17 2. Failing to exercise reasonable supervision over the activities of its mortgage agents.
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19 **IT IS FURTHER ORDERED,** pursuant to NAC 645B.340(4), that upon filing a verified
20 petition with the Division within **thirty (30) days** of receipt of this Order to Cease and Desist,
21 Respondent shall be entitled to a hearing with regard to the contents of this Order to Cease
22 and Desist. Respondent is advised, however, that the provisions of this Order to Cease and
23 Desist are effective immediately upon Respondent being served therewith, whether or not
24 Respondent requests a hearing.

25 **NOTICE TO RESPONDENT:** If you request a hearing, you are specifically informed
26 that you have the right to appear and be heard in your defense, either personally or through
27 your counsel of choice at your own expense. At the hearing, if one is timely requested, the
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1 Division will call witnesses and present evidence against you. You have the right to respond
2 and to present relevant evidence and argument on all issues involved. You have the right to
3 call and examine witnesses, introduce exhibits and cross-examine opposing witnesses on any
4 matter relevant to the issues involved.

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

7 **IT IS FURTHER ORDERED**, pursuant to NRS 645B.750, that upon written application
8 to the Division within **twenty (20) days** of the date of this Order, Respondent shall be entitled
9 to a hearing with regards to the contents of this Order referenced below. At that hearing the
10 Division will seek to:

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12 1. Impose an administrative fine against Respondent in the amount of Ten Thousand
13 Dollars and No Cents (\$10,000.00) for Respondent's violations of Chapter 645B of NRS, the
14 Division's investigative costs in the amount of Six Hundred Ninety Dollars and No Cents
15 (\$690.00) as well as the Division's attorney's fees, if any, incurred herein, to be proven at the
16 hearing; and

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18 2. Require Respondent's payment, in full, of the administrative fine, investigative costs
19 and fees, if any, to the Division within **thirty (30) days** of entry of the Final Order.

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

23 Dated this 7th day of July, 2009.

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25 STATE OF NEVADA
26 DEPARTMENT OF BUSINESS AND INDUSTRY
27 DIVISION OF MORTGAGE LENDING

28 By: *Joseph L. Waltuch*
JOSEPH L. WALTUCH, COMMISSIONER
Deputy Commissioner

CERTIFICATE OF SERVICE

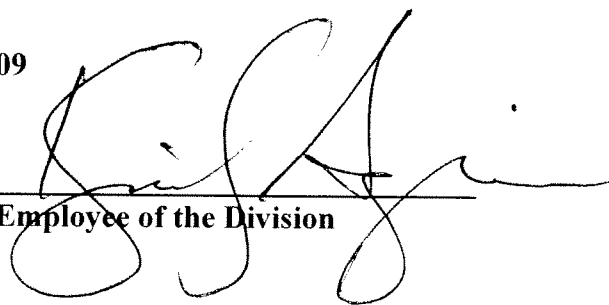
I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on July 8, 2009, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, ORDER TO CEASE AND DESIST AND NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for VILLAGE OAKS MORTGAGE, addressed as follows:

**Heather Zaborsky
Village Oaks Mortgage
175 Cassia Way, Ste. A114
Henderson, NV 89014**

Certified Receipt Number: 7006 2760 0000 0875 9049

DATED this 7th day of July, 2009

**By: _____
Employee of the Division**



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