

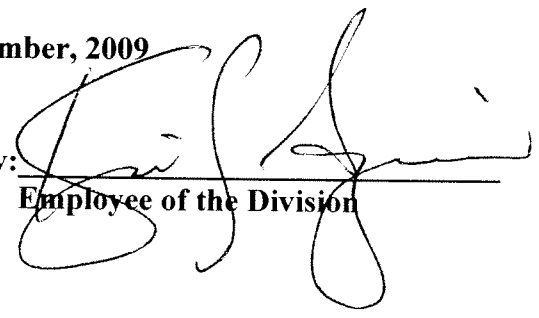
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on November 30, 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 ORDER IMPOSING LICENSURE CONDITIONS AND NOTICE OF RIGHT TO REQUEST HEARING for ONECAP MORTGAGE CORPORATION, addressed as follows:

Vince Hesser  
OneCap Mortgage Corporation  
5440 W. Sahara Ave, Ste. 205  
Las Vegas, NV 89146

Certified Receipt Number: 7008 1830 0002 7959 5086

DATED this 30th day of November, 2009

By:   
Employee of the Division



JIM GIBBONS  
*Governor*

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF MORTGAGE LENDING  
7220 Bermuda Road, Ste. A  
Las Vegas, NV 89119  
(702) 486-0780 Fax (702) 486-0785  
[www.mld.nv.gov](http://www.mld.nv.gov)

DIANNE CORNWALL  
*Director*

JOSEPH L. WALTUCH  
*Commissioner*

November 30, 2009

**TIME SENSITIVE MATTER**

Certified and Regular Mail

Mr. Vince Hesser  
President  
OneCap Mortgage Corporation  
5440 W. Sahara Avenue, Suite 205  
Las Vegas, NV 89146

Re: NOTICE PURSUANT TO NRS 233B.127(3) OF INTENT TO TAKE ADMINISTRATIVE ACTION FOR FAILURE TO POST SURETY BOND OR SUBSTITUTE FORM OF SECURITY AND OTHER VIOLATIONS OF LAW AND BREACH OF SETTLEMENT AGREEMENT.

Dear Mr. Hesser:

Assembly Bill No. 486 was enacted during the 2009 Legislative Session and became effective October 1, 2009. It provides that, "as a condition to doing business in this State, each mortgage broker shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada..." The Division of Mortgage Lending (Division) previously notified you through e-mails that pursuant to the requirements prescribed in AB 486, all mortgage brokers must submit a surety bond to the Division by October 1, 2009. Moreover, on October 1, 2009, you were further advised that the Division's records reflected that you had failed to deposit the original requisite surety bond or substitute form of security naming all required principals by the October 1, 2009 deadline, and extended the deadline to deposit said bond to November 2, 2009.

On November 2, 2009 OneCap Mortgage attempted to inactivate its mortgage broker license. The Division rejected such inactivation since, among other things, OneCap Mortgage continues to retain servicing rights over mortgage loans which it originated, and continues to retain or have control over investor trust moneys for payment of property taxes and possibly other items, all of which require an active mortgage broker's license.

The records of the Division currently show OneCap Mortgage as an active licensee that has failed to deposit the original requisite surety bond or substitute form of security naming all required principals. For this and other reasons, including those above, the Division has issued the enclosed Cease and Desist Order and Order to Impose Licensure Conditions.

Additionally, pursuant to NRS 645B.670 (2), “(f)or each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$25,000 [See Section 55 of Assembly Bill 523 of the 2009 Legislative session], may suspend, *revoke* or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such... (d)oes not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner...” (Emphasis added)

Be advised the Division intends to exercise the provisions prescribed in NRS 645B.670 and serve upon you a Notice of Intent to Revoke OneCap Mortgage’s mortgage broker license should you not fully comply with the Cease and Desist Order and the conditions therein and/or fully come in to compliance with the law. Additionally, the Division intends to exercise the provisions prescribed in NRS 645B.670 and serve upon you a Notice of Intent to Revoke OneCap Mortgage’s mortgage broker license due to its abandonment of servicing responsibilities to investors with whom OneCap Mortgage had a contractual agreement to service their loans, in violation of NRS 645B.670(2)(b), (c), (h) and (o), and breach of the Settlement Agreement entered into between OneCap Mortgage and the Division for OneCap Mortgage’s failure to notify the Division in writing of the subsequent written termination of its servicing obligations to such investors and OneCap Mortgage’s failure to pay to the Division the fines, fees and costs as more particularly set forth in the Settlement Agreement.

You have the right to provide the Division with proof of compliance with all of the foregoing. If a Notice is served for revocation of OneCap Mortgage’s mortgage broker license you will, pursuant to NRS 645B.750, be entitled to a hearing on the matter upon written request within twenty days of the date of the Notice. If you fail to timely provide proof of compliance and/or fail to timely request a hearing, the Division will issue a final order revoking your license, and possibly imposing a fine, as set forth in the notice.

If you have any questions concerning the foregoing matter, please contact the undersigned in writing.

Thank you.

Very truly yours,



Joseph L. Waltuch  
Commissioner

Cc: Colleen Hemingway, Esq.

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

In re:

OneCap Mortgage Corporation

Respondent.

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**ORDER TO CEASE AND DESIST AND ORDER IMPOSING LICENSURE CONDITIONS  
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"), as amended by Assembly Bills 486, 513 and 523 of the 75<sup>th</sup> (2009) Legislative Session ("AB 486," "AB 513" and "AB 523," respectively), and by 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 and see AB 486, AB 513 and AB 523. Pursuant to that authority, the Division makes Factual Allegations, Violations of Law, and Order, as follows:

23

**FACTUAL ALLEGATIONS**

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1. Based upon information and belief, Respondent, OneCap Mortgage Corporation ("Respondent") is a corporation with an office located at 5440 W. Sahara Avenue, Suite 205, Las Vegas, NV 89146.

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2. On 01/12/1994, Respondent was issued a mortgage broker license (License No. 243) pursuant to Chapter 645B of NRS. At all relevant times herein mentioned, Respondent

1 operated within the State of Nevada as a licensed mortgage broker. The Division currently  
2 classifies Respondent's license as "active." All factual allegations herein occurred while  
3 Respondent held an active mortgage broker license.

4 3. Pursuant to AB 486, effective October 1, 2009, "as a condition to doing business in  
5 [Nevada], each mortgage broker shall deposit with the Commissioner and keep in full force  
6 and effect a corporate surety bond payable to the State of Nevada," in the amount of  
7 \$50,000.00 for the principal office and \$25,000.00 for each branch office, not to exceed  
8 \$75,000.00, "which is executed by a corporate surety satisfactory to the Commissioner and  
9 which names as principals the mortgage broker and all mortgage agents employed by or  
10 associated with the mortgage broker," or a substitute form of security. See, Sections 8 and 9  
11 of AB 486.  
12

13 4. Through e-mails prior to October 1, 2009, the Division notified Respondent of the  
14 requirement that it deposit with the Division, by October 1, 2009, a surety bond payable to the  
15 State of Nevada, in the amount of \$50,000.00 for the principal office and \$25,000.00 for each  
16 branch office, not to exceed \$75,000.00, which names as principals Respondent and all  
17 mortgage agents employed by or otherwise associated with Respondent, or a substitute form  
18 of security, pursuant to AB 486.  
19

20 5. By letter dated October 1, 2009, the Division notified Respondent of the  
21 requirement that Respondent deposit the surety bond, or substitute form of security, with the  
22 Division by the extended deadline of November 2, 2009, and advised that "if the Division is  
23 not in physical receipt of the requisite surety bond or substitute form of security...by  
24 November 2, 2009...the Division intends to exercise the provisions prescribed in NRS 645B  
25 and will serve upon (Respondent) a Notice of Intent to Revoke (Respondent's) mortgage  
26 broker license...."  
27

28 6. By letter to the Division dated November 2, 2009, Respondent submitted its original

1 mortgage broker license to the Division along with a request to inactivate its mortgage broker  
2 license. See attached Exhibit "A". No mention is made in such letter as to any moneys held  
3 by Respondent in a trust capacity for investors in mortgage loans being serviced by  
4 Respondent. (For purposes of this Order to Cease and Desist and Order Imposing Licensure  
5 Conditions and Notice of Right to Request Hearing, the word "investor" includes, but is not  
6 limited to, private investors in loans brokered and/or originated by Respondent.)

7  
8 7. Upon receipt of the November 2, 2009 letter from Respondent on November 3,  
9 2009, the Division notified Respondent by email that its attempted inactivation of its license  
10 would not be acted upon by the Division until Respondent provided information as to how  
11 Respondent was going to service mortgage loans for those investors who had not joined into  
12 a business trust. See attached Exhibit "B".

13 8. On information and belief, on or about November 3, 2009, Respondent sent letters  
14 to its investors terminating the servicing contracts Respondent had with those investors  
15 effective December 4, 2009. See attached Exhibit "C" for a sample letter.

16  
17 9. On November 4, 2009, Heidi Williams, an employee of Respondent, telephoned the  
18 Division and spoke with Deputy Commissioner Nancy Corbin. Ms. Williams stated that  
19 Respondent was no longer working with investors who were not a party to a business trust,  
20 and that Respondent *had ceased* communications and all dealings with those individuals.  
21 See Exhibit "B".

22 10. Pursuant to NRS 645B.670, as amended by AB 523, "[f]or each violation  
23 committed by a mortgage broker, the Commissioner may impose upon the mortgage broker  
24 an administrative fine of not more than \$25,000.00, may suspend, revoke or place conditions  
25 upon his license, or may do both, if the mortgage broker, whether or not acting as  
26 such...[d]oes not conduct his business in accordance with law or has violated any provision of  
27 this chapter, a regulation adopted pursuant to this chapter or an order of the  
28

1 Commissioner....” See, NRS 645B.670(2)(c) and Section 55(2)(c) of AB 523.

2 11. Pursuant to NAC 645B.340(1), “[i]f a person engages in an activity in violation of  
3 the provisions of this chapter or chapter 645B of NRS, the Commissioner may issue an order  
4 to the person directing the person to cease and desist from engaging in the activity.”

5 12. Pursuant to Section 9 of AB 513, “[t]he expiration or revocation of a license of a  
6 mortgage broker or mortgage agent by operation of law or by order or decision of the  
7 Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license,  
8 does not:

9  
10 1. Prohibit the Commissioner from initiating or continuing an investigation of, or action  
11 or disciplinary proceeding against, the mortgage broker or mortgage agent as authorized  
12 pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

13 2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the  
14 provisions of this chapter or the regulations adopted pursuant thereto against the mortgage  
15 broker or mortgage agent.

### 16 VIOLATIONS OF LAW

17  
18 After investigating this matter, it has been determined that Respondent failed to  
19 deposit with the Commissioner, on or before November 2, 2009, a surety bond payable to the  
20 State of Nevada, in the amount of \$50,000.00 for the principal office and \$25,000.00 for each  
21 branch office, not to exceed \$75,000.00, which names as principals Respondent and all  
22 mortgage agents employed by or otherwise associated with Respondent, or a substitute form  
23 of security, in violation of Chapter 645B of NRS and Sections 8 and 9 of AB 486.

24  
25 Additionally, by attempting to inactivate its mortgage broker license and by ceasing all  
26 communication and dealings with investors in mortgage loans that Respondent was servicing  
27 prior to December 4, 2009, as set forth in Respondent’s letter of November 3, 2009,

1 Respondent effectively abandoned its responsibilities as a loan servicer, in violation of NRS  
2 645B.670(2)(b), (c) and (o), and in so doing also breached the terms of the Stipulated  
3 Settlement Agreement entered into between the Division and Respondent on July 29, 2009  
4 wherein Respondent agreed, among other things, to (i) not terminate any servicing without  
5 providing the Division with thirty (30) days advance notice of such termination, and (ii) comply  
6 with all laws and regulations pertaining to a mortgage broker licensee for as long as  
7 Respondent had any contractual right to service loans.

8  
9 **ORDER**

10 **NOW, THEREFORE**, pursuant to NRS 622.080, NRS 645B.670 and NAC  
11 645B.340, the Commissioner of the Division hereby orders that Respondent **IMMEDIATELY**  
12 **CEASE AND DESIST** from all mortgage broker activities, including mortgage loan servicing, in  
13 the State of Nevada for which a license pursuant to Chapter 645B of NRS is required.

14 Respondent shall immediately provide to the Division a complete accounting of  
15 all moneys held in trust for each investor for whom Respondent has terminated servicing.  
16 Such accounting shall include a complete list of all such loans being serviced, a list by loan of  
17 all investors in such loan for whom trust moneys are being held, along with the amount of  
18 moneys held on their behalf, and a list of all bank accounts (including bank account number and  
19 bank name and address) where any such trust moneys, however denominated (such as tax,  
20 insurance, interest reserve or construction control accounts), are held, along with the balances  
21 in such accounts, for each such loan.

22  
23 In the event Respondent has transferred control of such trust moneys to a third  
24 person or entity, Respondent shall immediately provide to the Division the name, address and  
25 telephone number of such third person or entity, along with (i) a copy of any written agreement  
26 between Respondent and such third person or entity for the handling of such trust moneys and  
27 (ii) the accounting required in the immediately preceding paragraph.  
28



1 Respondent shall also immediately provide to the Division proof that Respondent,  
2 or the third person or entity on behalf of Respondent, has appropriately refunded to each  
3 such investor all such trust moneys held on behalf of such investor. Except for the foregoing,  
4 Respondent shall not disburse any trust funds it or the third person or entity holds that belongs  
5 to any of Respondent's investors to any other person or entity without the written consent of the  
6 Division.

7 In the event an investor of Respondent desires to enter into a business trust for  
8 the servicing or any loan or the management of any real property that secures or previously  
9 secured any loan, Respondent shall notify the Division in writing of the name, address and  
10 telephone number of such investor prior to the time such investor signs the business trust.  
11

12 Respondent shall immediately notify in writing all of its investors, and all other  
13 parties involved in an open or pending loan transaction, of the failure of Respondent to post a  
14 bond or other substitute security as required by law and of the contents of this Order.

15 Respondent shall delete from all advertising material, including Respondent's  
16 websites, if any, all references to its ability to conduct mortgage brokering or lending activity in  
17 the state of Nevada for which a license under Chapter 645B is required, and all references to its  
18 mortgage broker license number.  
19

20 All notices to the Division must be sent by U.S. Postal Service or private carrier or delivery  
21 service to:

22 Commissioner  
23 Division of Mortgage Lending  
24 7220 Bermuda Road, Suite A  
Las Vegas, NV 89119

25 or may be sent by email to [jwaltuch@mld.nv.gov](mailto:jwaltuch@mld.nv.gov).

26 **IT IS FURTHER ORDERED** that Respondent's failure to abide by any of the  
27 above referenced conditions now imposed upon its license under NRS Chapter 645B shall  
28 constitute grounds for summary suspension or other discipline, including a revocation of

1 license and/or fine, deemed appropriate in the discretion and within the statutory authority of  
2 the Commissioner.

3 **IT IS FURTHER ORDERED** that, pursuant to NAC 645B.340(4), upon filing a  
4 verified petition with the Division, Respondent shall be entitled to a hearing with regard to the  
5 contents of the instant Order.

6 **NOTICE TO RESPONDENT:** If you request a hearing, you are specifically  
7 informed that you have the right to appear and be heard in your defense, either personally or  
8 through your counsel of choice at your own expense. At the hearing, if one is timely  
9 requested, the Division will call witnesses and present evidence against you. You have the  
10 right to respond and to present relevant evidence and argument on all issues involved. You  
11 have the right to call and examine witnesses, introduce exhibits and cross-examine opposing  
12 witnesses on any matter relevant to the issues involved. If the Division prevails at any  
13 hearing, it may request that attorney's fees and costs be awarded pursuant to NRS 622.400.  
14 Should Respondent not request a hearing within **thirty (30) days** of the receipt of the instant  
15 Order, the Division will enter a Final Order in this matter.

16 **Respondent is advised, however, that the provisions of this Order to Cease and Desist**  
17 **and Order Imposing Licensure Conditions are effective immediately upon Respondent's**  
18 **being served therewith, whether or not Respondent requests a hearing.**

19 Dated this 30<sup>th</sup> day of November, 2009.

20  
21  
22 STATE OF NEVADA  
23 DEPARTMENT OF BUSINESS AND INDUSTRY  
24 DIVISION OF MORTGAGE LENDING

25 By: Joseph L. Waltuch  
26 JOSEPH L. WALTUCH, COMMISSIONER  
27  
28

# **EXHIBIT “A”**

# OneCap Mortgage

www.onecap.com

RECEIVED

NOV 03 2009

Mortgage Lending Division

November 2, 2009

Char Linch  
State of Nevada  
Mortgage Lending Division  
400 W. King Street, Suite 101  
Carson City, NV 89703

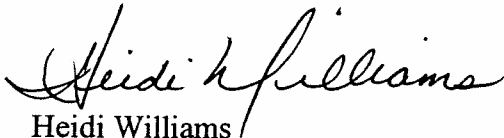
Dear Ms. Linch,

Attached please find a Request for Temporary Inactivation of License for OneCap Mortgage.

Response to conditions on page 2.

- 4) The closed loan files will be at 5440 W. Sahara Ave., Suite #205, Las Vegas, NV 89146.
- 5) There are no loans currently in process.
- 6) There are no loans currently in process to address.
- 8) There are no mortgage agents licensed with the company.

Sincerely,



Heidi Williams  
Vice President  
OneCap Mortgage

# **EXHIBIT “B”**

## Joseph Waltuch

---

**From:** Nancy Corbin  
**Sent:** Wednesday, November 04, 2009 3:23 PM  
**To:** Joseph Waltuch  
**Cc:** Tony Frascarelli; Bill A. Theobald; Kimberly Aguirre  
**Subject:** RE: Request for Temporary Inactivation

Joe,

Heidi called and said they are no longer working with investors that are not a party to the business trust. She indicated that they have ceased communications and all dealings with these individuals.

Nancy Corbin  
Deputy Commissioner  
Department of Business & Industry  
Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119  
702-486-0788  
702-486-0785 (Fax)

Confidentiality Notice: This e-mail is intended for the use of the individual or entity named herein. The information is general in nature, and is not intended to and does not constitute legal advice. You should obtain legal advice as to your specific factual issue, should you deem it necessary. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in the reliance on the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify the Division immediately.

---

**From:** Kimberly Aguirre  
**Sent:** Tuesday, November 03, 2009 4:18 PM  
**To:** 'heidw@onecap.com'  
**Cc:** Joseph Waltuch; Nancy Corbin; Tony Frascarelli; Bill A. Theobald  
**Subject:** Request for Temporary Inactivation

We are in receipt of your request for temporary inactivation. However, as a hard money lender, there is no mention of what is happening with the servicing of loans where the investors have not joined into a business trust. Can we please get clarification on that issue?

Thank you.

**Kimberly Aguirre**  
**Administrative Assistant II**  
**State of Nevada**  
**Division of Mortgage Lending**  
**Phone: (702) 486-0782**  
**Fax: (702) 486-0785**

Confidentiality Notice: This e-mail is intended for the use of the individual or entity named herein. The information is general in nature, and is not intended to and does not constitute legal advice. You should obtain legal advice as to your specific factual issue, should you deem it necessary. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in the reliance on the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify the Division immediately.

# **EXHIBIT “C”**

# OneCap Mortgage

[www.onecap.com](http://www.onecap.com)

November 3, 2009

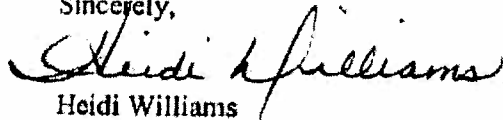
Dear Glendale Lender,

The first Business Trust Meeting will be held November 17, 2009 from 10:00 am to 11:00 am. Attendance is limited to members of the Business Trust only. If you have not signed your exhibit A and wish to attend the meeting please send or bring a signed copy to the meeting or contact our office. The meeting will be conducted by Royal Union of Nevada LLC and will be held in the OneCap Mortgage office in Suite 205. Those who are interested in volunteering to be a Co-Trustee please contact either myself or Shawn King.

If you are a Lender that has not signed an Exhibit A to join the trust and do not wish to, OneCap Mortgage is terminating its continued servicing of your interest in this note, as the Trust will be managing its own asset from this point forward. All documents will remain on file, and OneCap Mortgage also retains all rights and remedies regarding any outstanding monies due and owing, whether it is monies lent on behalf of the Lenders or that were due under the Note. These monies must be paid prior to hypothecating, selling, transferring, conveying, or borrowing funds against this note or its underlying property.

Please consider this OneCap Mortgage's 30 Day Notice of Termination. The effective date will be December 4, 2009. All further correspondence regarding this note will be distributed only through the Trust, by the Trustees to the members.

Sincerely,



Heidi Williams  
Vice President  
OneCap Mortgage