

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

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5 In re:
6 ALEX SORIA,
7 Respondent(s).

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10 **AMENDED**
11 **ORDER TO CEASE AND DESIST AND**
12 **NOTICE OF REVOCATION;**
13 **INTENT TO IMPOSE FINE, AND**
14 **NOTICE OF RIGHT TO REQUEST HEARING**

15 The licensing and regulation of mortgage brokers, mortgage agents, and related
16 professions in the State of Nevada is governed by Chapters 645B and 645F of the Nevada
17 Revised Statutes (hereinafter, "NRS") and Chapter 645B of the Nevada Administrative Code
18 (hereinafter, "NAC"). The State of Nevada, Department of Business and Industry, Division of
19 Mortgage Lending (hereinafter, the "DIVISION") has the general duty to exercise supervision
20 and control over mortgage brokers, mortgage agents, and related professions. See, NRS
21 645B.060(1) and NRS 645F.250. Pursuant to that authority, the DIVISION makes the
22 following Findings of Fact, Conclusions of Law, and Order as follows:

23 **FACTUAL ALLEGATIONS**

- 24 1. Upon information and belief, ALEX SORIA (hereinafter, "RESPONDENT") was
25 previously licensed as a mortgage agent in the State of Nevada, which expired April 29, 2008.
- 26 2. Upon information and belief, RESPONDENT was the Qualified Employee with
27 AMWEST CAPITAL MORTGAGE, INC. in the State of Nevada until June 1, 2008.
- 28 3. On February 12, 2009, the DIVISION received a Complaint alleging
RESPONDENT engaged in the activity of a foreclosure consultant as that term is defined
pursuant to NRS 645F.300, et. seq. and collected advance fees from RM, after a notice of

1 default had been recorded against his property, and prior to the services of a foreclosure
2 consultant being fully performed, at the time of the activity complained of herein, in violation of
3 NRS 645F.400(1).

4 4. May 5, 2009, the DIVISION received a complaint (VM) alleging RESPONDENT
5 engaged in mortgage broker/agent activity while not licensed with the DIVISION.

6 5. On August 6, 2009, the DIVISION received a complaint (AF) alleging
7 RESPONDENT engaged in mortgage broker/agent activity while not licensed with the
8 DIVISION.

9 6. On November 5, 2009, the DIVISION received a complaint (JL) alleging
10 RESPONDENT engaged in mortgage broker/agent activity while not licensed with the
11 DIVISION.

12 7. On November 25, 2009, the DIVISION received a complaint (JC) alleging
13 RESPONDENT engaged in mortgage broker/agent activity while not licensed with the
14 DIVISION.

15 8. After receiving the complaints regarding RESPONDENT, the DIVISION
16 commenced an investigation, the results of which established RESPONDENT engaged in the
17 activity of a foreclosure consultant and collected \$1000.00 in advance fees from RM after a
18 notice of default had been recorded by his lender(s), and prior to the services of a foreclosure
19 consultant being fully performed, at the time of the activity complained of herein, in violation of
20 NRS 645F.400(1).

21 9. Pursuant to NRS 645F.250, the DIVISION is charged with administering the
22 foreclosure consultant chapter.

23 10. Pursuant to NRS 645F.410, the COMMISSIONER of the DIVISION may impose
24 an administrative penalty of not more than \$10,000 on a Foreclosure Consultant who violates
25 any provision of NRS 645F.400.

26 11. Pursuant to NRS 645F.320, a "Foreclosure Consultant" is defined, in pertinent
27 part, as "...a person who directly or indirectly, makes any solicitation, representation or offer to a
28 homeowner to perform for compensation, or who, for compensation, performs any covered

1 service that the person represents will do any of the following: 1) Prevent or postpone a
2 foreclosure sale; 2) Obtain any forbearance from any mortgagee or beneficiary of a deed of
3 trust; 3) Assist the homeowner to exercise the right of reinstatement provided in the legal
4 documents; 4) Obtain any extension of the period within which the homeowner may reinstate
5 the homeowner's obligation; 5) Obtain any waiver of an acceleration clause contained in any
6 promissory note or contract secured by a mortgage on a residence in foreclosure or included in
7 the mortgage or deed of trust; 6) Assist the homeowner in foreclosure or loan default to obtain
8 a loan or advance of money; 7) Avoid or ameliorate the impairment of the homeowner's credit
9 resulting from the recording of a notice of default or the conduct of a foreclosure sale; 8) Save
10 the homeowner's residence from foreclosure; or 9) Assist the homeowner to obtain a
11 foreclosure reconveyance." See, NRS 645F.320.

12 12. Pursuant to NRS 645F.310, a "Covered Service" includes without limitation: 1)
13 Financial counseling, including, without limitation, debt counseling and budget counseling. 2)
14 Receiving money for the purpose of distributing it to creditors in payment or partial payment of
15 any obligation secured by a mortgage or other lien on a residence in foreclosure. 3) Contacting
16 a creditor on behalf of a homeowner. 4) Arranging or attempting to arrange for an extension of
17 the period within which a homeowner may cure his default and reinstate his obligation pursuant
18 to a note, mortgage or deed of trust. 5) Arranging or attempting to arrange for any delay or
19 postponement of the time of a foreclosure sale. 6) Advising the filing of any document or
20 assisting in any manner in the preparation of any document for filing with a bankruptcy court. 7)
21 Giving any advice, explanation or instruction to a homeowner which in any manner relates to the
22 cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on
23 the residence in foreclosure, the full satisfaction of the obligation, or the postponement or
24 avoidance of a foreclosure sale.

25 13. Pursuant to NRS 645F.360, a "Homeowner" is defined as the record owner of a
26 residence in foreclosure at the time ... the notice of default and election to sell is recorded
27 See, NRS 645F.360.
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1 14. At the time of the activity complained of herein, NRS 645F.400 (1), provided a
2 foreclosure consultant shall not: "Claim, demand, charge, collect or receive any compensation
3 until after the foreclosure consultant has fully performed each covered service that he
4 contracted to perform or represented that he would perform." See, NRS 645F.400(1).

5 15. The DIVISION'S investigation also provided evidence RESPONDENT
6 engaged in mortgage loan activity in Nevada (BG, VM, AF, JL, JC) without being licensed as
7 either a mortgage agent or mortgage broker in Nevada.

8 16. Pursuant to NRS 645B.060, the DIVISION is charged with conducting "...such
9 investigations as may be necessary to determine whether any person has violated any provision
10 of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner."
11 See, NRS 645B.060(2)(c).

12 17. Pursuant to NRS 645B.610, the DIVISION is further charged with investigating
13 "...each violation alleged in [a] complaint..." received by the DIVISION and "...shall determine
14 from the investigation whether there is reasonable cause to believe that the [accused]
15 committed the alleged violation..." See, NRS 645B.610(1)(3).

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

21 19. Pursuant to NRS 645B.0125, a "mortgage agent" is defined, in part, as "...a
22 natural person who... is an employee or independent contractor of a mortgage broker who is
23 required to be licensed pursuant to this chapter..." and "...is authorized by the mortgage broker
24 to engage in, on behalf of the mortgage broker, any activity that would require the person, if he
25 were not an employee or independent contractor of the mortgage broker, to be licensed as a
26 mortgage broker pursuant to this chapter..." See, NRS 645B.0125 (1)(a)(b).

27 20. Pursuant to NRS 645B.900, "...it is unlawful for any person to offer or provide any
28 of the services of a mortgage broker or mortgage agent or otherwise to engage in, carry on or

1 hold himself out as engaging in or carrying on the business of a mortgage broker or agent
2 without first obtaining the applicable license issued pursuant to this chapter..." See, NRS
3 645B.900.

4 21. Pursuant to NRS 645B.690, "...if a person offers or provides any of the services
5 of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself
6 out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at
7 the time... the person was required to have a license pursuant to this chapter and the person
8 did not have such a license... the Commissioner shall impose upon the person an
9 administrative fine of not more than \$10,000 for each violation and, if the person has a license,
10 the Commissioner shall revoke it..." See, NRS 645B.690(1)(a).

11 **VIOLATIONS OF LAW**

12 1. Having investigated the RESPONDENT'S conduct in this matter and received
13 competent evidence that RESPONDENT has engaged in the activity of a foreclosure
14 consultant and collected compensation prior to fully performing each service that he
15 represented he would perform, i.e. loan modification in the State of Nevada in order to prevent
16 or postpone a foreclosure sale (RM), it has been determined that RESPONDENT did, at the
17 time of the activity complained of herein, in fact, violate then NRS 645F.400 (1).

18 2. Moreover, the investigation also established RESPONDENT engaged in the
19 business of a mortgage agent or mortgage broker in the State of Nevada (BG, VM, AF, JL, JC)
20 without either an agent license or a mortgage broker license entitling him to do the same,
21 thereby violating NRS 645B.690(1)(a) and NRS 645B.900.

22 **ORDER**

23 **NOW, THEREFORE,** pursuant to NRS 622.080 and NAC 645B.340, the
24 **COMMISSIONER** of the **DIVISION HEREBY ORDERS** that RESPONDENT **CEASE AND**
25 **DESIST** from conducting any and all unlicensed mortgage brokering and/or agent activity in the
26 State of Nevada.

1 **IT IS FURTHER ORDERED** the **COMMISSIONER** of the **DIVISION** **HEREBY**
2 **DETERMINES** that, pursuant to NRS 645B.690(1),RESPONDENT'S mortgage agent license
3 shall be revoked.

4 **IT IS FURTHER ORDERED** that pursuant to NRS 645F.410, NRS 645B.750 and NAC
5 645B.340(4), upon written application to the Division, RESPONDENT shall be entitled to a
6 hearing with regard to the contents of the instant Order. At that hearing, the DIVISION will also
7 seek to impose a fine of \$20,000 for RESPONDENT'S violations of NRS Chapters 645F and
8 NRS 645B, as well as for the DIVISION'S administrative costs and attorney's fees, in the
9 amount of \$300.00, incurred herein, and each to be proven at the hearing. Should
10 RESPONDENT not request a hearing within **twenty (20) days** of the receipt of the instant
11 Order, the DIVISION will enter a Final Order in this matter against RESPONDENT, including
12 such fine, costs and fees.

13 **IT IS FURTHER ORDERED** that the sum of said administrative fine, costs and fees be
14 paid in full within **thirty (30) days** of entry of the Final Order;

15 **IT IS FURTHER ORDERED** that, upon the DIVISION'S receipt of the sum of said
16 administrative fine, costs and fees, this matter will be deemed concluded;

17 **RESPONDENT** is advised that the provisions of this Order are effective immediately
18 upon RESPONDENT being served therewith, whether or not RESPONDENT requests a
19 hearing.

20 DATED this 11th day of December, 2009.

21 **IT IS SO ORDERED.**

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

25 By: *Nancy Calix* Deputy Commissioner
26 **JOSEPH L. WALTUCH, COMMISSIONER** for
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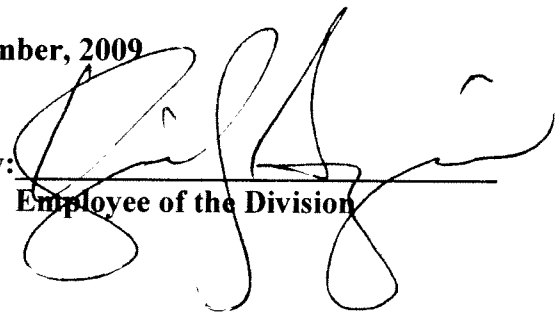
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on December 14, 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, **AMENDED ORDER TO CEASE AND DESIST AND NOTICE OF REVOCATION; INTENT TO IMPOSE FINE for ALEX SORIA**, addressed as follows:

**Alex Soria
2620 Regatta Drive, Ste. 102
Las Vegas, NV 89128**

Certified Receipt Number: 7008 1830 0002 7959 5208

DATED this 14th day of December, 2009

By: 
Employee of the Division