

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

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5 In re:

6 Rosa Chavez,

7 Respondent

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11 **ORDER TO CEASE AND DESIST AND**
12 **NOTICE OF INTENT TO IMPOSE FINE AND**
13 **NOTICE OF RIGHT TO REQUEST HEARING**

14 The licensing and regulation of mortgage brokers and mortgage agents in the State of
15 Nevada is governed by Chapter 645B of the Nevada Revised Statutes (hereinafter, "NRS")
16 and Chapter 645B of the Nevada Administrative Code (hereinafter, "NAC"). The State of
17 Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter, the
18 "Division") has the general duty to exercise supervision and control over mortgage brokers
19 and mortgage agents, as well as unlicensed mortgage broker activity. See, NRS 645B.060,
20 and NRS 645B.900. Pursuant to that authority, the Division makes the following Factual
21 Allegations, Violations of Law, and Order, as follows:

22 **FACTUAL ALLEGATIONS**

- 23 1. Respondent has never been issued a license by the Division to engage in the activities of
24 a mortgage broker and/or a mortgage agent in the State of Nevada and is not exempt from
25 licensure.
- 26 2. At all times relevant herein, First American Mortgage was duly licensed as a mortgage
27 broker and had two approved office locations in Las Vegas, Nevada.
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1 3. The Division believes, and therefore alleges, that Respondent did not have a business
2 relationship with First American Mortgage to act in any capacity as a mortgage agent.

3 4. On about August 29, 2007, the Respondent approached and met with Maria R. Tafoya
4 and Fernando Hurtado.

5 5. The Division believes and therefore alleges that Respondent represented herself to Ms.
6 Tafoya and Mr. Hurtado as a mortgage agent.

7 6. The Division believes and therefore alleges that Respondent, without permission or
8 authority from First American Mortgage and without being licensed as a mortgage agent by
9 the Division, presented a business card to Ms. Tafoya and Mr. Hurtado that stated "First
10 American Mortgage, Rosie Chavez, Loan Officer, Cell 219-7587, 4850 W. Flamingo Rd.,
11 Suite 15/16 Las Vegas, NV 89103, 702-222-4322 Office, 702-257-9424 Fax, and 702-219-
12 7587 Cell."

13 7. The business address on the card set forth in paragraph 6 contained the correct address
14 and telephone number of a branch office of First American Mortgage.

15 8. During the meeting set forth in paragraph 4, the Respondent verbally advised Ms. Tafoya
16 and Mr. Hurtado that she was a licensed agent under both federal and state law.

17 9. During the meeting set forth in paragraph 4, the Respondent indicated that she needed a
18 loan of money to place in a different client's account so that they could qualify for a loan.

19 10. Both Mr. Hurtado and Ms. Tafoya agreed to lend the money to the Respondent if 15%
20 (fifteen percent) interest was paid upon the loan. At least the following written contracts were
21 entered into:
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23 a. Ms. Tafoya and Respondent – Ms. Tafoya agreed to lend the Respondent the sum
24 of \$3,000 at 15% (fifteen percent) interest with said contract being dated August 29, 2007.
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26 b. Ms. Tafoya and Respondent – Ms. Tafoya agreed to lend the Respondent the sum
27 of \$5,750 at 15% (fifteen percent) interest with said contract being dated February 16, 2008.
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1 c. Mr. Hurtado and Respondent – Mr. Hurtado agreed to lend the Respondent the
2 amount of \$2,000 for a return payoff with said contract being dated April 17, 2008.

3 d. Mr. Hurtado and Respondent – Mr. Hurtado agreed to lend the Respondent the
4 amount of \$2,300 for a return payoff with said contract being dated February 9, 2008.

5 e. Mr. Hurtado and Respondent – Mr. Hurtado agreed to lend the Respondent the
6 amount of \$7,000 for a return payoff with said contract being dated March 20, 2008.

7 11. The Respondent gave post dated checks to Mr. Hurtado and Ms. Tafoya to purportedly
8 secure the loan and/or ensure payments which checks did not have sufficient funds to
9 process, as was later discovered by Mr. Hurtado and Ms. Tafoya.

10 12. Pursuant to NRS 645B.900, it is, "...unlawful for any person to offer or provide any of the
11 services of a mortgage broker or mortgage agent or otherwise to engage in, carry on or hold
12 himself out as engaging in or carrying on the business of a mortgage broker or mortgage
13 agent without first obtaining the applicable license issued pursuant to this chapter".

14 13. Pursuant to NRS 645B.060(2)(c), the DIVISION is charged with conducting "...such
15 investigations as may be necessary to determine whether any person has violated any provision
16 of this chapter."

17 14. Pursuant to NRS 645B.620(1) (b), the DIVISION is further charged with conducting "...an
18 investigation if it appears that "...[t]he person is offering or providing any of the services of a
19 mortgage broker or mortgage agent or otherwise engaging in, carrying on or holding himself
20 out as engaging in or carrying on the business of a mortgage broker or mortgage agent
21 without being appropriately licensed or exempt from licensing pursuant to the provisions of
22 this chapter."

23 15. Pursuant to NAC 645B.340 (1), "...if a person engages in an activity in violation of the
24 provisions of this chapter or chapter 645B of NRS, the Commissioner may issue an order to
25 the person directing the person to cease and desist from engaging in the activity."
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1 Additionally, pursuant to NAC 645B.340 (3), "...a person who receives an order to cease and
2 desist pursuant to this section shall not engage in any activity governed by chapter 645B of
3 NRS after he receives the order unless the order is suspended or rescinded.

4 16. Pursuant to NRS 645B.690(1)(a) for each act of unlicensed activity under NRS Chapter
5 645B the Commissioner may impose a fine of up to \$10,000.

6 17. If any of these Factual Allegations are more appropriately construed as Violations of Law
7 then they shall be so construed.

8 VIOLATIONS OF LAW

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10 Having investigated the activities of Respondent, it has been determined that the
11 Respondent has violated NRS 645B.900 and NRS 645B.690(1)(a) in that she engaged in
12 and/or or carried on, and/or held herself out as engaging in or carrying on, the mortgage
13 broker/agent business or acting in the capacity of a mortgage agent in Nevada without first
14 obtaining a license as a mortgage broker or mortgage agent in this state, as follows:

15 1. The Respondent presented a business card to Mr. Hurtado and Ms. Tafoya
16 indicated that she was a loan officer with First American Mortgage and verbally told them that
17 she was licensed by the state when in fact Respondent was not licensed by the Division to
18 act as a mortgage broker or agent and was not authorized as a mortgage agent by First
19 American Mortgage. Because the Respondent was not and is not licensed by the Division as
20 a mortgage broker and/or agent, and is not exempt from licensing, the Respondent was
21 conducting mortgage broker/agent activities in Nevada without a license in violation of NRS
22 645B.900 and NRS 645B.690(1)(a)

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24 2. By advising Mr. Hurtado and/or Ms. Tafoya that the she needed a loan to put
25 into the bank account of a client to assist that client in obtaining a loan, the Respondent held
26 herself out as a mortgage broker and/or agent engaging in mortgage activity. Because the
27 Respondent was not and is not licensed by the Division as a mortgage broker and/or agent,
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1 and is not exempt from licensing, the Respondent was conducting mortgage broker/agent
2 activities in Nevada without a license in violation of NRS 645B.900 and NRS 645B.690(1)(a).

3 3. By representing that she was a licensed mortgage broker and/or agent and/or
4 by providing a business card indicating the same, in an attempt to obtain money from Mr.
5 Hurtado and/or Ms. Tafoya for another client to obtain a loan, and by in fact receiving money
6 from Mr. Hurtado and/or Ms. Tafoya for that purpose, the Respondent was holding herself out
7 as a mortgage broker and/or agent engaging in mortgage broker activity. Because the
8 Respondent was not and is not licensed by the Division as a mortgage broker and/or agent,
9 and is not exempt from licensing, the Respondent was conducting mortgage broker/agent
10 activities in Nevada without a license in violation of NRS 645B.900 and NRS 645B.690(1)(a).
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12 **ORDER**

13 NOW, THEREFORE, pursuant to NRS 622.080, NRS 645B.060 and NAC
14 645B.340, the COMMISSIONER of the DIVISION **ORDERS that Respondent immediately**
15 **CEASE AND DESIST** from the following activities:

- 16 1. Conducting any and all unlicensed mortgage broker and/or mortgage agent
17 activity in the State of Nevada; and
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19 2. Advertising for and soliciting mortgage broker and/or mortgage agent business
20 within the State of Nevada.

21 **IT IS FURTHER ORDERED** that, pursuant to NAC 645B.340(4), upon filing a verified
22 petition with the Division, the Respondent shall be entitled to a hearing with regard to the
23 contents of the instant Order as it relates to the Order to Cease and Desist. Should the
24 Respondent not request a hearing within **thirty (30) days** of the receipt of the instant Order, the
25 Division will enter a Final Order in this matter relating to the Order to Cease and Desist. The
26 Respondent is advised, however, that the provisions of this Order to Cease and Desist are
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1 effective immediately upon the Respondent being served therewith, whether or not the
2 Respondent requests a hearing.

3 **NOTICE TO RESPONDENT:** If you request a hearing, you are specifically informed that
4 you have the right to appear and be heard in your defense, either personally or through your
5 counsel of choice at your own expense. At the hearing, if one is timely requested, the
6 Division will call witnesses and present evidence against you. You have the right to respond
7 and to present relevant evidence and argument on all issues involved. You have the right to
8 call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on
9 any matter relevant to the issues involved and to request the issuance of subpoenas;
10 although you may be required to set forth the reasons for any subpoena request.
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12 If the Division prevails at any hearing, it may request that attorney's fees and costs be
13 awarded pursuant to NRS 622.400.

14 **IT IS FURTHER ORDERED** that, pursuant to NRS 645B.750(2), upon written application
15 to the Division within **twenty (20) days** of the date of this Order, Respondent shall be entitled to
16 a hearing with regard to the contents of this Order. At that hearing, the Division will seek to:
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18 1. Pursuant to NRS 645B.690(1)(b) impose an administrative fine in the amount of
19 Thirty Thousand Dollars (\$30,000), and investigative costs in the amount of Three Hundred and
20 Ninety Dollars (\$390.00), and attorney's fees, if any, incurred herein, to be proven at the
21 hearing; and

22 2. Require Respondent's payment, in full, of the administrative fine, costs and fees
23 within **thirty (30) days** of entry of the Final Order.

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1 Should Respondent not request a hearing within **twenty (20) days** of the date of this
2 Order, the Division will enter a Final Order in this matter against Respondent, pursuant to
3 NRS 645B.750(2).

4 Dated this 15th day of June, 2009.

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6 State of Nevada
7 Department of Business and Industry
8 Division of Mortgage Lending

9 By: Joseph L. Waltuch
10 Joseph L. Waltuch, Commissioner
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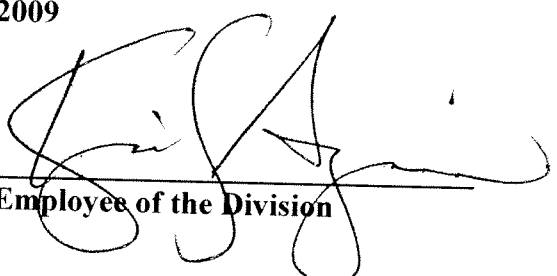
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on June 17, 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 ROSA CHAVEZ, addressed as follows:

**Rosa Chavez
1601 Ardmore Street
Las Vegas, NV 89104-3952**

Certified Receipt Number: 7006 2760 0000 0875 9537

DATED this 16th day of June, 2009

By: 
Employee of the Division