

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

4 \* \* \*

5 In re:  
6 South Wind Financial, Inc,  
7 Respondent.

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9  
10 **STIPULATED SETTLEMENT AGREEMENT**

11 The licensing and regulation of mortgage brokers and mortgage agents in the State of  
12 Nevada is governed by Chapter 645B of the Nevada Revised Statutes ("NRS") and Chapter  
13 645B of the Nevada Administrative Code ("NAC"). The State of Nevada, Department of  
14 Business and Industry, Division of Mortgage Lending ("the Division") has the general duty to  
15 exercise supervision and control over mortgage brokers and mortgage agents, as well as  
16 mortgage broker and mortgage agent activity. See, NRS 645B.060(1), NRS 645B.670 and  
17 NRS 645B.690. Pursuant to that authority and NRS 645B.610(6), the Division hereby enters  
18 into the following Stipulated Settlement Agreement ("Agreement") with Respondent, South  
19 Wind Financial, Inc. ("Respondent"), as follows:  
20

21 **RECITALS**

22  
23 WHEREAS, South Wind Financial, Inc. (hereinafter, "Respondent") is a Nevada  
24 corporation currently licensed to operate as a mortgage broker in the State of Nevada.

25 WHEREAS, Sandra Menard is the President of Respondent.

26 WHEREAS, On March 9, 2009, the Division conducted a regularly scheduled  
27 examination of Respondent and received evidence that Derek Parent was engaged in  
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1 mortgage loan activity in his capacity as an independent contractor of Respondent, without  
2 either a mortgage broker or mortgage agent license.

3 WHEREAS, On March 18, 2009, the Division received a Complaint alleging  
4 Respondent was allowing Derek Parent to conduct unlicensed mortgage activity in the State  
5 of Nevada. The Division then commenced an investigation, the results of which established  
6 that while acting as an independent contractor of Respondent, Derek Parent conducted  
7 unlicensed mortgage loan activity in the State of Nevada.

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

12 WHEREAS, pursuant to NRS 645B.060, the Division is further charged with conducting  
13 "...such other investigations, periodic or special audits, investigations and hearings as may be  
14 necessary for the efficient administration of the laws of this State regarding mortgage brokers  
15 and mortgage agents...." See, NRS 645B.060(2)(e).

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

20 WHEREAS, pursuant to NRS 645B.450(2), "(a) mortgage broker shall not associate  
21 with or employ a person as a mortgage agent or authorize a person to be associated with the  
22 mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division  
23 pursuant to NRS 645B.410."

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

3 WHEREAS, on June 10, 2009 the Division issued a Notice of Intent to Impose Fine  
4 and Notice of Right to Hearing (the "Notice"), alleging that Respondent permitted Derek  
5 Parent to conduct unlicensed mortgage loan activity for Respondent's offices.

6 WHEREAS, Respondent and the Division (collectively, "the Parties") wish to resolve  
7 this matter without the necessity of a formal hearing.

8 NOW, THEREFORE, in consideration of the representations, covenants and  
9 conditions set forth herein, the Parties stipulate and agree as follows:

10 1. Respondent admits that Derek Parent conducted unlicensed mortgage loan  
11 activities from the offices of Respondent, in violation of NRS 645B.400 and NRS 645B.900.

12 2. Respondent hereby acknowledges and agrees, with full knowledge, to waive its  
13 right to a hearing in this matter.

14 3. In light of the Parties' desire to resolve this matter, Respondent agrees to pay a  
15 fine in the amount of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), plus  
16 investigative costs in the amount of Two Hundred Fifty Dollars and No Cents (\$250.00) at the  
17 time Respondent executes this Agreement.

18 4. Respondent agrees that in the event it violates any of the provisions of this  
19 Agreement, the Division shall retain any and all remedies available to it in accordance with  
20 Chapter 645B of NRS.  
21

22 5. The Parties agree and acknowledge that this Agreement shall constitute the  
23 complete and final resolution of any issues arising out of the Division's investigation into  
24 Respondent's conduct as specified herein.  
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26 6. The Parties represent and warrant that the person executing this Agreement on  
27 behalf of each Party has full power and authority to do so, and has the legal capacity to  
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1 conduct the legal obligations assigned to it hereunder.

2 7. Respondent further acknowledges and agrees that the Division shall retain the  
3 original of this Agreement.

4 8. This Agreement may be signed in counterparts and a facsimile signature shall  
5 be deemed as valid as an original; however, Respondent shall immediately forward all original  
6 signature pages to the Division.

7 9. This Agreement, as well as the rights and obligations of the Parties hereto, shall  
8 be interpreted, governed and construed pursuant to the laws of the State of Nevada.

9 10. Any action to enforce this Agreement shall be brought in the Eighth Judicial  
10 District Court of the State of Nevada in and for Clark County.

11 11. If the Division is successful in any action to enforce this Agreement, the court  
12 may award it attorney's fees. It is specifically agreed that reasonable attorney's fees for the  
13 State-employed attorneys shall be \$125.00 per hour.

14 12. Failure to declare a breach or the actual waiver of any particular breach of this  
15 Agreement or its material terms, by either Party, shall not operate as a waiver by such Party  
16 of any of its rights or remedies as to any other breach.

17 13. Respondent has the right to retain an attorney to review this Agreement at its  
18 sole cost and expense.

19 14. Other than the fine and investigative costs set forth herein, each Party shall pay  
20 its own costs and fees, including attorney's fees.

21 15. If any provision contained in this Agreement is held to be unenforceable by a  
22 court of law or equity, this Agreement shall be construed as if such a provision(s) did not exist  
23 and the unenforceability of such provision(s) shall not be held to render any other provision(s)  
24 of this Agreement unenforceable.

25 16. This Agreement constitutes the entire Agreement of the Parties, and it is  
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1 intended as a complete and exclusive statement of the promises, representations,  
2 negotiations and discussions of the Parties. Unless otherwise expressly authorized by its  
3 terms, this Agreement shall be binding upon the Parties unless the same is, in writing, signed  
4 by the respective Parties hereto and approved by the Office of the Attorney General.

5       17. **NOTICE TO RESPONDENT:** By executing this Agreement, you hereby agree  
6 that you are waiving certain rights as set forth herein. As the Respondent, you are specifically  
7 informed that you have the right to request that the Division file an administrative complaint  
8 against you, if one has already not been filed, and at any hearing on such a complaint, you  
9 would have the right to appear and be heard in your defense, either personally or through  
10 your counsel of choice. If the Division were to file a complaint, at the hearing the Division  
11 would have the burden of proving the allegations in the complaint and would call witnesses  
12 and present evidence against you. You would have the right to respond and to present  
13 relevant evidence and argument on all issues involved. You would have the right to call and  
14 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter  
15 relevant to the issues involved.  
16

17       You would have the right to request that the Commissioner of the Division issue  
18 subpoenas to compel witnesses to testify and/or offer evidence on your behalf. In making this  
19 request, you may be required to demonstrate the relevance of the witness's testimony and/or  
20 evidence. Other important rights you have are listed in Chapters 645B and 233B of NRS.  
21

22       18. Neither this Agreement nor any statements made concerning this Agreement  
23 may be discussed or introduced into evidence at the hearing on the complaint, if the Division  
24 must ultimately put on a case based upon Respondent's failure to comply with the terms and  
25 conditions of this Agreement.  
26

27       19. Respondent understands and agrees that this Agreement may be used to show  
28 that past violations have occurred should any future disciplinary action be taken by the

1 Division.

2 20. In consideration of the execution of this Agreement, Respondent for itself, its  
3 heirs, executors, administrators, successors, and assigns, hereby releases, remises, and  
4 forever discharges the State of Nevada, the Department of Business and Industry of the State  
5 of Nevada, the Division, and each of their members, agents, attorneys (including any and all  
6 employees of the Nevada Attorney General), and employees in their individual and  
7 representative capacities, from any and all manner of actions, causes of action, suits, debts,  
8 judgments, executions, claims, and demands whatsoever, known and unknown, in law or  
9 equity, that the Respondent ever had, now has, may have, or claim to have against any or all  
10 of the persons or entities named in this section, arising out of or by reason of the Division's  
11 investigation into this matter, and all other matters relating thereto.  
12

13 21. Respondent hereby indemnifies and holds harmless the State of Nevada, the  
14 Department of Business and Industry of the State of Nevada, the Division, and each of their  
15 members, agents, and employees, and employees of the Nevada Attorney General in their  
16 individual and representative capacities against any and all claims, suits and actions brought  
17 against said persons and/or entities by reason of the Division's investigation into this  
18 disciplinary action, this Agreement, and all other matters relating thereto, and against any and  
19 all expenses, damages and costs, including court costs and attorney fees, which may be  
20 sustained by the persons and/or entities named in this section as a result of said claims, suits  
21 and actions.

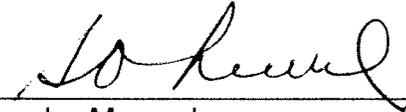
22 IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and  
23 intend to be legally bound thereby.  
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26 NEXT PAGE IS SIGNATURE PAGE  
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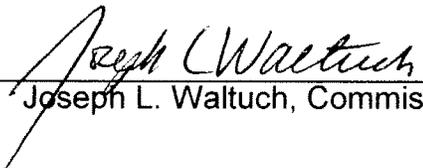
Dated this 13<sup>th</sup> day of January, 2010  
~~December, 2009.~~

South Wind Financial, Inc.

By:   
Sandra Menard  
President

Dated this 27<sup>th</sup> day of January, 2010  
~~December, 2009.~~

State of Nevada  
Department Of Business and Industry  
Division of Mortgage Lending

By:   
Joseph L. Waltuch, 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 December 31, 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, STIPULATED SETTLEMENT AGREEMENT for SOUTH WIND FINANCIAL, addressed as follows:

Sandra Menard  
South Wind Financial Inc  
2980 S. Rainbow Blvd., Ste. 100F  
Las Vegas, NV 89146

Certified Receipt Number: 7006 2760 0000 0876 4265

DATED this 31st day of December, 2009

By: Swan Slack  
Employee of the Division

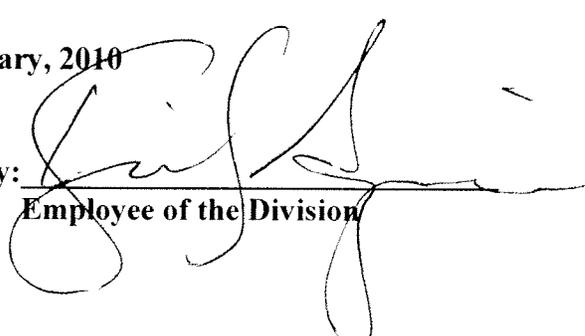
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on , January 28, 2010, 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, **FULLY EXECUTED STIPULATED SETTLEMENT AGREEMENT** for **SOUTH WIND FINANCIAL INC**, addressed as follows:

**Sandra Menard**  
**South Wind Financial Inc.**  
**2980 S. Rainbow Blvd, Ste. 100F**  
**Las Vegas, NV 89146**

**Certified Receipt Number: 7008 1830 0002 7959 5529**

**DATED this 27th day of January, 2010**

By:   
**Employee of the Division**