

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

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5 In re:
6 Sussex Group, Inc., a Nevada
7 corporation
8 Respondent.
9

10 **ORDER TO DISCONTINUE (CEASE AND DESIST)**
11 **ORDER IMPOSING LICENSURE CONDITIONS**
12 **NOTICE OF INTENT TO IMPOSE FINE AND**
13 **NOTICE OF RIGHT TO REQUEST HEARING**

14 The licensing and regulation of escrow agencies and escrow agents in the State of
15 Nevada is governed by Chapter 645A of the Nevada Revised Statutes (hereinafter "NRS")
16 and Chapter 645A 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 escrow agencies and
19 escrow agents, as well as escrow agency activity. See, NRS 645A.050, NRS 645A.090 and
20 NRS 645A.110. Pursuant to that authority, the Division makes the following Factual
21 Allegations, Conclusions of Law, and Order, as follows:

22 **FACTUAL ALLEGATIONS**

23 1. Sussex Group, Inc. (hereinafter "Respondent") is a licensed escrow agency
24 operating within the State of Nevada. The Nevada Secretary of State currently classifies
25 Respondent's corporate status as "active."

26 2. Pursuant to NRS chapter 645A, Respondent was issued an escrow agency license
27 on February 17, 2009.
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1 3. The Division currently classifies Respondent's escrow agency license status as
2 'closed'.

3 4. The Respondent's sole shareholder, and 100% owner, is Barry L. Fulco (hereinafter
4 "Fulco").

5 5. Pursuant to NRS 645A.050(2)(c) "[i]n addition to the other duties imposed upon him
6 by law, the Commissioner shall:... [c]onduct such investigations as may be necessary to
7 determine whether any person has violated any provision of this chapter...".

8 6. On February 9, 2010 the Division received a complaint from SW against Respondent
9 (hereinafter "SW's complaint"). In conducting its investigation of the complaint, a Division
10 investigator visited the Respondent's licensed office location at 8861 W. Sahara Avenue, Suite
11 110, Las Vegas, NV 89117 only to find that the premises were vacant. The landlord of the
12 premises advised the investigator that Respondent vacated the premises over a weekend
13 without paying rents.
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15 7. The Division was subsequently advised that the Respondent had moved its offices to
16 5440 W. Sahara Avenue, 3rd floor, Las Vegas, NV 89146.

17 8. Pursuant to NRS 645A.050(2)(d), "[i]n addition to other duties imposed upon him by
18 law, the Commissioner shall...[c]onduct such examinations, investigations and hearings, in
19 addition to those specifically provided for by law, as may be necessary and proper for the
20 efficient administration of the laws of this State relating to escrow.
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22 9. On February 23, 2010 the Division attempted an examination of Respondent at its
23 5440 W. Sahara Avenue, 3rd floor location. The 3rd floor common area receptionist telephoned
24 Respondent's office to advise of the Division examiner's presence but then advised the
25 examiner that no one of authority was available, and that no one would let the examiner into
26 Respondent's office. At no time was the examiner advised that Respondent was not located in
27 that office location.
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1 10. On February 24, 2010 the Division again attempted to conduct an examination of
2 Respondent, at which time the examiner was advised that Respondent was no longer located at
3 the 5440 W. Sahara Avenue, 3rd floor location.

4 11. DRG Properties (hereinafter "DRG") is located at 5440 W. Sahara Avenue, 3rd
5 floor in the premises thought to belong to Respondent.

6 12. Pursuant to NRS 645A.036, "1. Every escrow agency shall maintain a definite place
7 of business within the State, which must be a room or rooms used for the transaction of
8 escrows, or such business and any allied businesses, and which must serve as the office for
9 the transaction of business pursuant to the authority granted in the license. 2. The place
10 of business must be specified in the application for the license and so designated on the
11 license. 3. A license does not authorize the licensee to transact business from any office
12 other than that designated in the license."

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14 13. Respondent did not inform the Division that it intended to vacate its licensed branch
15 office at 8861 W. Sahara Avenue, Suite 110, Las Vegas, NV 89117. At the present time, the
16 actual location of the Respondent's office is unknown to the Division.

17
18 14. Pursuant to NRS 645A.038 "[a] license issued pursuant to the provisions of this
19 chapter does not give authority to perform any act specified in this chapter to any person
20 other than the person to whom the license is issued, or from any place of business other than
21 that specified therein."

22 15. Pursuant to NRS 645A.085, "1. An escrow agency shall immediately notify the
23 Commissioner of any change in the ownership of 5 percent or more of its outstanding voting
24 stock. 2. An application must be submitted to the Commissioner, pursuant to NRS
25 645A.020, by a person who acquires: (a) At least 25 percent of the outstanding voting stock
26 of an escrow agency; or (b) Any outstanding voting stock of an escrow agency if the change
27 will result in a change in the control of the escrow agency.
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1 16. During its investigation of SW's complaint, the Division discovered that on or about
2 November 22, 2009 Fulco and Donald R. Grisley (hereinafter "Grisley") negotiated and
3 executed a "Corporate Interest Assignment Agreement" wherein Grisley agreed to become
4 Respondent's sole shareholder and assume all of Respondent's rights, interests and assets.

5 17. The Division subsequently discovered that on December 31, 2009 Fulco and Grisley
6 attempted to retroactively rescind such transaction to November 22, 2009.

7 18. Fulco never advised the Division of the change of ownership or of any attempted
8 rescission of such change.

9 19. Pursuant to NRS 645A.090, the Commissioner may impose a fine of not more than
10 \$10,000 for each violation of Chapter 645A of NRS.
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12 VIOLATIONS OF LAW

13 After investigation, the Division determined that Respondent violated NRS 645A.036,
14 NRS 645A.050, and NRS 645A.085, in that the Respondent (1) failed to permit an examination
15 by the Division, (2) failed to maintain a place of business in a licensed location, and (3)
16 changed ownership without approval of the Division.

17 ORDER

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19 **NOW, THEREFORE**, pursuant to NRS 622.080 and NRS 645A.110, the
20 Commissioner of the Division hereby orders that Respondent **IMMEDIATELY DISCONTINUE**
21 **CONDUCTING BUSINESS IN VIOLATION OF NRS CHAPTER 645A AND IMMEDIATELY**
22 **CEASE AND DESIST** from soliciting and conducting any and all escrow agency activity in the
23 State of Nevada except upon the following conditions:

24 1. Respondent shall immediately notify in writing every party involved in an open escrow
25 transaction, loan servicing, payment collection or loan pool servicing of this Order;

26 2. Respondent shall delete from all advertising material, including but not limited to
27 Respondent's websites, any and all references to its ability to conduct escrow activity in the
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1 state of Nevada for which a license under Chapter 645A is required, and all references to its
2 escrow agency license number.

3 3. Respondent shall, **within three (3) business days** from the date of service of this
4 Order on Respondent, provide to the Commissioner in writing:

5 i. A list of all open escrow transactions and loan pool transactions;

6 ii. The office address and telephone number for every office location of
7 Respondent, along with the location or locations where its books and records are located.

8 4. Respondent shall, within **ten (10) days** from the date of service of this Order on
9 Respondent, provide to the Commissioner in writing:

10 i. A complete accounting of all moneys held in trust for any person for whom
11 Respondent is acting in an escrow capacity. Such accounting shall include a complete list of
12 all open transactions by party name and address, including loans and accounts being serviced
13 or for which payments are being collected; a list of every person for whom trust moneys are
14 being held, along with the amount of moneys held on each such person's behalf; and a list of all
15 bank accounts (including bank account number and bank name and address) where any such
16 trust moneys, however denominated (such as tax, insurance, loan payment , interest reserve or
17 construction control accounts), are held, along with the balances in such accounts.

18 ii. In the event Respondent has transferred control of any such trust moneys to a
19 third person or entity, Respondent shall immediately provide to the Division the name, address
20 and telephone number of such third person or entity, along with (i) a copy of any written
21 agreement between Respondent and such third person or entity for the handling of such trust
22 moneys and (ii) the accounting required in the immediately preceding paragraph.
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1 All written communication to the Division must be sent by U.S. Postal Service or private
2 carrier or delivery service to:

3 Commissioner
4 Division of Mortgage Lending
5 7220 Bermuda Road, Suite A
6 Las Vegas, NV 89119

7 **IT IS FURTHER ORDERED** that Respondent's failure to abide by any of the above-
8 referenced conditions now imposed upon its license under NRS Chapter 645A shall constitute
9 grounds for summary suspension, revocation or other discipline deemed appropriate in the
10 discretion and within the statutory authority of the Commissioner.

11 **IT IS FURTHER ORDERED** that, pursuant to NRS 645A.110(2)(a), upon filing a verified
12 petition with the Division, Respondent shall be entitled to a hearing with regard to the contents
13 of the instant Order. At that hearing, the Division will seek:

14 a. The imposition of an administrative fine against Respondent in the amount of of Thirty
15 Thousand Dollars and No Cents (\$30,000) for Respondent's violations of NRS Chapter 645A,
16 along with payment to the Division of its costs and attorney fees, to be proven at hearing.

17 b. Respondent's payment, in full, of the administrative fine, costs and fees to the Division
18 within **thirty (30) days** of entry of the Final Order.

19 Should Respondent request a hearing, Respondent is advised of the following:

20 a) Respondent is entitled to be represented by legal counsel at its own cost and
21 expense; b) At any hearing Respondent shall be entitled to respond and to present evidence
22 and argument on all issues involved; c) Requests may be made to the Commissioner for the
23 issuance of subpoenas; however, the Commissioner may request the proposed testimony of
24 any such person prior to the issuance of the subpoena; and d) Unless precluded by law, the
25 parties may agree to an informal resolution or settlement prior to any hearing.
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