

1  
2  
3  
4  
5  
6  
7  
8

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

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

In re:  
Pinnacle Lending Group, Inc.,  
Respondent.

20

**STIPULATED SETTLEMENT AGREEMENT**

21  
22  
23  
24  
25  
26  
27  
28

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”) and 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. Pursuant to that authority, the Division hereby enters into the following Stipulated Settlement Agreement (“Agreement”) with Pinnacle Lending Group, Inc. (“Respondent”) as follows:

**RECITALS**

WHEREAS, Respondent was incorporated in the State of Nevada and currently its status with the Nevada Secretary of State is listed as “active.”

WHEREAS, Respondent was originally licensed as a mortgage broker with the Division on March 8, 2006, pursuant to Chapter 645B of NRS and its current status with the Division is listed as “active license.”

WHEREAS, based upon information and belief, at all relevant times herein mentioned, Respondent conducted mortgage brokering activity in the State of Nevada.

1           WHEREAS, on December 23, 2003, Robert Allan Rink, Jr. (hereinafter "Robert Rink")  
2 registered with the Financial Institutions Division, Department of Business and Industry, State  
3 of Nevada, and was subsequently licensed by the Division as a mortgage agent pursuant to  
4 NRS Chapter 645B.

5           WHEREAS, based upon information and belief and at all relevant times herein  
6 mentioned, Robert Rink was associated with, or employed by, Respondent as a mortgage  
7 agent and conducted mortgage agent activity in the State of Nevada on its behalf.

8           WHEREAS, on July 2, 2007, Michael Jin Sim (hereinafter "Michael Sim") was licensed  
9 by the Division as a mortgage agent pursuant to NRS Chapter 645B.

10           WHEREAS, based upon information and belief and at all relevant times herein  
11 mentioned, Michael Sim was associated with, or employed by, Respondent as a mortgage  
12 agent and conducted mortgage agent activity in the State of Nevada on its behalf.

13           WHEREAS, Robert Rink, LLC, an entity of unknown organization, has never been  
14 licensed as a mortgage broker or agent by the Division pursuant to NRS Chapter 645B.

15           WHEREAS, a Search of the Nevada Secretary of State's website did not reveal any  
16 entity with the name "Robert Rink, LLC" or other similarly-named entities.

17           WHEREAS, ERS Holdings, Inc., is a Nevada corporation. Currently, ERS Holdings'  
18 status with the Nevada Secretary of State is "active."

19           WHEREAS, based upon information and belief and at all relevant times herein  
20 mentioned, Michael Sim was and is the president, secretary, treasurer and director of ERS  
21 Holdings, Inc.

22           WHEREAS, ERS Holdings, Inc. has never been licensed as a mortgage broker or  
23 agent by the Division pursuant to NRS Chapter 645B.

24           WHEREAS, pursuant to NRS 645B.060, subject to the administrative control of the  
25 Director of the Department of Business and Industry, the Commissioner shall, with limited  
26  
27  
28

1 exception, "conduct an annual examination of each mortgage broker doing business in this  
2 State...." See, NRS 645B.060(2)(d).

3 WHEREAS, pursuant to NRS 645B.060, the Division conducted a regularly scheduled  
4 examination of Respondent's books and records which commenced on September 28, 2009.

5 WHEREAS, during the course of the examination, it was determined that at all relevant  
6 times herein mentioned:

7 a. For the year 2008, Respondent paid at least a portion of Robert Rink's  
8 annual mortgage agent commissions to Robert Rink, LLC, an entity which has never been  
9 licensed by the Division pursuant to NRS Chapter 645B; and

10 b. For the year 2008, Respondent paid at least a portion of Michael Sim's  
11 mortgage agent commissions to ERS Holdings, Inc., an entity which has never been licensed  
12 by the Division pursuant to NRS Chapter 645B.

13 WHEREAS, Pursuant to NRS 645B.450, "[a] mortgage broker shall not associate with  
14 or employ a person as a mortgage agent or authorize a person to be associated with the  
15 mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division  
16 pursuant to NRS 645B.410." See, NRS 645B.450(2).

17 WHEREAS, pursuant to NRS 645B.670, with limited exceptions, "(f)or each violation  
18 committed by a mortgage broker, the Commissioner may impose upon the mortgage broker  
19 an administrative fine of not more than \$25,000, may suspend, revoke or place conditions  
20 upon his license, or may do both, if the mortgage broker...(i)s grossly negligent or  
21 incompetent in performing any act for which he is required to be licensed pursuant to the  
22 provisions of this chapter...(d)oes not conduct his business in accordance with law or has  
23 violated any provision of this chapter, a regulation adopted pursuant to this chapter or an  
24 order of the Commissioner...." See, NRS 645B.670(2)(b), (c).

25 WHEREAS, after settlement negotiations, the Division and Respondent (collectively,  
26  
27  
28

1 "the parties") herein mutually desire to resolve this matter without further proceedings through  
2 this Agreement.

3 NOW, THEREFORE, in consideration of the representations, covenants and  
4 conditions set forth herein, IT IS HEREBY STIPULATED AND AGREED by the parties that  
5 the violations found during the examination of Respondent's books and records shall be  
6 settled on the following terms and conditions:

7 1. Respondent admits that it failed to conduct business in accordance with the law by  
8 paying at least a portion of Robert Rink's mortgage agent commissions to Robert Rink, LLC,  
9 and Michael Sim's mortgage agent commissions to ERS Holdings, Inc., entities which have  
10 never been licensed by the Division pursuant to NRS Chapter 645B, in violation of NRS  
11 645B.450(2).  
12

13 2. Respondent acknowledges and agrees, with full knowledge, to waive its right to  
14 have the Division file a complaint if one has not been filed by the date that Respondent  
15 executes this Agreement, or if a complaint has been filed, to go to a hearing in this matter.

16 3. Respondent shall, pursuant to NRS 645B.670 and/or NRS 622.400, pay an  
17 administrative fine to the Division in the amount of Ten Thousand Dollars and No Cents  
18 (\$10,000.00). However, in light of Respondent's admission of wrongdoing and the actions  
19 Respondent has taken to correct how mortgage agent commissions are paid, the parties  
20 agree that the Division shall suspend the payment of Seven Thousand Dollars and No Cents  
21 (\$7,000.00) for a period of 24 months from the date the Division executes this Agreement on  
22 condition that the Respondent fully comply with NRS Chapter 645B and NAC Chapter 645B  
23 and with each and every law and regulation applicable to it and the conduct of its business  
24 and a repeat violation of the same nature is not discovered during the next two examinations  
25 of the Respondent conducted by the Division. If within 24 months of the execution of this  
26 Agreement by the Division it is determined by the Division that the Respondent has violated  
27  
28

1 any of the foregoing, the administrative fine levied against Respondent shall revert to the  
2 originally specified sum of Ten Thousand Dollars (\$10,000.00) and shall become immediately  
3 due and payable to the Division. Payment of the initial \$3,000.00 shall be made upon  
4 Respondent's execution of this Agreement.

5 4. Respondent shall, pursuant to NRS 645B.670 and/or NRS 622.400, pay to the  
6 Division investigatory costs directly related to the investigation of this case in the amount of  
7 Three Hundred Seventy-eight Dollars and No/Cents (\$378.00). Payment shall be made  
8 immediately upon Respondent's execution of this Agreement.

9 5. Respondent agrees that in the event it violates any of the provisions of this  
10 Agreement, the Division shall retain any and all remedies available to it in accordance with  
11 NRS Chapter 645B.

12 6. The parties agree and acknowledge that this Agreement shall constitute the  
13 complete and final resolution of any issues arising out of the Division's September/October  
14 2009 examination of Respondent.

15 7. The parties represent and warrant that the persons executing this Agreement on  
16 behalf of each party has full power and authority to do so, and has the legal capacity to  
17 conduct the legal obligations assigned to it hereunder.

18 8. Respondent further acknowledges and agrees that the Division shall keep the  
19 original of this Agreement.

20 9. This Agreement may be signed in counterparts and a facsimile signature shall be  
21 deemed as valid as an original; however, Respondent shall immediately forward all original  
22 signature pages to the Division.

23 10. This Agreement, as well as the rights and obligations of the parties hereto, shall  
24 be interpreted, governed, and construed pursuant to the laws of the State of Nevada.

25 11. Any action to enforce this Agreement shall be brought in the Eighth Judicial District  
26  
27  
28

1 Court of the State of Nevada in and for Clark County.

2 12. If the Division is successful in any action to enforce this Agreement, the court may  
3 award it attorney's fees. It is specifically agreed that reasonable attorney's fees for the State-  
4 employed attorneys shall be \$142.55 per hour.

5 13. Failure to declare a breach or the actual waiver of any particular breach of this  
6 Agreement or its material terms, by either party, shall not operate as a waiver by such party of  
7 any of its rights or remedies as to any other breach.

8 14. Respondent has the right to retain an attorney to review this Agreement at its sole  
9 cost and expense and has freely and voluntarily chosen not to do so.

10 15. Other than the fine and investigatory costs set forth herein, each side shall pay its  
11 own costs and fees, including attorney's fees.

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

16 17. This Agreement constitutes the entire agreement of the parties, and it is intended  
17 as a complete and exclusive statement of the promises, representations, negotiations, and  
18 discussions of the parties. Unless otherwise expressly authorized by its terms, this Agreement  
19 shall be binding upon the parties unless the same is in writing, signed by the respective  
20 parties hereto, and approved by the Office of the Attorney General.

21 22 23 **18. NOTICE TO RESPONDENT:** By executing this Agreement, you hereby agree that  
24 you are waiving certain rights as set forth herein. As Respondent, you are specifically  
25 informed that you have the right to request that the Division file an administrative complaint  
26 against you, and at any hearing on such a complaint, you would have the right to appear and  
27 be heard in your defense, either personally or through your counsel of choice. If the Division  
28

1 were to file a complaint, at the hearing, the Division would have the burden of proving the  
2 allegations in the complaint and would call witnesses and present evidence against you. You  
3 would have the right to respond and to present relevant evidence and argument on all issues  
4 involved. You would have the right to call and examine witnesses, introduce exhibits, and  
5 cross-examine opposing witnesses on any matter relevant to the issues involved.

6 You would have the right to request that the Commissioner of the Division issue  
7 subpoenas to compel witnesses to testify and/or offer evidence on your behalf. In making this  
8 request, you may be required to demonstrate the relevance of the witness's testimony and/or  
9 evidence. Other important rights you have are listed in NRS Chapter 645B and NRS  
10 Chapter 233B.  
11

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

15 20. In consideration of the execution of this Agreement, Respondent, for itself, its  
16 owners, heirs, executors, administrators, successors, and assigns, hereby release, remise,  
17 and forever discharge the State of Nevada, the Department of Business and Industry of the  
18 State of Nevada, the Division, and each of their members, agents, attorneys (including any  
19 and all employees of the Nevada Attorney General), and employees in their individual and  
20 representative capacities, from any and all manner of actions, causes of action, suits, debts,  
21 judgments, executions, claims, and demands whatsoever, known and unknown, in law or  
22 equity, that Respondent ever had, now has, may have, or claim to have against any or all of  
23 the persons or entities named in this section, arising out of or by reason of the Division's  
24 examination of Respondent, and all other matters relating thereto.  
25

26 21. Respondent hereby indemnifies and holds harmless the State of Nevada, the  
27 Department of Business and Industry of the State of Nevada, the Division, and each of their  
28

1 members, agents, and employees, and employees of the Nevada Attorney General in their  
2 individual and representative capacities against any and all claims, suits, and actions brought  
3 against said persons and/or entities by reason of the Division's examination of Respondent,  
4 this Agreement, and all other matters relating thereto, and against any and all expenses,  
5 damages, and costs, including court costs and attorney fees, which may be sustained by the  
6 persons and/or entities named in this section as a result of said claims, suits, and actions.

7 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed  
8 and intend to be legally bound thereby.

9 Dated this 29 day of April, 2010.

12 Pinnacle Lending Group, Inc.

13 By: 

14 Christopher L. Beavor, President

15 Dated this 3<sup>RD</sup> day of MAY 2010.

17 State of Nevada  
18 Department of Business and Industry  
19 Division of Mortgage Lending

20 By: 

21 Joseph L. Waltuch, Commissioner