

1 January 12, 2010. The Division currently classifies Cherie's license as "active."

2 3. William Vinson (hereinafter "Vinson"), an individual, was licensed by the Division
3 as an associated licensee as an employee of Cherie on January 12, 2010. The Division
4 currently classifies Vinson's license as "active."

5 4. Nicole Soria (hereinafter "Soria"), an individual, was licensed by the Division as
6 an associated licensee as an employee of Cherie on January 12, 2010. The Division
7 currently classifies Soria's license as "active."

8 5. Based upon information and belief, and at all relevant times herein mentioned,
9 Vinson and Soria were the owners, officers and managers of Cherie.
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11 6. Cherie, Vinson and Soria are hereinafter referred to individually as Respondent
12 or collectively as Respondents, as the context requires.

13 7. Pursuant to Section 63 of the Regulation, the Division commenced a regularly
14 scheduled annual examination of Respondent on May 4, 2010 which revealed, among other
15 things, that Respondent Cherie:

16 a. Failed to file an annual audited financial statement;

17 b. Failed to place moneys collected from homeowners for the provision of covered
18 services into a separate trust account at a federally insured depository institution located in this
19 state and designated as "trust funds," "escrow accounts," or some other appropriate name
20 indicating the funds were not Respondent Cherie's moneys.
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22 c. Failed to keep and maintain complete and suitable records of all covered
23 services transactions it conducted, including, but not limited to, records related to the trust
24 account(s) which clearly identify: the name, address and telephone number of each
25 homeowner; the account number of each loan; the address and contact information of each
26 lender or loan servicer related to each loan; the amount and date of each deposit; and, the
27 amount and date of each withdrawal with the name of each recipient;
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1 d. Failed, at all times, to monthly reconcile balances on deposit equal to all money
2 collected and deposited and not legitimately disbursed to reconcile its bank accounts; and

3 e. Utilized trust moneys for its own personal business purposes (see Exhibit A).

4 8. Pursuant to NRS 645F.394, “[a]ll money paid to a person who performs any
5 covered service for compensation, a foreclosure consultant or a loan modification consultant
6 by a person in full or partial payment of covered services to be performed: (a) Must be
7 deposited in a separate checking account located in a federally insured depository financial
8 institution or credit union in this State which must be designated a trust account; (b) Must be
9 kept separate from money belonging to the person who performs any covered service for
10 compensation, the foreclosure consultant or the loan modification consultant; and (c) Must not
11 be withdrawn by the person who performs any covered service for compensation, foreclosure
12 consultant or loan modification consultant until the completion of every covered service as
13 agreed upon in the contract for covered services.” See NRS 645F.394(1).

15 9. Pursuant to NRS 645F.394, “[t]he person who performs any covered service for
16 compensation, the foreclosure consultant or the loan modification consultant shall keep
17 records of all money deposited in a trust account pursuant to subsection 1. The records must
18 clearly indicate the date and from whom he or she received money, the date deposited, the
19 dates of withdrawals, and other pertinent information concerning the transaction, and must
20 show clearly for whose account the money is deposited and to whom the money belongs. The
21 person who performs any covered service for compensation, the foreclosure consultant or the
22 loan modification consultant shall balance each separate trust account at least monthly and
23 provide to the Commissioner, on a form provided by the Commissioner, an annual accounting
24 which shows an annual reconciliation of each separate trust account. All such records and
25 money are subject to inspection and audit by the Commissioner and authorized
26 representatives of the Commissioner.” See NRS 645F.394(2).
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1 4. Is in such financial condition that it cannot conduct business with safety to its
2 customers, in violation of Section 103(3)(d) of the Regulation; and

3 5. Has commingled clients' money with its own or has converted such money to its
4 own use, in violation of NRS 645F.394(1) and (2) and Regulation 103(3)(n).

5 **ORDER**

6 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS**
7 that, based on Respondents' multiple violations of Chapter 645F of NRS and the Regulation,
8 and pursuant to Chapter 645F of NRS and Section 108(1) of the Regulation,
9 **RESPONDENTS, AND EACH OF THEM, IMMEDIATELY CEASE AND DESIST** from the
10 following activities:
11

12 1. Advertising for and/or soliciting covered services, foreclosure consultant and/or loan
13 modification consultant business in the State of Nevada without further written approval of the
14 Division to conduct such activities; and

15 2. Offering or providing any of the services of a covered service provider, foreclosure
16 consultant and/or loan modification consultant, or otherwise engaging in, carrying on or
17 holding themselves out as engaging in or carrying on the business of a covered service
18 provider, foreclosure consultant and/or loan modification consultant in the State of Nevada
19 without further written approval from the Division to conduct such activities.
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21 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 108(4) of
22 the Regulation, that upon filing a verified petition with the Division within **twenty (20) days** of
23 receipt of this Order to Cease and Desist, Respondents, and each of them, shall be entitled to
24 a hearing with regard to the contents of this Order to Cease and Desist. Each Respondent is
25 advised, however, that the provisions of this Order to Cease and Desist are effective
26 immediately upon such Respondent being served therewith, whether or not such Respondent
27 requests a hearing.
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1 **NOTICE TO RESPONDENTS:** If you request a hearing, you are specifically informed
2 that you have the right to appear and be heard in your defense, either personally or through
3 your counsel of choice at your own expense. At the hearing, if one is timely requested, the
4 Division will call witnesses and present evidence against you. You have the right to respond
5 and to present relevant evidence and argument on all issues involved. You have the right to
6 call and examine witnesses, introduce exhibits and cross-examine opposing witnesses on any
7 matter relevant to the issues involved.

8 **IT IS FURTHER ORDERED,** pursuant to Chapter 645F of NRS and Section 113(2) of
9 the Regulation that upon written application to the Division within **twenty (20) days** of the
10 date of this Order, Respondents, and each of them, shall be entitled to a hearing with regards
11 to the contents of this Order referenced hereafter. At that hearing the Division will seek:
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13 1. The imposition of an administrative fine against Respondents, jointly and
14 severally, in the amount of Fifty Thousand Dollars and No Cents (\$50,000.00), payable to the
15 Division on account of Respondents' violations of Chapter 645F of NRS and the Regulation,
16 the Division's examination fees to date in the amount of Three Thousand Four Hundred
17 Twenty Dollars and No Cents (\$3,420.00), as well as the Division's attorney's fees, if any,
18 incurred herein, all to be proven at the hearing; and
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20 2. . Payment, in full, to the Division of both the administrative fine in the amount of
21 Fifty Thousand Dollars and No Cents (\$50,000.00) and the Division's examination costs to
22 date in the amount of Three Thousand Four Hundred Twenty Dollars and No Cents
23 (\$3,420.00), as well as the Division's attorney's fees, if any, by Respondents, who shall be
24 jointly and severally liable, within **thirty (30) days** of entry of the Final Order.

25 **IT IS FURTHER ORDERED,** pursuant to Chapter 645F of NRS and Section 103(2) of
26 the Regulation, that Respondents immediately (a) cancel all contracts, if any, with Nevada
27 homeowners and refund to such homeowners all moneys collected by Respondents from
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1 such homeowners for which completed services have not been rendered, or (b) obtain the
2 written consent of the homeowners to transfer their files, moneys and contracts to a licensed,
3 bonded independent licensee, HUD-approved counseling service or other entity exempt from
4 Chapter 645F of NRS.

5 **IT IS FURTHER ORDERED**, that Respondent Cherie shall:

6 1. Immediately notify in writing all homeowners involved in an open or pending
7 covered service transaction of this Order;

8 2. Submit to the Commissioner, within three (3) business days from the date of the
9 service of this Order, a list of all open or pending covered service transactions, along with proof
10 of mailing of the written notice required in section 1, above;

11 3. Retain, within five (5) business days after service of this Order and at its own
12 expense and choosing, a Nevada licensed or registered certified public accountant to reconcile
13 all books and records of the licensed entity's operating accounts and trust accounts maintained
14 for customer funds, including reconciliation to bank statements, and all transfers between
15 operation and trust accounts, from inception of Respondent Cherie to April 30, 2010, and
16 submit the reconciliation to the Commissioner within thirty (30) days from the date of the
17 service of this Order. Such reconciliation shall specifically include a complete accounting of all
18 moneys that, pursuant to NRS 645F.394 and Section 103 of the Regulation, should have
19 been held in trust for each homeowner for whom Respondent has not fully completed covered
20 services for which it contracted. Further, such certified public accountant shall be unrelated to
21 Respondents or their family members, and Respondent Cherie shall provide the name,
22 address, and telephone number of such certified public accountant to the Division immediately
23 upon his or her retention; and

24 4. Upon submission to the Commissioner of the reconciliation provided for in Number 3,
25 above, Respondent Cherie shall deposit sufficient money into its trust account(s) to rectify any
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1 shortfall that is discovered as a result of such reconciliation, and shall provide proof of such
2 deposit in writing to the Commissioner.

3 All notices to the Division must be sent by U.S. Postal Service or private carrier or
4 delivery service to:

5 Commissioner
6 Division of Mortgage Lending
7 7220 Bermuda Road, Suite A
8 Las Vegas, NV 89119

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

13 Should Respondents, or any of them, not timely request a hearing within **twenty (20)**
14 **days** of the date of this Order; the Division will enter a Final Order in this matter against such
15 Respondents, and each of them, as required by Section 113(2) of the Regulation. The
16 Division's Final Order will require payment by Respondents, jointly and severally, of the
17 administrative fine, examination fees and the Division's attorney's fees within **thirty (30) days**
18 of the entry of the Final Order.

19 Dated this 7th day of May, 2010.

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22 State of Nevada
23 Department of Business and Industry
24 Division of Mortgage Lending

25 By:

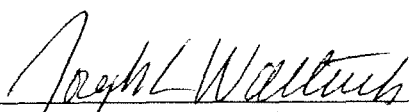
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28 Joseph L. Waltuch, Commissioner

EXHIBIT “A”

ALEXANDER CHERIE, LTD.

CONSULTING SERVICES
2620 Regatta Drive, Suite 100
Las Vegas, NV 89128
702.925.8708
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info@alexandercherie.com

5/5/2010

To: The State of Nevada
Division of Mortgage Lending
Attn: Joe Waltuch/Commissioner

Fr: Nicole Soria/William Vinson
Alexander Cherie, Ltd.
License #3332

Re: Request for assistance/guidance

Dear Sir,

I am writing this letter, as suggested by Connie Clapham, who is currently conducting the audit of our company per the MLD requirement. I would like the opportunity to explain the current situation regarding Alexander Cherie, Ltd., as well as offer an explanation regarding the issue with the Trust account/monies handled by our company.

Alexander Cherie, Ltd. is an honest, hard working company, who truly works in the best interest of the homeowner. Since the market crash and the need for homeowner relief, our company has successfully assisted 170 homeowners and kept their homes out of foreclosure (this includes trial and permanent modifications). We have always worked diligently on the client's behalf and acted only in their best interest.

However, most of our clients came to us (our company originally was a referral based company only) by word of mouth, and referred to us by homeowners we were able to assist. A majority of those clients were originated prior to the MLD requirement. Throughout the process, our company would accept various payments, and never denied assistance based on inability to pay. Obviously in 2009, our company took in a lot of business, and we were able to hire additional assistance and grew as an overall company. We then became fully licensed, bonded, and approved with the MLD, and thankfully became a "legitimate" modification company.

Ironically, it was in the late months of 2009, that business started to slow down, and in the early months of 2010, steadily decreased in volume. In the beginning months of the year, we took in only a fraction of the volume as we did previously, hence causing the company to start

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to struggle financially. At the time, we were processing over 200 files, and needed to maintain the support staff to handle the files. As you are aware, processing a loan modification application is extremely labor intensive, and a very long, timely process.

In saying that, William and I were forced to have to withdraw trust monies to maintain our business. We had to continue to make payroll, as we still needed our processor to assist us with the processing of files, etc. We were also faced with the inability to pay the large office rent amount as well. We also needed to pay additional business expenses, and basic expenses that were a necessity to maintain the office. We have since downsized, and consolidated our office rent expenses, we no longer have an additional processor, and we have decreased our personal expenses (i.e. car, etc.), in order to maintain solvency. Unfortunately, we have not had any business come in for over a month, causing no revenue for the business at all.

Our overall goal and commitment is to finish and complete the files we have originated. We understand and acknowledge that it is our responsibility to continue to work on the client's behalf, despite the financial issues with the company. However, Alexander Cherie, Ltd. as a company does not have a desire to continue originating new business overall. Honestly, we are in a position where we are unsure as to how we can remain open to COMPLETE the existing business we have currently.

Mr. Waltuch, I would respectfully ask that the Division assist us in finding an avenue that will enable us to complete all existing files remaining, with the goal of ultimately closing the company. It is apparent that Alexander Cherie, Ltd. cannot remain open for any new business, and honestly William and I regretfully have to begin to look for other avenues of employment.

We completely acknowledge and understand that we are in violation of the law, regarding the maintenance of the Trust account, and we are prepared for any consequence that may follow. However, I would ask that you take into consideration that we would like opportunity to remain licensed until every effort is made to help our remaining clients. In saying that, I would like to offer my suggestion on how we can continue to move forward that will protect the client, first and foremost. I offer the following:

I would ask if the Division would grant us a 6 month timeframe, that would allow us to replenish and repay the Trust monies owed, and complete all existing files, ultimately being able to close them out, or refund any monies due for work not yet performed. William and I are committed to exploring additional income avenues to replace any and all monies borrowed. If this request would be granted, we feel it would most benefit the client, as we would make every effort to get each file completed. I would like the opportunity to continue to help my clients, until they are provided relief.

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An alternative suggestion is if it were possible to close the company, and release the bond. Currently, we have \$25,000 cash collateral against the bond with our insurance company. We have requested that they release the collateral monies, however the request was denied, due to lack of company assets and the infancy of the company. If the \$25,000 could be released, we would be able to replace all trust monies, and/or refund all monies owed to the remaining clients for work not performed. However, we personally see this option as not truly a benefit to the client, as we would not be able to continue assisting them unless the Division would allow us to continue.

In closing, we like to state for the record, that we, as a company, and also as individuals, always have and will continue to practice "good business", and most importantly, ethical business. We would request that the Division guide us, and allow us to remain "ethical" on behalf of our clients.

Sincerely,



Nicole Soria

Alexander Cherie, Ltd.

Cc: Connie Clapham

Division of Mortgage Lending

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on the day 7th of May 2010, I served a true and correct copy of the foregoing **ORDER TO CEASE AND DESIST AND ORDER IMPOSING LICENSURE CONDITIONS AND ORDER IMPOSING FINE AND NOTICE OF RIGHT TO REQUEST HEARING, PURSUANT TO NRS 645F AND THE REGULATION PROMULGATED THEREUNDER**, by personally hand serving to:

William Vinson

Connie J. Clapham

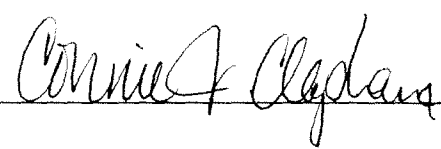
An Employee of the State of Nevada
Department of Business and Industry
Division of Mortgage Lending

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on the day 7th of May 2010, I served a true and correct copy of the foregoing **ORDER TO CEASE AND DESIST AND ORDER IMPOSING LICENSURE CONDITIONS AND ORDER IMPOSING FINE AND NOTICE OF RIGHT TO REQUEST HEARING, PURSUANT TO NRS 645F AND THE REGULATION PROMULGATED THEREUNDER**, by personally hand serving to:

Nicole Soria


An Employee of the State of Nevada
Department of Business and Industry
Division of Mortgage Lending

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on the day 7th of May 2010, I served a true and correct copy of the foregoing **ORDER TO CEASE AND DESIST AND ORDER IMPOSING LICENSURE CONDITIONS AND ORDER IMPOSING FINE AND NOTICE OF RIGHT TO REQUEST HEARING, PURSUANT TO NRS 645F AND THE REGULATION PROMULGATED THEREUNDER**, by personally hand serving to:

Alexander Cherie, Ltd.



An Employee of the State of Nevada
Department of Business and Industry
Division of Mortgage Lending