

1 NOW, THEREFORE, **IT IS HEREBY ORDERED** that, pursuant to NRS 622.080 and
2 NRS Chapter 645F and by permanent regulation R052-09 promulgated pursuant thereto,
3 Respondents shall immediately **CEASE AND DESIST** soliciting for and conducting any and all
4 covered service provider, foreclosure consultant and/or loan modification activity in the State of
5 Nevada. In addition, Respondents will be subject to the administrative fines, fees and/or costs
6 and restitution amounts as set forth in the original Order attached hereto as Exhibit "1".

7 **IT IS FURTHER ORDERED** that the sum of said administrative fines, fees and/or costs
8 and restitution amounts be paid in full within **thirty (30) days** of entry of the instant Order;
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11 Dated this 24th day of May, 2010.

12 State of Nevada
13 Department of Business and Industry
14 Division of Mortgage Lending

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16 By: 
17 Joseph L. Waltuch, Commissioner

EXHIBIT “1”

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

In re:

Learn Your Rights, Joseph Yorkus and
James R. Bartczak,

Respondents.

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**ORDER TO CEASE AND DESIST, NOTICE OF INTENT
TO IMPOSE FINE AND ORDER RESTITUTION,
AND NOTICE OF RIGHT TO REQUEST HEARING**

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The licensing and regulation of loan modification consultants, foreclosure consultants and other persons providing 'covered services' in the State of Nevada as defined in Nevada Revised Statutes ("NRS") 645F.310 is governed by Chapter 645F of NRS and by permanent regulation R052-09 promulgated pursuant thereto (the "Regulation"). Effective July 1, 2009, 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 covered service providers, foreclosure consultants and loan modification consultants. See, Chapter 645F of NRS and the Regulation. Pursuant to that authority, the Division makes the following Factual Allegations, Violations of Law, and Order, as follows:

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FACTUAL ALLEGATIONS

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1. Based upon information and belief, and at all relevant times herein mentioned, Learn Your Rights was and is a business entity of unknown organization with an office located at 3909 South Maryland Parkway, Las Vegas, Nevada 89119-7500.

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2. Based upon information and belief, and at all relevant times herein mentioned, Learn Your Rights advertised services as, provided services of, engaged in, carried on or held

1 itself out as engaging in or carrying on, and continues to advertise services as, provide
2 services of, engage in, carry on or hold itself out as engaging in or carrying on, the activities of
3 a loan modification consultant, foreclosure consultant or covered service provider relating to
4 properties in Nevada.

5 3. Based upon information and belief, and at all relevant times herein mentioned,
6 Joseph Yorkus ("Yorkus") was and is the 100% owner of Learn Your Rights and conducted,
7 and continues to conduct, activities as a loan modification consultant, foreclosure consultant
8 or covered service provider on its behalf.

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10 4. Based upon information and belief, at all relevant times herein mentioned, James
11 R. Bartczak ("Bartczak") was and is employed by, or associated with, Learn Your Rights and
12 conducted activities as a loan modification consultant, foreclosure consultant or covered
13 service provider on its behalf.

14 5. On approximately September 11, 2009, Learn Your Rights submitted to the Division
15 an application for a license as a loan modification consultant ("independent licensee"),
16 identified as Application File No. 3393, pursuant to Chapter 645F of NRS and the Regulation.

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18 6. Subsequently, the Division issued a "welcome letter" to Learn Your Rights, advising
19 that Learn Your Rights was authorized during the licensing process to conduct the 'covered
20 service' activities for which it had applied.

21 7. On September 15, 2009, the Division sent a letter to Learn Your Rights itemizing
22 multiple deficiencies in its application and instructing Learn Your Rights to correct the
23 deficiencies and submit the items enumerated in the Division's letter within 30 days.

24 8. As a result of Learn Your Rights's failure to correct and submit the itemized
25 deficiencies in its application within 30 days, the Division sent Learn Your Rights a letter on
26 October 23, 2009, via certified mail, which:

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28 a. Advised Learn Your Rights that (i) its application for a license as a loan

1 modification consultant "is deemed abandoned," pursuant to the permanent regulation; and
2 (ii) its "authorization to continue to conduct business is cancelled, effective immediately;" and

3 b. Instructed Learn Your Rights to "(i) cancel all contracts with homeowners and
4 refund all homeowner moneys [Learn Your Rights] holding in trust to the homeowners, or (ii)
5 obtain the written consent of the homeowners to transfer their files, moneys and contracts to
6 another bonded independent applicant, HUD approved counseling service or other entity
7 exempt from Chapter 645F. In either event, [Learn Your Rights] will be required to provide
8 written documentation to the Division of the actions [Learn Your Rights has] taken within ten
9 (10) days of this letter...."

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11 9. Based upon information and belief, and at all relevant times herein mentioned:

12 a. Complainant ML was the owner of certain real property located at 312 Horse
13 Pointe Avenue, North Las Vegas, Nevada 89084; and

14 b. Complainants RDM and SCG were the owners of certain real property located
15 at 4820 E. Cleveland Avenue, Las Vegas, Nevada 89104.

16 10. On approximately November 16, 2009, the Division received Complainant ML's
17 written complaint alleging, among other things, that:

18 a. On August 28, 2009 Complainant ML signed a contract for loan modification
19 services and paid Learn Your Rights Nine Hundred Dollars (\$900.00);

20 b. On September 14, 2009 Complainant ML paid Learn Your Rights an
21 additional Nine Hundred Ninety-Five Dollars (\$995.00) for loan modification services;

22 c. Learn Your Rights offered to provide, or provided, for compensation, services
23 to obtain a mortgage loan modification for Complainant ML and/or prevent her real property
24 from going to foreclosure or to provide other covered services, as defined in NRS 645F.310,
25 both before and after October 23, 2009 (the date when the Division deemed Learn Your
26 Rights's application for a license abandoned and the Division cancelled Learn Your Rights's
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1 authorization to conduct business) ;

2 d. Complainant ML failed to receive the loan modification services for which she
3 paid Learn Your Rights a total of Eighteen Hundred Ninety-Five Dollars (\$1,895.00); and

4 e. Despite Complainant ML's repeated requests, Learn Your Rights failed to
5 refund the Eighteen Hundred Ninety-Five Dollars (\$1,895.00) to Complainant ML.

6 11. On approximately February 2, 2010, the Division received a written complaint from
7 Complainants RDM and SCG alleging, among other things, that:

8 a. Bartczak represented to Complainants RDM and SCG that Learn Your Rights
9 was licensed and bonded;

10 b. On October 23, 2009 Complainant SCG signed a written contract for loan
11 modification services and paid Learn Your Rights Fifteen Hundred Ninety-Five Dollars
12 (\$1,595.00);

13 c. On December 7, 2009 Complainant SCG paid Learn Your Rights an
14 additional Three Hundred Fifty Dollars (\$350.00) for loan modification services; and

15 d. Learn Your Rights offered to provide, or provided, for compensation, services
16 to obtain a mortgage loan modification for Complainants RDM and SCG and/or prevent their
17 real property from going to foreclosure or to provide other covered services, as defined in
18 NRS 645F.310, both before and after October 23, 2009 (the date when the Division deemed
19 Learn Your Rights's application for a license abandoned and the Division cancelled Learn
20 Your Rights's authorization to conduct business).

21 12. Pursuant to the Regulation, if an applicant has a received a letter from the
22 Commissioner, which imposes additional requirements that the applicant must satisfy to
23 obtain a license as a covered service provider, foreclosure consultant, or loan modification
24 consultant, the applicant must comply with those requirements within the 30 days after the
25 date on which the letter was issued by the Commissioner or such other time as provided in
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1 the letter. If the applicant does not satisfy all additional requirements set forth in the letter
2 within the prescribed period, the application will be deemed to have been abandoned and the
3 applicant must reapply to obtain a license.” See Section 20(3) of the Regulation.

4 13. Pursuant to the Regulation, “[w]hether or not a complaint has been filed, the
5 Commissioner may investigate a licensee or other person if, for any reason, it appears
6 that...(t)he licensee or other person is offering or providing any of the services of a covered
7 services provider, foreclosure consultant or loan modification consultant or otherwise
8 engaging in, carrying on or holding himself out as engaging in or carrying on the business of a
9 covered services provider, foreclosure consultant or loan modification consultant without
10 being appropriately licensed or exempt from licensing pursuant to the provisions of this
11 chapter or chapter 645F of NRS....” See Section 105(1)(b) of the Regulation.

12 14. Pursuant to the Regulation, “[a] person shall not advertise services as, provide any
13 of the services of, act as or conduct business as a covered service provider, foreclosure
14 consultant or loan modification consultant or otherwise engage in, carry on or hold himself out
15 as engaging in or carrying on the activities of a covered service provider, foreclosure
16 consultant or loan modification consultant unless the person has a license as a covered
17 service provider, foreclosure consultant or loan modification consultant, as applicable, issued
18 pursuant to this chapter and chapter 645F of NRS.” See Section 17 of the Regulation.

19 15. Pursuant to the Regulation, “[a]n applicant for a license as a covered service
20 provider, foreclosure consultant or loan modification consultant is not licensed as a covered
21 service provider, foreclosure consultant or loan modification consultant, respectively, and may
22 not engage in any activity requiring such a license until the Commissioner has issued the
23 license to the applicant pursuant to this chapter and chapter 645F of NRS and has given
24 written notice of such issuance to the applicant.” See Section 18 of the Regulation.

25 16. Pursuant to the Regulation, “[a]s a condition to doing business in this State,
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1 each independent licensee shall deposit with the Commissioner and keep in full force and
2 effect a surety bond payable to the State of Nevada...which is executed by a corporate surety
3 satisfactory to the Commissioner and which names as principals the independent licensee
4 and all associated licensees employed by or otherwise associated with the independent
5 licensee." See Section 80 of the Regulation.

6 17. Pursuant to the Regulation, "[i]t is unlawful for any person to provide or offer to
7 provide any of the services of a covered service provider, foreclosure consultant or loan
8 modification consultant or otherwise to engage in, carry on or hold himself out as engaging in
9 or carrying on the business of a covered service provider, foreclosure consultant or loan
10 modification consultant without first obtaining the applicable license issued pursuant to this
11 chapter and chapter 645F of NRS, unless the person" is exempt from licensing and complies
12 with the requirements for that exemption. See Section 102 of the Regulation.

13 18. After receiving the written complaints of Complainants ML, RDM and SCG
14 regarding Learn Your Rights, the Division conducted an investigation which revealed, among
15 other things, that:

16 a. Learn Your Rights offered to provide, or provided, for compensation, services
17 to obtain a mortgage loan modification for Complainants ML, RDM and SCG and/or prevent
18 their respective real properties from going to foreclosure or to provide other covered services,
19 as defined in NRS 645F.310, both before and after October 23, 2009 (when Learn Your
20 Rights's application for a license was deemed abandoned and the Division cancelled Learn
21 Your Rights's authorization to conduct business). During a meeting with the Division on
22 February 4, 2010, Yorkus admitted and confirmed that he was still working on the files he had
23 on site. Further, in his response to the written complaint of Complainants RDM and SCG,
24 Bartczak confirmed that he met with Complainants on October 23, 2009, and continued
25 working on their loan modification as late as January 19, 2010, nearly three (3) months after
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1 the Division cancelled Learn Your Rights's authorization to conduct business;

2 b. Learn Your Rights has never been issued a license by the Division as a loan
3 modification consultant, foreclosure consultant or covered service provider (independent
4 licensee), pursuant to Chapter 645F of NRS and the Regulation;

5 c. Learn Your Rights has never provided written documentation to the Division
6 of the actions, if any, it took to comply with the Division's October 23, 2009 letter to cancel all
7 contracts with homeowners, refund all homeowner moneys it held in trust, and obtain the
8 written consent of the homeowners to transfer their files, moneys and contracts to a bonded
9 independent applicant, HUD-approved counseling service or other entity exempt from
10 Chapter 645F of NRS;

11 d. Learn Your Rights has never deposited a surety bond with the Division,
12 pursuant to Section 80 of the Regulation;

13 e. Yorkus has never applied for or been issued a license by the Division as a
14 loan modification consultant, foreclosure consultant or covered service provider (whether as
15 an independent licensee or associated licensee), pursuant to Chapter 645F of NRS and the
16 Regulation;

17 f. Bartczak has never applied for or been issued a license by the Division as a
18 loan modification consultant, foreclosure consultant or covered service provider (whether as
19 an independent licensee or associated licensee), pursuant to Chapter 645F of NRS and the
20 Regulation;

21 g. Learn Your Rights failed to provide the loan modification services pursuant to
22 the written contracts which it entered into with Complainants ML and RDM and SCG; and

23 h. Learn Your Rights failed to refund (i) the Eighteen Hundred Ninety-Five
24 Dollars (\$1,895.00) Complainant ML paid Learn Your Rights for loan modification services;
25 and (ii) the Nineteen Hundred Forty-Five Dollars (\$1,945.00) Complainant SCG paid Learn
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1 Your Rights for loan modification services.

2 19. Pursuant to the Regulation, “[f]or each violation committed by a person who
3 engages in an activity for which licensure as a covered service provider, foreclosure
4 consultant or loan modification consultant is required under this chapter and chapter 645F of
5 NRS, without regard to whether the person is licensed under this chapter and chapter 645F of
6 NRS, the Commissioner may impose upon the person an administrative fine of not more than
7 \$10,000...if the person...[d]oes not conduct business in accordance with law or has violated
8 any provision of this chapter or chapter 645F of NRS or any order of the
9 Commissioner...[h]as refused or failed, within a reasonable time, to furnish any information or
10 make any report that may be required by the Commissioner pursuant to the provisions of this
11 chapter or chapter 645F of NRS...[h]as failed to...remit any money of a client within a
12 reasonable time after a request for...remittal...[h]as engaged in any other conduct constituting
13 a deceitful, fraudulent or dishonest business practice...[h]as allowed a person not licensed
14 pursuant to this chapter and chapter 645F of NRS to act as a covered service provider,
15 foreclosure consultant or loan modification consultant...[h]as offered or provided any services
16 prescribed under this chapter or chapter 645F of NRS requiring licensure and the person did
17 not have such a license and was not exempt from licensing at the time the person engaged in
18 the activities....” See Sections 103(3)(c), (i), (m), (o), (u), (w) of the Regulation.

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21 20. Pursuant to the Regulation, “[a] person who engages in an activity for which
22 licensure as a covered service provider, foreclosure consultant or loan modification consultant
23 is required under this chapter and chapter 645F of NRS, without regard to whether the person
24 is licensed under this chapter and chapter 645F of NRS, may be required by the
25 Commissioner to pay restitution to any person who has suffered an economic loss as a result
26 of a violation of the provisions of this chapter or chapter 645F of NRS....” See Section 103(2)
27 of the Regulation.
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1 d. Learn Your Rights failed to refund (i) the Eighteen Hundred Ninety-Five Dollars
2 (\$1,895.00) Complainant ML paid Learn Your Rights for loan modification services; and (ii)
3 the Nineteen Hundred Forty-Five Dollars (\$1,945.00) Complainant SCG paid Learn Your
4 Rights for loan modification services, in violation of Section 103(3)(m) of the Regulation; and

5 e. Yorkus and Bartczak each acted in the capacity as a loan modification consultant,
6 foreclosure consultant or covered services provider without being licensed to conduct such
7 activities, in violation of Section 17 of the Regulation.

8 **ORDER**

9 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS,**
10 pursuant to Chapter 645F of NRS and Section 108(1) of the Regulation, after having
11 determined that Learn Your Rights, Yorkus, and Bartczak (collectively "Respondents"), and
12 each of them, offered or provided services of a covered services provider, foreclosure
13 consultant or loan modification consultant or otherwise engaged in, carried on or held
14 themselves out as engaging in or carrying on the business of a covered services provider,
15 foreclosure consultant or loan modification consultant without having applied for and/or been
16 issued a license by the Division and without being exempt from licensing, in violation of
17 Chapter 645F of NRS and the Regulation, that **RESPONDENTS, AND EACH OF THEM,**
18 **IMMEDIATELY CEASE AND DESIST** from the following activities:
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21 1. Advertising for and/or soliciting covered services, foreclosure consultant and/or loan
22 modification consultant business in Nevada without having first received a license from the
23 Division to conduct such activities; and

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25 2. Offering or providing any of the services of a covered service provider, foreclosure
26 consultant and/or loan modification consultant, or otherwise engaging in, carrying on or
27 holding itself out as engaging in or carrying on the business of a covered service provider,
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1 foreclosure consultant and/or loan modification consultant in Nevada for which it has not
2 received a license from the Division to conduct such activities.

3 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 108(4) of
4 the Regulation, that upon filing a verified petition with the Division within **twenty (20) days** of
5 receipt of this Order to Cease and Desist, Respondent, and each of them, shall be entitled to
6 a hearing with regard to the contents of this Order to Cease and Desist. Respondents are
7 advised, however, that the provisions of this Order to Cease and Desist are effective
8 immediately upon each Respondent being served therewith, whether or not such Respondent
9 requests a hearing.
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11 **NOTICE TO RESPONDENTS** and each of them: If you request a hearing, you are
12 specifically informed that you have the right to appear and be heard in your defense, either
13 personally or through your counsel of choice at your own expense. At the hearing, if one is
14 timely requested, the Division will call witnesses and present evidence against you. You have
15 the right to respond and to present relevant evidence and argument on all issues involved.
16 You have the right to call and examine witnesses, introduce exhibits and cross-examine
17 opposing witnesses on any matter relevant to the issues involved.
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19 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 113(2) of
20 the Regulation, that upon written application to the Division within **twenty (20) days** of the
21 date of this Order, each Respondent shall be entitled to a hearing with regards to the contents
22 of this Order referenced hereafter. At that hearing the Division will seek to impose an
23 administrative fine against Respondents in the amount of Twenty Thousand Dollars
24 (\$20,000.00), payable to the Division on account of Respondents' violations of Chapter 645F
25 of NRS and the Regulation, the Division's investigative costs in the amount of One Thousand
26 Twenty Dollars (\$1,020.00) as well as the Division's attorney's fees, if any, incurred herein,
27 each to be proven at the hearing.
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