

1 **STATE OF NEVADA**

2 **DEPARTMENT OF BUSINESS AND INDUSTRY**

3 **DIVISION OF MORTGAGE LENDING**

4 * * *

5 In re:

6 Alderus Funding & Investments, LLC,
7 Respondent.

10 **STIPULATED SETTLEMENT AGREEMENT**

11 The licensing and regulation of mortgage brokers, mortgage bankers and escrow
12 agencies in the State of Nevada is governed by Chapter 645B, Chapter 645E and Chapter
13 645A of the Nevada Revised Statutes (hereinafter "NRS"), respectively, and the regulations
14 promulgated thereunder. The State of Nevada, Department of Business and Industry, Division
15 of Mortgage Lending (hereinafter the "Division") has the general duty to exercise supervision
16 and control over mortgage brokers, mortgage bankers and escrow agencies pursuant to these
17 chapters. Pursuant to that authority, the Division hereby enters into the following Stipulated
18 Settlement Agreement (hereinafter "Agreement") with Alderus Funding & Investments, LLC
19 (hereinafter "Respondent"), as follows:

21 **RECITALS**

22 WHEREAS, based upon information and belief, Respondent, Alderus Funding &
23 Investments, LLC, (hereinafter "Respondent"), is a corporation organized and existing under the
24 laws of the State of Nevada since on or about October 13, 2005. Currently, Alderus' status with
25 the Nevada Secretary of State is "active."
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27 WHEREAS, on approximately December 22, 2005, Respondent was issued a
28 mortgage broker license (License No. 334) by the Division pursuant to Chapter 645B of NRS.

1 WHEREAS, at all relevant times herein mentioned, Respondent operated within the
2 State of Nevada as a licensed mortgage broker. The Division currently classifies
3 Respondent's license as "active license." All factual allegations herein occurred while
4 Respondent held an active mortgage broker license.

5 WHEREAS, on approximately June 16, 2004, Melissa LoRusso was issued a mortgage
6 agent license (License No. 25594) by the Division pursuant to Chapter 645B of NRS.

7 WHEREAS, on approximately September 22, 2005, Miguel Lopez was issued a
8 mortgage agent license (License No. 33057) by the Division pursuant to Chapter 645B of
9 NRS.

10 WHEREAS, pursuant to NRS 645B.0125, a "mortgage agent" is defined, in part, as "...a
11 natural person who... is an employee or independent contractor of a mortgage broker who is
12 required to be licensed pursuant to this chapter..." and "...is authorized by the mortgage broker
13 to engage in, on behalf of the mortgage broker, any activity that would require the person, if he
14 were not an employee or independent contractor of the mortgage broker, to be licensed as a
15 mortgage broker pursuant to this chapter..." See, NRS 645B.0125 (1)(a)(b).

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, or carry on or hold himself or herself
18 out as engaging in or carrying on the activities of a mortgage agent unless the person has a
19 license as a mortgage agent issued pursuant this chapter..." See NRS 645B.400.

20 WHEREAS, pursuant to NRS 645B.060, subject to the administrative control of the
21 director of the Department of Business and Industry, the Commissioner shall, with limited
22 exception, "conduct an annual examination of each mortgage broker doing business in this
23 State...." See, NRS 645B.060(2)(d).

24 WHEREAS, on August 7, 2009, the Division conducted a regularly scheduled
25 examination of Respondent and determined, among other things that:
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28

1 a. On December 26, 2008 and January 19, 2009, respectively, mortgage agent
2 Melissa LoRusso originated loans to borrowers GZ and SBL, respectively, and engaged in
3 mortgage agent activity in Nevada on behalf of Respondent; and

4 b. On January 8, 2009, mortgage agent Miguel Lopez originated a loan to borrower
5 SE, and engaged in mortgage agent activity in Nevada on behalf of Respondent.

6 WHEREAS, pursuant to NRS 645B.670, as it existed at the time of the above-
7 referenced violations, "[f]or each violation committed by a mortgage broker, the Commissioner
8 may impose upon the mortgage broker an administrative fine of not more than \$10,000, may
9 suspend, revoke or place conditions upon his license, or may do both, if the mortgage
10 broker...[i]s grossly negligent or incompetent in performing any act for which he is required to
11 be licensed pursuant to the provisions of this chapter...[d]oes not conduct his business in
12 accordance with law or has violated any provision of this chapter, a regulation adopted
13 pursuant to this chapter or an order of the Commissioner...." See, NRS 645B.670(2)(b), (c).

15 WHEREAS, after settlement negotiations, the Division and Respondent (collectively,
16 the "Parties") wish to resolve this matter without the necessity of the filing of a complaint for a
17 formal hearing.

19 NOW, THEREFORE, in consideration of the representations, covenants and conditions
20 set forth herein, IT IS HEREBY STIPULATED AND AGREED by the Parties that the purported
21 violations of NRS shall be settled on the following terms and conditions:

22 1. Respondent admits mortgage agents Melissa LoRusso and Miguel Lopez
23 conducted mortgage lending activity on behalf of Respondent when they were was not
24 associated with or employed by Respondent, in violation of NRS 645B.400.

25 2. Respondent acknowledges and agrees, with full knowledge, to waive its right to
26 have the Division file a complaint if one has not been filed by the date that Respondent
27 executes this Agreement, or if a complaint has been filed, to go to a hearing in this matter.
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1 3. Respondent shall, pursuant to NRS 645B.670 and/or NRS 622.400, pay an
2 administrative fine to the Division in the amount of Two Thousand Five Hundred Dollars and
3 No Cents (\$2,500.00) and the Division's investigative costs in the amount of One Hundred
4 Eighty Dollars and No/Cents (\$180.00). Respondent shall make payment, in full, to the
5 Division of the administrative fine and investigative costs upon its execution of this agreement.

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

9 6. The parties agree and acknowledge that this Agreement shall constitute the
10 complete and final resolution of any issues arising out of the Division's August 2009
11 examination of Respondent.
12

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

16 8. Respondent further acknowledges and agrees that the Division shall keep the
17 original of this Agreement.
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19 9. This Agreement may be signed in counterparts and a facsimile signature shall be
20 deemed as valid as an original; however, Respondent shall immediately forward all original
21 signature pages to the Division.

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

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

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

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

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

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

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

13 14 17. This Agreement constitutes the entire agreement of the parties, and it is intended
15 as a complete and exclusive statement of the promises, representations, negotiations, and
16 discussions of the parties. Unless otherwise expressly authorized by its terms, this Agreement
17 shall be binding upon the parties unless the same is in writing, signed by the respective
18 parties hereto, and approved by the Office of the Attorney General.

19 20 18. **NOTICE TO RESPONDENT:** By executing this Agreement, you hereby agree that
21 you are waiving certain rights as set forth herein. As Respondent, you are specifically
22 informed that you have the right to request that the Division file an administrative complaint
23 against you, and at any hearing on such a complaint, you would have the right to appear and
24 be heard in your defense, either personally or through your counsel of choice. If the Division
25 were to file a complaint, at the hearing, the Division would have the burden of proving the
26 allegations in the complaint and would call witnesses and present evidence against you. You
27 would have the right to respond and to present relevant evidence and argument on all issues
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1 involved. You would have the right to call and examine witnesses, introduce exhibits, and
2 cross-examine opposing witnesses on any matter relevant to the issues involved.

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

8 19. Respondent understands and agrees that this Agreement may be used to show
9 that past violations have occurred should any future disciplinary action be taken by the
10 Division.
11

12 20. In consideration of the execution of this Agreement, Respondent, for itself, its
13 owners, heirs, executors, administrators, successors, and assigns, hereby releases, remises,
14 and forever discharges the State of Nevada, the Department of Business and Industry of the
15 State of Nevada, the Division, and each of their members, agents, attorneys (including any
16 and all employees of the Nevada Attorney General), and employees in their individual and
17 representative capacities, from any and all manner of actions, causes of action, suits, debts,
18 judgments, executions, claims, and demands whatsoever, known and unknown, in law or
19 equity, that Respondent ever had, now has, may have, or claim to have against any or all of
20 the persons or entities named in this section, arising out of or by reason of the Division's
21 examination of Respondent, and all other matters relating thereto.
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23 21. Respondent hereby indemnifies and holds harmless the State of Nevada, the
24 Department of Business and Industry of the State of Nevada, the Division, and each of their
25 members, agents, and employees, and employees of the Nevada Attorney General in their
26 individual and representative capacities against any and all claims, suits, and actions brought
27 against said persons and/or entities by reason of the Division's examination of Respondent,
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1 this Agreement, and all other matters relating thereto, and against any and all expenses,
2 damages, and costs, including court costs and attorney fees, which may be sustained by the
3 persons and/or entities named in this section as a result of said claims, suits, and actions.

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

6 Dated this 30th day of June, 2010.

8 Alderus Funding & Investments, LLC

9 By: 

10 Title: CFD

12 Dated this 9th day of ~~May~~ ^{July}, 2010.

14 State of Nevada
15 Department of Business and Industry
16 Division of Mortgage Lending

17 By: 

18 Joseph L. Waltuch, Commissioner