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

In re:

Matthew Jason Garnes,

Respondent.

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

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 (hereinafter "NRS") and Chapter 645B of the Nevada Administrative Code (hereinafter "NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (hereinafter "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 makes the following Factual Allegations, Violations of Law, and Order:

FACTUAL ALLEGATIONS

1. On approximately February 20, 2003, the Division issued Matthew Jason Garnes (hereinafter "Respondent"), an individual, a mortgage agent license (License No. 9615) pursuant to NRS 645B.

2. Respondent operated within the State of Nevada as a licensed mortgage agent until his license expired on February 21, 2010 for failure to renew. *See* NRS 645B.050(1). The Division currently classifies Respondent's license as "cancelled."

3. Based upon information and belief, and at all relevant times herein mentioned, Garnes Mortgage was and is an alter ego of Respondent that held itself out, and continues to

hold itself out, as engaging in or carrying on the business of a mortgage broker pursuant to Chapter 645B of NRS.

4. Based upon information and belief, and at all relevant times herein mentioned, Respondent held himself out, and continues to hold himself out, as being a mortgage broker doing business in Nevada, and also held himself out, and continues to hold himself out, as being affiliated with Evofi One and Prime Cap, two of Respondent's former employers, when Respondent was and is no longer so affiliated.

5. On or about March 24, 2010, the Division learned that Respondent was advertising mortgage broker/mortgage agent services on his website at www.garnesmortgage.com.

6. On or about March 24, 2010 and May 5, 2010, respectively, Division investigator DK contacted Respondent and advised him that, as of February 2010, Respondent did not have an active mortgage agent license and must immediately cease and desist all advertisement of mortgage broker and/or mortgage agent services on his website at www.garnesmortgage.com.

7. Pursuant to NRS 645B.060(2)(c), the Division is charged with conducting "...such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner..."

8. Pursuant to NRS 645B.060(2)(c), the Division commenced an investigation on May 13, 2010 which revealed, among other things, that:

a. Respondent conducted, and continues to conduct, mortgage broker business under the name Garnes Mortgage and held, and continues to hold, himself out as engaging in or carrying on the business of a mortgage broker; and

b. Respondent advertised, and continues to advertise, mortgage broker services on Respondent's website at www.garnesmortgage.com, and advertised, and continues to advertise, his affiliation with Evofi One and Prime Cap, two of Respondent's former employers, when Respondent was and is no longer so affiliated.

9. Pursuant to NRS 645B.400, "[a] person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the activities of a mortgage agent unless the person has a license as a mortgage agent issued pursuant to NRS 645B.410."

10. Pursuant to NRS 645B.900, "[i]t is unlawful for any person to offer or provide any of the services of a mortgage broker or mortgage agent or otherwise to engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent without first obtaining the applicable license issued pursuant to this chapter, unless the person: 1. Is exempt from the provisions of this chapter; and 2. Complies with the requirements for that exemption."

11. Pursuant to NRS 645B.690, "[i]f a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time...[t]he person was required to have a license pursuant to this chapter and the person did not have such a license...The Commissioner shall impose upon the person an administrative fine of not more than $50,000 for each violation and if the person has a license, the Commissioner shall revoke it..." *See* NRS 645B.690(1)(a).

12. Pursuant to NAC 645B.340, "[i]f a person engages in an activity in violation of the provisions of this chapter of chapter 645B of NRS, the Commissioner may issue an order to the person directing the person to cease and desist from engaging in the activity." *See* NAC 645B.340(1).

VIOLATIONS OF LAW

After investigating this matter, the Division determined that:

1. Respondent held, and continues to hold, himself out as Garnes Mortgage and was and is engaging in or carrying on the business of a mortgage broker pursuant to Chapter 645B of NRS without a license or certificate of exemption;

2. Respondent advertised, and continues to advertise, mortgage broker and mortgage agent services on Respondent's website at www.garnesmortgage.com, and advertised, and

continues to advertise his affiliation with Evofi One and Prime Cap, two of Respondent's former employers, when no such affiliation currently exists.

ORDER

NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS, pursuant to NRS 622.080 and NAC 645B.340, after having determined that Respondent engaged in activities for which Respondent does not have a license or certificate of exemption, in violation of Chapter 645B of NRS, that **RESPONDENT IMMEDIATELY CEASE AND DESIST** from the following activities:

1. Conducting any and all unlicensed mortgage broker and/or mortgage agent activity in the State of Nevada; and

2. Advertising for and soliciting mortgage broker and/or mortgage agent business in the State of Nevada, including his affiliation with any prior employer.

IT IS FURTHER ORDERED, pursuant to NAC 645B.340(4), that upon filing a verified petition with the Division within **thirty (30) days** of receipt of this Order to Cease and Desist, Respondent shall be entitled to a hearing with regards to the contents of this Order to Cease and Desist. Respondent is advised, however, that the provisions of this Order to Cease and desist are effective immediately upon Respondent being served therewith, whether or not Respondent requests a hearing.

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

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

If the Division prevails at any hearing, it may request that attorney's fees and costs, in the amount of $641.50, to date, be awarded pursuant to NRS 622.400; the Division reserves the right to supplement these fees and costs.

IT IS FURTHER ORDERED, pursuant to NRS 645B.750, that upon written application to the Division **within twenty (20) days** of the date of this Order, Respondent shall be entitled to a hearing with regards to the contents of this Order referenced below. At that hearing the Division will seek to:

1. Impose an administrative fine against Respondent in the amount of Seven Thousand Five Hundred Dollars and No Cents ($7,500.00) for Respondent's multiple violations of Chapter 645B of NRS, the Division's investigative costs in the amount of Four Hundred Eighty Dollars and No Cents ($480.000), as well as the Division's administrative costs and attorney's fees, if any, incurred herein, each to be proven at the hearing or upon the filing of a proper affidavit; and

2. Require Respondent's payment, in full, of the administrative fine, investigative costs, as well as the costs and fees to the Division, within thirty (30) days of entry of the Final order.

Should Respondent not request a hearing within twenty (20) days of the date of this Order, the Division will enter a Final Order in this matter against Respondent, as required by NRS 645B.750(2).

Dated this 23RD day of July, 2010.

State of Nevada
Department of Business and Industry
Division of Mortgage Lending

By: Joseph L. Waltuch
Joseph L. Waltuch, Commissioner

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on , July 26, 2010, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO IMPOSE FINE, AND NOTICE OF RIGHT TO REQUEST HEARING for MATTHEW JASON GARNES, addressed as follows:

Matthew Jason Garnes
3423 W. Mardon Avenue
Las Vegas, NV 89139

Certified Receipt Number: 7006 2760 0000 0876 3558

DATED this 23rd day of July, 2010

By: Susan Slack
Employee of the Division