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BEFORE THE APPEALS OFFICER

MAY 02 2011

In the Matter of the Contested
Industrial Insurance Claim of:

BV NV HOLDINGS DBA NATIONWIDE
DISCOUNT MORTGAGE,

Respondent

) Claim No:
)
) Appeal No: 76832-SL
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)
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DECISION AND ORDER

Mortgage Lending Division

This matter came on for hearing before Appeals Officer, **Shirley D. Lindsey, Esq.**, on April 11, 2011. Respondent Bobby Vavla (hereinafter "Vavla") was present. Both Respondent Vavla and Respondent BV Nevada Holdings, Inc. dba Nationwide Discount Mortgage (hereinafter "Nationwide Discount Mortgage") were represented by counsel, **Kirk Kennedy, Esq.** The State of Nevada, Department of Business and Industry, Division of Mortgage Lending (Hereinafter the "Division") was represented by Deputy Attorney General, **Kali Miller, Esq.** Respondents Vavla and Nationwide Discount Mortgage appealed from the Division's June 9, 2010 NOTICE OF INTENT TO REVOKE MORTGAGE AGENT LICENSE, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF REQUEST TO REQUEST HEARING. In that document the Division stated its intent to seek the revocation of Respondent Vavla's mortgage agent license, revoke Respondent Nationwide Discount Mortgage mortgage brokers license and to impose an administrative fine of \$15,000 as well as \$756.00 in investigation charges and an unspecified amount in attorneys fees.

The following was admitted into evidence: Divisions exhibits A, B, C, D and E. Nationwide's Exhibits 1,2,3,4,5,6,7,8,9,10,11,12,13 & 14.

Testimony was given by the following witnesses: Bari Fraire, Cindy Gregory, Denice Kelly, Melissa Serrano and Bobby Vavla.

The hearing was conducted pursuant to NRS Chapter 233B, NRS Chapters 645B and all

1 applicable administrative regulations.

2 Following a review of the evidence and consideration of the testimony of the witnesses
3 and arguments of counsel, the Appeals Officer renders the following Findings of Fact and
4 Conclusions of Law:
5

6 **FINDINGS OF FACT**

7 1. BV Nevada Holdings, Inc. is a corporation organized and existing under the
8 laws of the state of Nevada since on or about June 14, 2004 and is doing business in Nevada as
9 Nationwide Discount Mortgage.

10 2. On August 11, 2005 Nationwide Discount Mortgage was issued a mortgage
11 broker license (License no. 1986) by the Division pursuant to Chapter 645B of NRS.

12 3. On September 24, 2008 Respondent Vavla was issued a mortgage agent license
13 (License No. 46416) by the Division pursuant to Chapter 645B of NRS.

14 4. At all relevant times herein Vavla was the President, Secretary, Treasurer and
15 Director of nationwide Discount Mortgage and was employed by Nationwide Discount
16 Mortgage as a licensed mortgage agent; Nationwide Discount Mortgage maintained an office
17 located at 3987 W. Flamingo Rd. #105, Las Vegas NV 89147.
18

19 5. At all relevant times herein Vavla used the name of "Bobby Val" in performing
20 his duties as a licensed mortgage agent for Nationwide Discount Mortgage.
21

22 6. On October 28, 2009 Bari Fraire was employed as a branch manager for
23 Evergreen Home Loans and received a pre-approval letter, in favor of Jonathan and Maria
24 Lopez, attached to a real estate contract. The pre-approval letter was dated October 28, 2009
25 and bore the letterhead of Evergreen Home Loan and the contact information of "Bobby Val"
26 at 3987 W. Flamingo Rd. #105 Las Vegas NV 89147.
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1 7. On December 9, 2009 a complaint was filed with the Division regarding the
2 unauthorized pre-approval letter of October 28, 2009 on the letterhead of Evergreen Home
3 Loans.

4 8. At the April 11, 2011 Ms. Fraire credibly testified that Vavla was not
5 authorized to issue pre-authorization letters on behalf of Evergreen Home Loans in October of
6 2009.

7 9. At the April 11, 2011 evidentiary hearing Vavla denied that he had created the
8 October 28, 2009 pre-approval letter on the letterhead of Evergreen Home Loan.

9 10. At the April 11, 2011 evidentiary hearing Vavla testified that in 2009 he was
10 authorized by Wells Fargo, through its wholesale Mortgage Division to use its software to
11 qualify buyers and to issue pre-approval letters bearing the Wells Fargo letterhead.

12 11. At the April 11, 2011 evidentiary hearing Vavla also testified that he created
13 the November 13, 2009 pre-approval letter, on Wells Fargo letterhead, in favor of his client,
14 Melissa Serrano, stating that she was pre approved to purchase a house with a loan amount of
15 \$155,200.00.

16 12. The format and content of the October 28, 2009 pre-approval letter is
17 substantially similar to the November 13, 2009 pre-approval letter except for the letterheads,
18 and the details (i.e. borrower, pre-approval amount, dates).

19 13. Respondent Vavla' s testimony to the effect that he did not create the October
20 28, 2009 pre-approval letter under the letterhead of Evergreen Home Loans is not credible.
21 Respondent Vavla did create the October 28, 2009 pre-approval letter under the letterhead of
22 Evergreen Home Loans without the authorization of Evergreen home Loans.

23 14. At the April 11, 2011 hearing Melissa Serrano testified that she had made an l
24 earnest money deposit on a house located on MACKANOSE; that her offer was accepted but
25 she had not completed the purchase. She testified that she contacted Vavla and requested that
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1 he delete her social security number and information concerning a 2007 bankruptcy from her
2 credit report and send the redacted copy of her credit report to Ryan Tate, the realtor
3 representing the seller of the MACKANOSE residence. This request was made to assist Mr.
4 Serrano obtain the return of her earnest money deposit. The earnest money deposit was
5 returned to Ms. Serrano.
6

7 15. Vavla testified that he redacted Ms. Serrano's social security number and the
8 reference to the 2007 bankruptcy from Ms. Serrano's credit report and transmitted it to Ryan
9 Tate and that Ms. Serrano did receive the return of her earnest money deposit.

10 16. The Division submitted a credit report for Ms. Serrano dated October 18, 2009
11 with her social security number and the bankruptcy information redacted. Mr. Vavla testified
12 that he believed the credit report he had transported to Ryan Tate to assist Ms. Serrano get her
13 earnest money deposit was dated later than November 13, 2009.
14

15 17. Vavla redacted material information from Ms. Serrano's credit report in 2009
16 to assist her in obtaining a financial benefit in the nature of the return of her earnest money
17 deposit.
18

19 18. The Division failed to establish that Vavla was not authorized to issue the
20 November 13, 2009 pre-approval letter on Wells Fargo Letterhead.

21 19. At all times referenced herein Respondent Vavla was the alter ego of Respondent
22 Nationwide Discount Mortgage.

23 20. Any finding of Fact which may be deemed a Conclusion of Law shall be so
24 considered.
25

26 CONCLUSIONS OF LAW

27 1. NRS 645B.670 (2) (o) makes it a punishable offense for a mortgage broker to
28 engage in any conduct constituting a deceitful, fraudulent or dishonest business practice.

2. NRS 645B.670 (3) (h) makes it a punishable offense for a mortgage agent to

1 engage in any conduct constituting a deceitful, fraudulent or dishonest business practice.

2 3. Respondent Valve' s act of issuing the October 28, 2009 pre-approval letter on
3 the letter head of evergreen Home Loans constitutes a deceitful, fraudulent and dishonest
4 business practice.

5 4. Respondent Valve' s act of redacting the bankruptcy information from Ms.
6 Serrano' s credit report and transmitting it to Ryan Tate constitutes a deceitful, fraudulent and
7 dishonest business practice.

8 5. NRS 645B.670 (3) (b) makes is a punishable offense for a mortgage agent to
9 make a material representation in connection with any residential loan origination.

10 6. Respondent Valve' s act of issuing the October 28, 2009 pre-approval letter on
11 the letter head of Evergreen Home constitutes a material misrepresentation in connection with
12 the origination of a residential loan.

13 7. At all relevant times herein Vavla, was acting individually and as the President,
14 Secretary, Treasurer and Director of Nationwide Discount Mortgage so as to make himself
15 responsible for any actions/liabilities of Nationwide Discount Mortgage and Nationwide
16 Discount Mortgage responsible for any actions/liabilities of Vavla' s.

17 8. Any Conclusion of Law which may be deemed a Finding of Fact shall be so
18 considered.

19 ORDER

20 1. Respondent' s Valve' s mortgage agent license is revoked for multiple
21 Violations NRS 645B.670;

22 2. Respondent Discount Mortgage Company' s broker license is revoked for
23 multiple violations of NRS 645B.670.

24 3. Respondents are jointly and severally liable for an administrative fine in the
25 amount of Ten Thousand Dollars (\$10,000.00) payable to the Division and to be received by
26 the Division on or before June 10, 2011.

4. The Divisions requests for and costs and fees are denied without prejudice, and may be renewed with appropriate supporting documentation if the administrative fine is not received by the Division on or before June 11, 2011.

IT IS SO ORDERED this 2nd day of May, 2011.

Shirley D. Lindsey
SHIRLEY D LINDSEY, ESQ.
APPEALS OFFICER

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Diane Gagliano, Legal Secretary II
Employee of the State of Nevada