

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4  
5 In re:

6 American Loan Modifications, Inc., and  
7 Harvey Collins,

8 Respondents.  
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11 **ORDER TO CEASE AND DESIST, ORDER IMPOSING LICENSURE CONDITIONS,**  
12 **NOTICE OF INTENT TO REVOKE INDEPENDENT LICENSEE LICENSE, NOTICE OF**  
13 **INTENT TO REVOKE ASSOCIATED LICENSEE LICENSE, NOTICE OF INTENT TO**  
14 **IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING**

15 The licensing and regulation of loan modification consultants, foreclosure consultants  
16 and other persons providing 'covered services' as defined in Nevada Revised Statutes  
17 ("NRS") 645F.310 in the State of Nevada is governed by Chapter 645F of NRS and by  
18 permanent regulation R052-09 promulgated pursuant thereto (the "Regulation"). The State of  
19 Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Division")  
20 has the general duty to exercise supervision and control over covered service providers,  
21 foreclosure consultants and loan modification consultants. *See* Chapter 645F of NRS and the  
22 Regulation. Pursuant to that authority, the Division makes the following Factual Allegations,  
23 Violations of Law, and Order, as follows:

24 **FACTUAL ALLEGATIONS**

25 1. Based upon information and belief, and at all relevant times herein mentioned,  
26 American Loan Modifications, Inc. ("American Loan") was and is a Nevada corporation with  
27 an office located at 7201 W. Lake Mead Blvd., Suite 104, Las Vegas, Nevada 89128.  
28 Currently, American Loan's status with the Nevada Secretary of State is "active."

1           2.     On approximately February 2, 2010, the Division issued American Loan an  
2 independent licensee covered service provider license (License No. 3349). The Division  
3 currently classifies American Loan's license as "closed."

4           3.     Based upon information and belief, and at all relevant times herein mentioned,  
5 Harvey Collins ("HC"), an individual, was and still is the owner of American Loan.

6           4.     On approximately February 2, 2010 the Division issued HC an associated  
7 licensee license (License No. 46864) as an employee of American Loan. The Division  
8 currently classifies HC's license as "inactive."

9           6.     American Loan and HC are hereinafter referred to individually as Respondent or  
10 collectively as Respondents, as the context requires.

11           7.     Pursuant to the Regulation, "[i]n addition to the other duties imposed upon the  
12 Commissioner by law for the general supervision of licensees, the Commissioner  
13 will...[c]onduct an examination of each independent licensee doing business in this State  
14 within 3 months after the independent licensee commences business in this State and at least  
15 annually thereafter...For each...examination, a licensee shall pay a fee based on the rate  
16 established pursuant to NRS 645F.280 and section 64 of this regulation." See the  
17 Regulation, Section 63.

18           8.     Pursuant to Section 63 of the Regulation, the Division commenced a regularly  
19 scheduled annual examination of American Loan on August 26, 2010 which revealed, among  
20 other things, that American Loan:  
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23           a.     Failed to place moneys collected from homeowners for the provision of  
24 covered services into a separate trust account at a federally insured depository institution  
25 located in this state and designated as "trust funds," "escrow accounts," or some other  
26 appropriate name indicating the funds did not belong to American Loan, and commingled  
27 homeowners' money with its own;  
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1 b. Failed to keep and maintain complete and suitable records of all covered  
2 services transactions it conducted, including, but not limited to, records related to the trust  
3 account(s) which clearly identify: the name, address and telephone number of each  
4 homeowner; the account number of each loan; the address and contact information of each  
5 lender or loan servicer related to each loan; the amount and date of each deposit; and the  
6 amount and date of each withdrawal with the name of each recipient;

7 c. Failed to reconcile its bank accounts and/or failed to have monthly  
8 reconciled balances on deposits equal to all moneys collected and deposited and not yet  
9 legitimately disbursed;

10 d. Withdrew moneys collected from homeowners from its bank account  
11 without being able to explain what the money was used for;

12 e. Employed or otherwise associated with six (6) individuals, including JA,  
13 BW, DM, SR, MB and VD, in the capacity of a covered service provider, foreclosure consultant,  
14 or loan modification consultant with none of the individuals having ever been issued a license  
15 pursuant to 645F by the Division; and

16 f. Conducted covered service provider, foreclosure consultant, or loan  
17 modification consultant business in California at a location not licensed by the Division.  
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19 9. Pursuant to NRS 645F.310, "covered service" includes, without limitation:  
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21 1. Financial counseling, including, without limitation, debt counseling and budget counseling;  
22 2. Receiving money for the purpose of distributing it to creditors in payment or partial  
23 payment of any obligation secured by a mortgage or other lien on a residence in foreclosure;  
24 3. Contacting a creditor on behalf of a homeowner; 4. Arranging or attempting to arrange for  
25 an extension of the period within which a homeowner may cure a default and reinstate an  
26 obligation pursuant to a note, mortgage or deed of trust; 5. Arranging or attempting to  
27 arrange for any delay or postponement of the time of a foreclosure sale; 6. Advising the filing  
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1 of any document or assisting in any manner in the preparation of any document for filing with  
2 a bankruptcy court; and 7. Giving any advice, explanation or instruction to a homeowner  
3 which in any manner relates to the cure of a default in or the reinstatement of an obligation  
4 secured by a mortgage or other lien on the residence in foreclosure, the full satisfaction of the  
5 obligation, or the postponement or avoidance of a foreclosure sale.

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

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

22 12. Pursuant to the Regulation, “[a]n independent licensee shall not...employee or  
23 otherwise associate with a person as a covered service provider, foreclosure consultant or  
24 loan modification consultant if that other person is not licensed with the Commissioner...”  
25 pursuant to NRS 645F. See Section 38(1)(a) of the Regulation.

26 13. Pursuant to the Regulation, “[a]n associated licensee may be employed by or  
27 otherwise associated with an independent licensee at one licensed office location of the  
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1 independent licensee.” See Section 38(3) of the Regulation.

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

13 15. Pursuant to Section 73 of the Regulation, “a ‘separate trust account’ means a  
14 trust account maintained with a federally insured depository institution located in this State  
15 that is separate from accounts belonging to the independent licensee. The trust account:  
16 [m]ust at all times have a reconciled balance on deposit equal to all money collected and  
17 deposited and not yet legitimately disbursed... [and] [m]ust be reconciled monthly by the  
18 independent licensee...”

20 16. Pursuant to NRS 645F.394, “[t]he person who performs any covered service for  
21 compensation, the foreclosure consultant or the loan modification consultant shall keep  
22 records of all money deposited in a trust account pursuant to subsection 1. The records must  
23 clearly indicate the date and from whom he or she received money, the date deposited, the  
24 dates of withdrawals, and other pertinent information concerning the transaction, and must  
25 show clearly for whose account the money is deposited and to whom the money belongs.  
26 The person who performs any covered service for compensation, the foreclosure consultant  
27 or the loan modification consultant shall balance each separate trust account at least monthly  
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1 and provide to the Commissioner, on a form provided by the Commissioner, an annual  
2 accounting which shows an annual reconciliation of each separate trust account. All such  
3 records and money are subject to inspection and audit by the Commissioner and authorized  
4 representatives of the Commissioner.” See NRS 645F.394(2).

5 17. Pursuant to Section 103 of the Regulation, “[f]or each violation committed by a  
6 person who engages in an activity for which licensure as a covered service provider,  
7 foreclosure consultant or loan modification consultant is required under this chapter and  
8 chapter 645F of NRS, without regard to whether the person is licensed under this chapter and  
9 chapter 645F of NRS, the Commissioner may impose upon the person an administrative fine  
10 of not more than \$10,000, and if the person holds a license as a covered service provider,  
11 foreclosure consultant or loan modification consultant, the Commissioner may suspend,  
12 revoke or place conditions upon the person’s license, or may do both, if the person... [d]oes  
13 not conduct business in accordance with law or has violated any provision of this chapter or  
14 chapter 645F of NRS or any order of the Commissioner;...[i]s in such financial condition that  
15 the person cannot continue in business with safety to his customers;...[or] [h]as commingled  
16 the money or other property of a client with his own or has converted the money or property of  
17 others to his own use...” See Section 103(3)(a), (c), (d), and (n) of the Regulation.  
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20 18. Pursuant to Section 103 of the Regulation, “[a] person who engages in an  
21 activity for which licensure as a covered service provider, foreclosure consultant or loan  
22 modification consultant is required under this chapter and chapter 645F of NRS, without  
23 regard to whether the person is licensed under this chapter and chapter 645F of NRS, may be  
24 required by the Commissioner to pay restitution to any person who has suffered an economic  
25 loss as a result of a violation of the provisions of this chapter or chapter 645F of NRS....” See  
26 Section 103(2) of the Regulation.  
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28 19. Pursuant to Section 108 of the Regulation, “[i]f a person engages in an activity

1 in violation of the provisions of this chapter or chapter 645F of NRS or an order of the  
2 Commissioner, the Commissioner may issue an order directing the person to cease and  
3 desist from engaging in the activity." See Section 108(1) of the Regulation.

#### 4 **VIOLATIONS OF LAW**

5 Respondents American Loan and HC violated NRS 645F.394 and Section 103 of the  
6 regulation in that Respondents:

7 1. Employed or otherwise associated with six (6) individuals, including JA, BW, DM,  
8 SR, MB and VD, in the capacity of a covered service provider, foreclosure consultant, or loan  
9 modification consultant without any of the above-referenced individuals having applied for  
10 and/or been issued a license by the Division and without being exempt from licensing  
11 pursuant to the provisions of Chapter 645F of NRS or the Regulation, in violation of Chapter  
12 645F of NRS and Sec. 17, 38, 102, and 103(3)(c) of the Regulation;

14 2. Conducted covered service, foreclosure consultant or loan modification activities  
15 involving residential real property located in the State of Nevada from the State of California,  
16 at a location not licensed by the Division in violation of Chapter 645F of NRS and Sec. 17, 28,  
17 102, and 103(3)(u) of the Regulation;

18 3. Failed to deposit client moneys in a trust account and/or removed money from a  
19 trust account when not authorized to do so, in violation of NRS 645F.394(1) and (2) and  
20 Sections 73 and 103(3)(n) of the Regulation;

21 4. Do not conduct business in accordance with law, in violation of Section  
22 103(3)(c) of the Regulation;

23 5. Are in such financial condition that it cannot conduct business with safety to its  
24 customers, in violation of Section 103(3)(d) of the Regulation;

25 6. Have commingled clients' money with its own or has converted such money to  
26 its own use, in violation of NRS 645F.394(1) and (2) and Regulation 103(3)(n); and  
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1           **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 113(2) of  
2 the Regulation that upon written application to the Division within **twenty (20) days** of the  
3 date of this Order, Respondents, and each of them, shall be entitled to a hearing with regards  
4 to the contents of this Order referenced hereafter. At that hearing the Division will seek:

5           1.     The imposition of an administrative fine against Respondents, jointly and  
6 severally, in the amount of Ten Thousand Dollars and No Cents (\$10,000.00), payable to the  
7 Division on account of such Respondents violations of Chapter 645F of NRS and the  
8 Regulation, the Division's examination fees in the amount of Five Thousand Two Hundred  
9 Forty Seven Dollars and No Cents (\$5,247.00), including late charges, the Division's  
10 investigatory and other costs in the amount of One Hundred Eighty Dollars and No Cents  
11 (\$180.00), as well as the Division's attorney's fees, if any, incurred herein, all to be proven at  
12 the hearing;

13           2.     Payment, in full, to the Division of both the administrative fine in the amount of  
14 Ten Thousand Dollars and No Cents (\$10,000.00), the Division's examination fees to date in  
15 the amount of Five Thousand Two Hundred Forty Seven Dollars and No Cents (\$5,247.00),  
16 including late charges, the Division's investigatory and other costs in the amount of One  
17 Hundred Eighty Dollars and No Cents (\$180.00), as well as the Division's attorney's fees, if  
18 any, by such Respondents, who shall be jointly and severally liable, within **thirty (30) days** of  
19 entry of the Final Order; and  
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22           3.     Revocation of each Respondent's license.

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

3 **IT IS FURTHER ORDERED**, that Respondents shall:

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

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

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

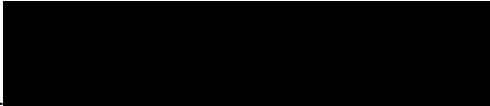
22 4. Upon submission to the Commissioner of the reconciliation provided for in  
23 Number 3, above, Respondents shall deposit sufficient money into a trust account(s) to rectify  
24 any shortfall that is discovered as a result of such reconciliation, and shall provide proof of such  
25 deposit in writing to the Commissioner; and  
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Dated this 25<sup>th</sup> day of January, 2011.

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

By:

  
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Joseph L. Waltuch, Commissioner

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