

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4 In re:

5 America's Solution, Inc. dba AMSO,
6 Roslynn Phoenix aka Roslynn Phoenix-
7 Myrick,

8 Respondents.
9

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

12 The licensing and regulation of loan modification consultants, foreclosure consultants
13 and other persons providing 'covered services,' as defined in Nevada Revised Statutes
14 (hereinafter "NRS") 645F.310, in the State of Nevada is governed by Chapter 645F of NRS
15 and is also governed by the permanent regulation R052-09 promulgated pursuant thereto
16 which was adopted on August 25, 2009 (hereinafter the "Regulation"). Effective July 1, 2009,
17 the State of Nevada, Department of Business and Industry, Division of Mortgage Lending
18 (hereinafter the "Division") has the general duty to exercise supervision and control over
19 covered service providers, foreclosure consultants and loan modification consultants. See
20 Chapter 645F of NRS and the Regulation. Pursuant to that authority, the Division makes the
21 following Factual Allegations, Violations of Law, and Order, as follows:
22

23 **FACTUAL ALLEGATIONS**

24 1. Based upon information and belief, and at all relevant times herein mentioned,
25 America's Solution, Inc. dba AMSO (hereinafter "AMSO") was and is a Nevada corporation
26 with offices at 1919 S. Jones Blvd., Suite E-1,, Las Vegas, Nevada 89146. Currently,
27 AMSO's status with the Nevada Secretary of State is listed as "active."
28

1 2. Based upon information and belief, and at all relevant times herein mentioned,
2 Roslynn Phoenix, also known as Roslynn Phoenix-Myrick, (hereinafter "Roslynn") was, and
3 continues to be, the owner of AMSO who acted and continues to act as an agent or person
4 employed by, or associated with, AMSO and provided covered service provider services on its
5 behalf in the State of Nevada.

6 3. Based upon information and belief, at all relevant times herein mentioned,
7 AMSO and Roslynn advertised services as, provided services of, engaged in, carried on or
8 held themselves out as engaging in or carrying on, and continue to advertise services as,
9 provide services of, engage in, carry on or hold themselves out as engaging in or carrying on,
10 the activities of a loan modification consultant, foreclosure consultant or covered service
11 provider in Nevada.

12 4. Neither AMSO nor Roslynn has ever been issued a license by the Division as a
13 covered service provider, foreclosure consultant or loan modification consultant, whether as
14 an independent licensee or as an associated licensee, pursuant to Chapter 645F of NRS and
15 the Regulation.

16 5. AMSO and Roslynn are referred to collectively as "Respondents" or individually
17 as "Respondent" as the context requires.

18 6. Based upon information and belief, at all relevant times herein mentioned AT,
19 (hereinafter "Complainant") was the owner of certain real property located at 8440 S. Monte
20 Cristo Way, Las Vegas, Nevada 89113.

21 7. Pursuant to the Regulation, "[w]hether or not a complaint has been filed, the
22 Commissioner may investigate a licensee or other person if, for any reason, it appears
23 that...[t]he licensee or other person is offering or providing any of the services of a covered
24 services provider, foreclosure consultant or loan modification consultant or otherwise
25 engaging in, carrying on or holding himself out as engaging in or carrying on the business of a
26
27
28

1 covered services provider, foreclosure consultant or loan modification consultant without
2 being appropriately licensed or exempt from licensing pursuant to the provisions of this
3 chapter or chapter 645F of NRS....” See Section 105(1)(b) of the Regulation.

4 8. Pursuant to NRS 645F.310, “covered service” includes, without limitation:

- 5 1. Financial counseling, including, without limitation, debt counseling and budget counseling;
6 2. Receiving money for the purpose of distributing it to creditors in payment or partial
7 payment of any obligation secured by a mortgage or other lien on a residence in foreclosure;
8 3. Contacting a creditor on behalf of a homeowner; 4. Arranging or attempting to arrange for
9 an extension of the period within which a homeowner may cure a default and reinstate an
10 obligation pursuant to a note, mortgage or deed of trust; 5. Arranging or attempting to
11 arrange for any delay or postponement of the time of a foreclosure sale; 6. Advising the filing
12 of any document or assisting in any manner in the preparation of any document for filing with
13 a bankruptcy court; and 7. Giving any advice, explanation or instruction to a homeowner
14 which in any manner relates to the cure of a default in or the reinstatement of an obligation
15 secured by a mortgage or other lien on the residence in foreclosure, the full satisfaction of the
16 obligation, or the postponement or avoidance of a foreclosure sale.

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

26
27 10. Pursuant to the Regulation, “[i]t is unlawful for any person to provide or offer to
28 provide any of the services of a covered service provider, foreclosure consultant or loan

1 modification consultant or otherwise to engage in, carry on or hold himself out as engaging in
2 or carrying on the business of a covered service provider, foreclosure consultant or loan
3 modification consultant without first obtaining the applicable license issued pursuant to this
4 chapter and chapter 645F of NRS, unless the person” is exempt from licensing and complies
5 with the requirements for that exemption. See Section 102 of the Regulation.

6 11. On or about June 15, 2010, the Division received a written complaint from
7 Complainant AT alleging, among other things, that from approximately November 2009 to
8 June 2010, Respondent AMSO and/or Respondent Roslynn offered to provide, or provided,
9 for compensation, services to obtain a mortgage loan modification for Complainant AT and/or
10 offered to provide, or provided, other covered services, as defined in NRS 645F.310, for
11 Complainant AT.
12

13 12. Pursuant to Section 105(1)(b) of the Regulation, the Division commenced an
14 investigation which revealed, among other things, that:

15 a. From approximately November 2009 to June 2010 Respondents offered
16 to provide, or provided, for compensation, services to obtain a mortgage loan modification for
17 Complainant and/or offered to provide, or provided, other covered services, as defined in
18 NRS 645F.310, for Complainant;
19

20 b. On November 13, 2009, Complainant paid Respondents One Thousand
21 Dollars and No Cents (\$1,000.00) to obtain a mortgage loan modification for Complainant;
22

23 c. On approximately April 5, 2010, Respondent AMSO submitted to the
24 Division an application for license as a covered service provider independent licensee. The
25 status of Respondent AMSO’s application is “application abandoned.”

26 d. On approximately April 28, 2010, Respondent Roslynn submitted an
27 application for license as a covered service provider associated licensee. The status of
28 Respondent Roslynn’s application is “withdrawn-application abandoned.”

1 e. Neither Respondent has ever been issued a license by the Division as a
2 loan modification consultant, foreclosure consultant or covered service provider (whether as
3 an independent licensee or associated licensee), pursuant to Chapter 645F of NRS and the
4 Regulation; and

5 f. At all relevant times herein mentioned, neither Respondent was or is
6 exempt from the licensing requirements of Chapter 645F of NRS and the Regulation.

7 13. Pursuant to Section 103 of the Regulation, “[a] person who engages in an
8 activity for which licensure as a covered service provider, foreclosure consultant or loan
9 modification consultant is required under this chapter and chapter 645F of NRS, without
10 regard to whether the person is licensed under this chapter and chapter 645F of NRS, may be
11 required by the Commissioner to pay restitution to any person who has suffered an economic
12 loss as a result of a violation of the provisions of this chapter or chapter 645F of NRS....” See
13 Section 103(2) of the Regulation.

14 14. Pursuant to the Regulation, “[i]f a person engages in an activity in violation of
15 the provisions of this chapter or chapter 645F of NRS or an order of the Commissioner, the
16 Commissioner may issue an order directing the person to cease and desist from engaging in
17 the activity.” See Section 108(1) of the Regulation.

20 VIOLATIONS OF LAW

21 After investigation, the Division determined that, at all relevant times herein mentioned,
22 Respondents, and each of them, offered or provided services of a covered services provider,
23 foreclosure consultant or loan modification consultant or otherwise engaged in, carried on or
24 held themselves out as engaging in or carrying on the business of a covered services
25 provider, foreclosure consultant or loan modification consultant without having applied for
26 and/or been issued a license by the Division and without being exempt from licensing
27 pursuant to the provisions of Chapter 645F of NRS or the Regulation, in violation of Chapter
28

1 645F of NRS and Sections 17, 103(3)(c) and 105(1)(b) of the Regulation.

2 **ORDER**

3 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS,**
4 pursuant to Chapter 645F of NRS and Section 108(1) of the Regulation, after having
5 determined that Respondents offered or provided services of a covered service provider,
6 foreclosure consultant or loan modification consultant or otherwise engaged in, carried on or
7 held themselves out as engaging in or carrying on the business of a covered service provider,
8 foreclosure consultant or loan modification consultant without having applied for and/or been
9 issued a license by the Division and without being exempt from licensing, in violation of
10 Chapter 645F of NRS and the Regulation, that **RESPONDENTS, AND EACH OF THEM,**
11 **IMMEDIATELY CEASE AND DESIST** from the following activities:
12

13 1. Advertising for and/or soliciting covered services, foreclosure consultant and/or loan
14 modification consultant business in the State of Nevada without having first received a license
15 from the Division to conduct such activities; and
16

17 2. Offering or providing any of the services of a covered service provider, foreclosure
18 consultant and/or loan modification consultant, or otherwise engaging in, carrying on or
19 holding themselves out as engaging in or carrying on the business of a covered service
20 provider, foreclosure consultant and/or loan modification consultant in the State of Nevada for
21 which they have not received a license from the Division to conduct such activities.

22 **IT IS FURTHER ORDERED,** pursuant to Chapter 645F of NRS and Section 108(4) of
23 the Regulation, that upon filing a verified petition with the Division within **twenty (20) days** of
24 receipt of this Order to Cease and Desist, Respondents, and each of them, shall be entitled to
25 a hearing with regard to the contents of this Order to Cease and Desist. Each Respondent is
26 advised, however, that the provisions of this Order to Cease and Desist are effective
27
28

1 immediately upon such Respondent being served therewith, whether or not such Respondent
2 requests a hearing.

3 **NOTICE TO RESPONDENTS:** If you request a hearing, you are specifically informed
4 that you have the right to appear and be heard in your defense, either personally or through
5 your counsel of choice at your own expense. At the hearing, if one is timely requested, the
6 Division will call witnesses and present evidence against you. You have the right to respond
7 and to present relevant evidence and argument on all issues involved. You have the right to
8 call and examine witnesses, introduce exhibits and cross-examine opposing witnesses on any
9 matter relevant to the issues involved.
10

11 All notices to the Division must be sent by U.S. Postal Service or private carrier or
12 delivery service to:

13 Commissioner
14 Division of Mortgage Lending
15 7220 Bermuda Road, Suite A
16 Las Vegas, NV 89119

17 **IT IS FURTHER ORDERED**, pursuant to NRS 233B.121, Chapter 645F of NRS and
18 Section 113(2) of the Regulation that upon application to the Division within **twenty (20) days**
19 of the date of this Order, Respondents, and each of them, shall be entitled to a hearing with
20 regards to the contents of this Order referenced hereafter. At that hearing the Division will
21 seek to impose an administrative fine against Respondents in the amount of Ten Thousand
22 Dollars and No Cents (\$10,000.00), payable to the Division on account of Respondents'
23 violations of Chapter 645F of NRS and the Regulation, the Division's investigatory and other
24 costs in the amount of One Thousand Nine Hundred Forty Dollars and No Cents (\$1,940.00),
25 the Division's attorney's fees, if any, as well as restitution, by such Respondents, who shall be
26 jointly and severally liable, within **thirty (30) days** of entry of the Final Order. The Division
27
28

1 reserves the right to supplement its costs and attorney's fees at the hearing or upon
2 submission of a proper affidavit.

3 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 103(2) of
4 the Regulation, that Respondents immediately (a) cancel all contracts, if any, with
5 homeowners and refund to such homeowners all moneys collected by Respondents from
6 such homeowners, including, but not limited to, refunding One Thousand Dollars and No
7 Cents (\$1,000.00) to Complainant or (b) obtain the written consent of the homeowners,
8 including Complainant, to transfer their files, moneys and contracts to a licensed, bonded
9 independent licensee, HUD-approved counseling service or other entity exempt from Chapter
10 645F of NRS.
11

12 Should Respondents, or either of them, not timely request a hearing within **twenty (20)**
13 **days** of the date of this Order, the Division will enter a Final Order in this matter against such
14 Respondent, as required by Section 113(2) of the Regulation.

15 The Division's Final Order will require payment by Respondents, jointly and severally,
16 of the administrative fine, the Division's investigative costs, the Division's attorney's fees, and
17 restitution within **thirty (30) days** of the entry of the Final Order.
18

19 Dated this 25th day of January, 2011.

20 State of Nevada
21 Department of Business and Industry
22 Division of Mortgage Lending

23 By:

24 
25 _____
26 Joseph L. Waltuch, Commissioner
27
28