STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF MORTGAGE LENDING

In re:

Foreclosure Short Sale Specialists, LLC, Deborah Paaren and Danijela Mikulic,

Respondents.

ORDER TO CEASE AND DESIST, ORDER IMPOSING LICENSURE CONDITIONS, NOTICE OF INTENT TO REVOKE INDEPENDENT LICENSEE LICENSE, NOTICE OF INTENT TO REVOKE ASSOCIATED LICENSEE LICENSE, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING

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

FACTUAL ALLEGATIONS

1. At all relevant times herein mentioned, Foreclosure Short Sale Specialists, LLC ("Foreclosure Short Sale") was and is a Nevada limited liability company with an office located at 3030 S. Jones Blvd., Suite #110, Las Vegas, Nevada, 89148. Currently, Foreclosure Short Sale's status with the Nevada Secretary of State is "active."

2. On approximately March 29, 2010, the Division issued Foreclosure Short Sale an independent licensee covered service provider license (License No. 3356). The Division currently classifies Foreclosure Short Sale license as "closed."

3. Based upon information and belief, and at all relevant times herein mentioned, Deborah Paaren ("DP"), an individual, and Danijela Mikulic ("DM"), an individual, were the owners, officers and managers of Foreclosure Short Sale.

4. On approximately March 5, 2010, the Division issued DP an associated licensee license (License No. 47178) as an employee of Foreclosure Short Sale. The Division currently classifies DP's license as "inactive."

5. On approximately March 4, 2010, the Division issued DM an associated licensee license (License No. 47475) as an employee of Foreclosure Short Sale. The Division currently classifies DM's license as "terminated-failed to renew."

6. Foreclosure Short Sale, DP and DM are hereinafter referred to individually as Respondent or collectively as Respondents, as the context requires.

7. Pursuant to the Regulation, "[e]ach licensee shall pay to the Commissioner an annual assessment to cover the costs related to the emplolyment of a certified public accountant..." *See* the Regulation, Section 62.

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

9. Pursuant to NRS 645F.290, "[t]he Commissioner shall collect an assessment pursuant to this section from each...(e) Person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant that is supervised pursuant to this chapter...but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division." *See* NRS 645F.290(1), (2).

10. Pursuant to Section 63 of the Regulation, the Division commenced a regularly scheduled annual examination of Foreclosure Short Sale on August 20, 2010 which revealed, among other things, that Foreclosure Short Sale:

a. Failed to place moneys collected from homeowners for the provision of covered services into a separate trust account at a federally insured depository institution located in this state and designated as "trust funds," "escrow accounts," or some other appropriate name indicating the funds did not belong to Foreclosure Short Sale, and commingled homeowners' money with its own;

b. Failed to keep and maintain complete and suitable records of all covered services transactions it conducted, including, but not limited to, records related to the trust account(s) which clearly identify: the name, address and telephone number of each homeowner; the account number of each loan; the address and contact information of each lender or loan servicer related to each loan; the amount and date of each deposit; and the amount and date of each withdrawal with the name of each recipient;

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

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

e. Utilized or converted trust moneys for its own personal business purposes.

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

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

13. Pursuant to NRS 645F.394, "[t]he person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly

and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner." See NRS 645F.394(2).

14. Pursuant to Section 103 of the Regulation, "[f]or each violation committed by a person who engages in an activity for which licensure as a covered service provider, foreclosure consultant or loan modification consultant is required under this chapter and chapter 645F of NRS, without regard to whether the person is licensed under this chapter and chapter 645F of NRS, the Commissioner may impose upon the person an administrative fine of not more than $10,000, and if the person holds a license as a covered service provider, foreclosure consultant or loan modification consultant, the Commissioner may suspend, revoke or place conditions upon the person's license, or may do both, if the person... [d]oes not conduct business in accordance with law or has violated any provision of this chapter or chapter 645F of NRS or any order of the Commissioner;...[i]s in such financial condition that the person cannot continue in business with safety to his customers;...[or] [h]as commingled the money or other property of a client with his own or has converted the money or property of others to his own use..." *See* Section 103(3)(a), (c), (d), and (n) of the Regulation.

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

16. Pursuant to Section 108 of the Regulation, "[i]f a person engages in an activity

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

VIOLATIONS OF LAW

Respondents Foreclosure Short Sale, DP and DM violated NRS 645F.394 and Section 103 of the regulation in that:

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

2. Respondents did not conduct business in accordance with law, in violation of Section 103(3)(c) of the Regulation;

3. Respondent Foreclosure Short Sale is in such financial condition that it cannot conduct business with safety to its customers, in violation of Section103(3)(d) of the Regulation;

4. Respondents have commingled clients' money with their own or have converted such money to their own use, in violation of NRS 645F.394(1) and (2) and Regulation 103(3)(n);

5. Respondents have failed to exercise reasonable care in performing any other duty relating to the provision of services as a covered service provider, foreclosure consultant or loan modification consultant, as application, in violation of Section 103(3)(f); and

6. Respondents have failed to pay their examination fees, Attorney General and CPA assessments, in violation of Sections 62 and 63 of the Regulation.

ORDER

NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS that, based on Respondents' multiple violations of Chapter 645F of NRS and the Regulation,

and pursuant to Chapter 645F of NRS and Section 108(1) of the Regulation, **RESPONDENTS FORECLOSURE SHORT SALE, DP AND DM, AND EACH OF THEM, IMMEDIATELY CEASE AND DESIST** from the following activities:

1. Advertising for and/or soliciting covered services, foreclosure consultant and/or loan modification consultant business in the State of Nevada, whether as an independent licensee or as an associate licensee, without further written approval of the Division to conduct such activities; and

2. Offering or providing any of the services of a covered service provider, foreclosure consultant and/or loan modification consultant, or otherwise engaging in, carrying on or holding themselves out as engaging in or carrying on the business of a covered service provider, foreclosure consultant and/or loan modification consultant, whether as an independent licensee or as an associate licensee, in the State of Nevada without further written approval from the Division to conduct such activities.

IT IS FURTHER ORDERED, pursuant to Chapter 645F of NRS and Section 108(4) of the Regulation, that upon filing a verified petition with the Division within **twenty (20) days** of receipt of this Order to Cease and Desist, Respondents, and each of them, shall be entitled to a hearing with regard to the contents of this Order to Cease and Desist. Each such Respondent is advised, however, that the provisions of this Order to Cease and Desist are effective immediately upon each Respondent being served therewith, whether or not such Respondent requests a hearing.

IT IS FURTHER ORDERED, pursuant to Chapter 645F of NRS and Section 113(2) of the Regulation that upon written application to the Division within **twenty (20) days** of the date of this Order, Respondents, and each of them, shall be entitled to a hearing with regards to the contents of this Order referenced hereafter. At that hearing the Division will seek:

1. The imposition of an administrative fine against Respondents, jointly and severally, in the amount of Twenty Thousand Dollars and No Cents ($20,000.00), payable to the Division on account of such Respondents violations of Chapter 645F of NRS and the Regulation, the Division's examination fees in the amount of Two Thousand Eight Hundred and Five Dollars and No Cents ($2,805.00), the Division's FY 10 AG/CPA assessment fees in the amount of Three Hundred Twenty Three Dollars and 22/Cents ($323.22), the Division's investigatory and other costs in the amount of One Hundred Eighty Dollars and No Cents ($180.00), as well as the Division's attorney's fees, if any, incurred herein, all to be proven at the hearing;

2. Payment, in full, to the Division of both the administrative fine in the amount of Twenty Thousand Dollars and No Cents ($20,000.00), the Division's examination fees to date in the amount of Two Thousand Eight Hundred and Five Dollars and No Cents ($2,805.00), the Division's FY 10 AG/CPA assessment fees to date in the amount of Three Hundred Twenty Three Dollars and 22/Cents ($323.22) the Division's investigatory and other costs in the amount of One Hundred Eighty Dollars and No Cents ($180.00), as well as the Division's attorney's fees, if any, by such Respondents, who shall be jointly and severally liable, within **thirty (30) days** of entry of the Final Order; and

3. Revocation of each Respondent's license.

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

IT IS FURTHER ORDERED, that Respondents shall:

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

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

3. Retain, within five (5) business days after service of this Order and at their own expense and choosing, a Nevada licensed or registered certified public accountant to reconcile all books and records of the licensed entity's operating accounts and trust accounts maintained for customer funds, including reconciliation to bank statements, and all transfers between operation and trust accounts, from inception of Respondent Foreclosure Short Sale to September 27, 2010, and submit the reconciliation to the Commissioner within thirty (30) days from the date of the service of this Order. Such reconciliation shall specifically include a complete accounting of all moneys that, pursuant to NRS 645F.394 and Section 103 of the Regulation, should have been held in trust for each homeowner for whom Respondent Foreclosure Short Sale has not fully completed covered services for which it contracted. Further, such certified public accountant shall be unrelated to Respondents or their family members, and Respondents shall provide the name, address, and telephone number of such certified public accountant to the Division immediately upon his or her retention;

4. Upon submission to the Commissioner of the reconciliation provided for in Number 3, above, Respondents shall deposit sufficient money into a trust account(s) to rectify any shortfall that is discovered as a result of such reconciliation, and shall provide proof of such deposit in writing to the Commissioner; and

NOTICE TO RESPONDENTS: If you request a hearing, you are specifically informed that you have the right to appear and be heard in your defense, either personally or

through your counsel of choice at your own expense. At the hearing, if one is timely requested, the Division will call witnesses and present evidence against you. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and examine witnesses, introduce exhibits and cross-examine opposing witnesses on any matter relevant to the issues involved.

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

Commissioner
Division of Mortgage Lending
7220 Bermuda Road, Suite A
Las Vegas, NV 89119

IT IS FURTHER ORDERED that if any Respondent fails to abide by any of the above referenced conditions now imposed upon his, her or its license under NRS Chapter 645F and the Regulation, such failure shall constitute grounds for summary suspension, revocation or other discipline deemed appropriate in the discretion and within the statutory authority of the Commissioner.

Should Respondents, or any of them, not timely request a hearing within **twenty (20) days** of the date of this Order, the Division will enter a Final Order in this matter against such Respondents, and each of them, as required by Section 113(2) of the Regulation. The Division's Final Order will revoke each such Respondent's license, and require payment by such Respondents, jointly and severally, of the administrative fine, examination fees, Attorney General and CPA assessments, investigatory and other costs, the Division's attorney's fees and restitution amounts within **thirty (30) days** of the entry of the Final Order.

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SIGNATURE ON NEXT PAGE

Dated this 25th day of January, 2011.

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, January 28, 2011, 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, ORDER IMPOSING LICENSURE CONDITIONS, NOTICE OF INTENT TO REVOKE INDEPENDENT LICENSEE LICENSE, NOTICE OF INTENT TO REVOKE ASSOCIATED LICENSEE LICENSE, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for, Foreclosure Short Sale Specialists, LLC, Deborah Paaren and Danijela Mikulic, addressed as follows:

Deborah Paaren and Danijela Mikulic
Foreclosure Short Sale Specialists, LLC
3030 S. Jones Blvd. #110
Las Vegas, NV 89148

Certified Receipt Number: 7008 1830 0002 7959 7202

DATED this 25th day of January 2011

By: Sheila Sardurro
Employee of the Division