STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF MORTGAGE LENDING

In re:

American Loan Modifications, Inc., and Harvey Collins,

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

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

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

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

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

7. 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.

8. Pursuant to Section 63 of the Regulation, the Division commenced a regularly scheduled annual examination of American Loan on August 26, 2010 which revealed, among other things, that American Loan:

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 American Loan, 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;

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

f. Conducted covered service provider, foreclosure consultant, or loan modification consultant business in California at a location not licensed by the Division.

9. Pursuant to NRS 645F.310, "covered service" includes, without limitation: 1. Financial counseling, including, without limitation, debt counseling and budget counseling; 2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a residence in foreclosure; 3. Contacting a creditor on behalf of a homeowner; 4. Arranging or attempting to arrange for an extension of the period within which a homeowner may cure a default and reinstate an obligation pursuant to a note, mortgage or deed of trust; 5. Arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale; 6. Advising the filing

of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court; and 7. Giving any advice, explanation or instruction to a homeowner which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on the residence in foreclosure, the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.

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

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

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

13. Pursuant to the Regulation, "[a]n associated licensee may be employed by or otherwise associated with an independent licensee at one licensed office location of the

independent licensee." *See* Section 38(3) of the Regulation.

14. 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).

15. 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..."

16. 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).

17. 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.

18. 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.

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

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

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

3. 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;

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

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

6. Have commingled clients' money with its own or has converted such money to its own use, in violation of NRS 645F.394(1) and (2) and Regulation 103(3)(n); and

7. Have failed to pay its examination fee of $5,247.00, in violation of Section 103(3)(k) 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, 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 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 Ten Thousand Dollars and No Cents ($10,000.00), 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 Five Thousand Two Hundred Forty Seven Dollars and No Cents ($5,247.00), including late charges, 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 Ten Thousand Dollars and No Cents ($10,000.00), the Division's examination fees to date in the amount of Five Thousand Two Hundred Forty Seven Dollars and No Cents ($5,247.00), including late charges, 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 American Loan to November 30, 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 American Loan 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

IT IS FURTHER ORDERED that if either Respondent fails to abide by any of the above referenced conditions now imposed upon his 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.

NOTICE TO RESPONDENTS: If you request a hearing on any of the above orders, 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

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 Respondent's license and will require payment by such Respondents, jointly and severally, of the administrative fine, examination fees, investigatory and other costs, the Division's attorney's fees and restitution amounts within **thirty (30) days** of the entry of the Final Order.

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, American Home Loan Modifications, Inc., and Harvey Collins, addressed as follows:

Harvey Collins
American Home Loan Modifications, Inc.
7201 W. Lake Mead Blvd. Suite 104
Las Vegas, NV 89128

Certified Receipt Number: 7008 1830 0002 7959 7226

DATED this 25th day of January 2011

By: Sheila Hardwick
Employee of the Division