

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4
5 In re:

6 The Mac Group, a sole proprietorship,
7 and Marco Chaidez,

8 Respondents.
9

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

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

25 1. Based upon information and belief, and at all relevant times herein mentioned,
26 The Mac Group ("The Mac Group") was a sole proprietorship with an office located at 10501
27 W. Gowan Ave., Las Vegas, Nevada 89129 (the "Las Vegas Office") and was doing business
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1 under the laws of the State of Nevada.

2 2. Based upon information and belief, and at all times relevant herein mentioned,
3 Marco Chaidez ("MC"), an individual, was the sole owner, officer and manager of The Mac
4 Group.

5 3. On or about December 9, 2009 the Division issued The Mac Group an
6 independent licensee covered service provider license (License No. 3329). The Division
7 currently classifies The Mac Group's license as "active."

8 4. On approximately December 9, 2009, the Division issued MC an associated
9 licensee license (License No. 46591) with The Mac Group. The Division currently classifies
10 MC's license as "active."
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12 5. The Mac Group and MC are hereinafter referred to individually as Respondent
13 or collectively as Respondents, as the context requires.

14 6. At all relevant times herein mentioned, Respondents conducted covered service,
15 loan modification, or foreclosure consultant activity in or from the Las Vegas Office.
16 Respondents were not licensed or authorized to conduct such activity in or from any other
17 location.
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19 7. Pursuant to the Regulation, "[i]n addition to the other duties imposed upon the
20 Commissioner by law for the general supervision of licensees, the Commissioner
21 will...[c]onduct an examination of each independent licensee doing business in this State
22 within 3 months after the independent licensee commences business in this State and at least
23 annually thereafter..." See the Regulation, Section 63.

24 8. Pursuant to Section 63 of the Regulation, the Division commenced a regularly
25 scheduled annual examination of Respondents on March 31, 2010 which revealed, among other
26 things, that:
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28 a. Respondent employed or otherwise associated with six (6) individuals,

1 including CZ, DY, BG, MY, MK and NL, in the capacity of a covered service provider, foreclosure
2 consultant, or loan modification consultant with none of the individuals having ever been issued a
3 license pursuant to 645F by the Division;

4 b. NL lives in New York State and conducted covered service provider,
5 foreclosure consultant, or loan modification consultant business involving residential real
6 property located in the State of Nevada in or from the State of New York, at a location not
7 licensed by the Division, while employed or otherwise associated with Respondent;

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

11 9. Pursuant to NRS 645F.310, "covered service" includes, without limitation:

- 12 1. Financial counseling, including, without limitation, debt counseling and budget counseling;
13 2. Receiving money for the purpose of distributing it to creditors in payment or partial
14 payment of any obligation secured by a mortgage or other lien on a residence in foreclosure;
15 3. Contacting a creditor on behalf of a homeowner; 4. Arranging or attempting to arrange for
16 an extension of the period within which a homeowner may cure a default and reinstate an
17 obligation pursuant to a note, mortgage or deed of trust; 5. Arranging or attempting to arrange
18 for any delay or postponement of the time of a foreclosure sale; 6. Advising the filing of any
19 document or assisting in any manner in the preparation of any document for filing with a
20 bankruptcy court; and 7. Giving any advice, explanation or instruction to a homeowner which
21 in any manner relates to the cure of a default in or the reinstatement of an obligation secured
22 by a mortgage or other lien on the residence in foreclosure, the full satisfaction of the
23 obligation, or the postponement or avoidance of a foreclosure sale.
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26 10. Pursuant to the Regulation, "[a] person shall not advertise services as, provide any
27 of the services of, act as or conduct business as a covered service provider, foreclosure
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1 consultant or loan modification consultant or otherwise engage in, carry on or hold himself out
2 as engaging in or carrying on the activities of a covered service provider, foreclosure
3 consultant or loan modification consultant unless the person has a license as a covered
4 service provider, foreclosure consultant or loan modification consultant, as applicable, issued
5 pursuant to this chapter and chapter 645F of NRS.” See Section 17 of the Regulation.

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

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

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

20 14. Pursuant to NRS 645F.394(2), “[t]he person who performs any covered service
21 for 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. The
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1 person who performs any covered service for compensation, the foreclosure consultant or the
2 loan modification consultant shall balance each separate trust account at least monthly and
3 provide to the Commissioner, on a form provided by the Commissioner, an annual accounting
4 which shows an annual reconciliation of each separate trust account. All such records and
5 money are subject to inspection and audit by the Commissioner and authorized
6 representatives of the Commissioner.”

7 15. Pursuant to the Regulation, the trust account “[m]ust at all times have a
8 reconciled balance on deposit equal to all money collected and deposited and not yet
9 legitimately disbursed.” See Section 73(2) of the Regulation.

10 16. Pursuant to the Regulation, “[f]or each violation committed by a person who
11 engages in an activity for which licensure as a covered service provider, foreclosure
12 consultant or loan modification consultant is required under this chapter and chapter 645F of
13 NRS, without regard to whether the person is licensed under this chapter and chapter 645F of
14 NRS, the Commissioner may impose upon the person an administrative fine of not more than
15 \$10,000, and if the person holds a license as a covered service provider, foreclosure
16 consultant or loan modification consultant, the Commissioner may suspend, revoke or place
17 conditions upon the person’s license, or may do both, if the person, whether or not acting as
18 such...[d]oes not conduct business in accordance with law or has violated any provision of
19 this chapter or chapter 645F of NRS or any order of the Commissioner...[or] [h]as allowed a
20 person not licensed pursuant to this chapter and chapter 645F of NRS to act as a covered
21 service provider, foreclosure consultant or loan modification consultant...” See Section
22 103(3)(c) and (u) of the Regulation.

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

2 **VIOLATIONS OF LAW**

3 After investigation, the Division determined that at all relevant times herein mentioned
4 Respondents:

5 1. Employed or otherwise associated with six (6) individuals, including CZ, DY, BG,
6 MY, MK and NL, in the capacity of a covered service provider, foreclosure consultant, or loan
7 modification consultant without any of the above-referenced individuals having applied for
8 and/or been issued a license by the Division and without being exempt from licensing
9 pursuant to the provisions of Chapter 645F of NRS or the Regulation and in violation of
10 Chapter 645F of NRS and Sections 17, 38, 102, and 103(3)(c) of the Regulation;

12 2. Conducted covered service provider, foreclosure consultant or loan modification
13 consultant activities involving residential real property located in the State of Nevada from an
14 unlicensed location in the State of New York, in violation of Chapter 645F of NRS and Sections
15 17, 28, 102 and 103(3)(u) of the Regulation; and

16 3. Failed to reconcile their bank accounts and/or failed to have monthly reconciled
17 balances on deposit equal to all moneys collected and deposited and not yet legitimately
18 disbursed.

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20 **ORDER**

21 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS**
22 that based on Respondents multiple violations of Chapter 645F of NRS and the Regulation,
23 and pursuant to Chapter 645F of NRS and Section 108(1) of the Regulation, that
24 **RESPONDENTS, AND EACH OF THEM, IMMEDIATELY CEASE AND DESIST** from the
25 following activities:
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1 1. Advertising for and/or soliciting covered services, foreclosure consultant and/or
2 loan modification consultant business in the State of Nevada without further written
3 authorization from the Division to conduct such activities; and

4 2. Offering or providing any of the services of a covered service provider,
5 foreclosure consultant and/or loan modification consultant, or otherwise engaging in, carrying
6 on or holding themselves out as engaging in or carrying on the business of a covered service
7 provider, foreclosure consultant and/or loan modification consultant in the State of Nevada for
8 which they have not received further written authorization from the Division to conduct such
9 activities.
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11 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 108(4) of
12 the Regulation, that upon filing a verified petition with the Division within **twenty (20) days** of
13 receipt of this Order to Cease and Desist, Respondents, and each of them, shall be entitled to
14 a hearing with regard to the contents of this Order to Cease and Desist. Each Respondent is
15 advised, however, that the provisions of this Order to Cease and Desist are effective
16 immediately upon such Respondent being served therewith, whether or not such Respondent
17 requests a hearing.
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19 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 103(2) of
20 the Regulation, that Respondents immediately (a) cancel all open or pending contracts, if any,
21 with homeowners and refund to such homeowners all moneys collected by Respondents from
22 such homeowners for which completed services have not been rendered, or (b) obtain the
23 written consent of the homeowners to transfer their files, moneys and contracts to a licensed,
24 bonded independent licensee, HUD-approved counseling service or other entity exempt from
25 Chapter 645F of NRS.
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27 **IT IS FURTHER ORDERED**, that Respondents shall:
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1 1. Immediately notify in writing all homeowners involved in an open or pending
2 covered service transaction of this Order;

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

6 3. Retain, within five (5) business days after service of this Order and at their own
7 expense and choosing, a Nevada licensed or registered certified public accountant to reconcile
8 all books and records of the licensed entity's operating accounts and trust accounts maintained
9 for customer funds, including reconciliation to bank statements, and all transfers between
10 operation and trust accounts, from inception of Respondent The Mac Group to the date hereof,
11 and submit the reconciliation to the Commissioner within thirty (30) days from the date of the
12 service of this Order. Such reconciliation shall specifically include a complete accounting of all
13 moneys that, pursuant to NRS 645F.394 and Section 103 of the Regulation, should have been
14 held in trust for each homeowner for whom Respondents have not fully completed covered
15 services for which it contracted. Further, such certified public accountant shall be unrelated to
16 Respondents or their family members, and Respondents shall provide the name, address, and
17 telephone number of such certified public accountant to the Division immediately upon his or her
18 retention;
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21 4. Upon submission to the Commissioner of the reconciliation provided for in Number 3,
22 above, Respondents shall deposit sufficient money into a trust account(s) to rectify any shortfall
23 that is discovered as a result of such reconciliation, and shall provide proof of such deposit in
24 writing to the Commissioner.

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

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

7 1. The imposition of an administrative fine against Respondents, jointly and
8 severally, in the amount of Thirty Thousand Dollars and No Cents (\$30,000.00), payable to
9 the Division on account of Respondents' violations of Chapter 645F of NRS and the
10 Regulation, the Division's investigative and other costs in the amount of Three Hundred and
11 No Dollars (\$300.00) as well as the Division's attorney's fees, if any, incurred herein, to be
12 proven at the hearing or upon the filing of a proper affidavit;

14 2. Payment, in full, to the Division of both the administrative fine in the amount of
15 Thirty Thousand Dollars and No Cents (\$30,000.00), the Division's investigatory and other
16 costs in the amount of Three Hundred Dollars and No Cents (\$300.00), as well as the
17 Division's attorney's fees, if any, by such Respondents, who shall be jointly and severally
18 liable within thirty (30) days of entry of the Final Order; and

20 3. Revocation of each Respondent's license.

21 **NOTICE TO RESPONDENTS:** If you request a hearing regarding any of the above
22 orders, you are specifically informed that you have the right to appear and be heard in your
23 defense, either personally or through your counsel of choice at your own expense. At the
24 hearing, if one is timely requested, the Division will call witnesses and present evidence
25 against you. You have the right to respond and to present relevant evidence and argument on
26 all issues involved. You have the right to call and examine witnesses, introduce exhibits and
27 cross-examine opposing witnesses on any matter relevant to the issues involved.
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1 All notices to the Division must be sent by U.S. Postal Service or private carrier or
2 delivery service to:

3 Commissioner
4 Division of Mortgage Lending
5 7220 Bermuda Road, Suite A
6 Las Vegas, NV 89119

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

14 Dated this 1st day of February, 2011.

15 State of Nevada
16 Department of Business and Industry
17 Division of Mortgage Lending

18 By: 
19 Joseph L. Waltuch, Commissioner