

1 STATE OF NEVADA

2 DEPARTMENT OF BUSINESS AND INDUSTRY

3 DIVISION OF MORTGAGE LENDING

4 In re:

5 AAA Home Rescuers, LLC dba Citizens
6 Home Advocacy Group and Mandy
7 Peacock,

8 Respondents.
9

10 **ORDER TO CEASE AND DESIST, ORDER IMPOSING LICENSURE CONDITIONS,**
11 **NOTICE OF INTENT TO REVOKE INDEPENDENT LICENSEE LICENSE, NOTICE OF**
12 **INTENT TO REVOKE ASSOCIATED LICENSEE LICENSE, NOTICE OF INTENT TO**
13 **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:

23 **FACTUAL ALLEGATIONS**

24 1. Based upon information and belief, and at all relevant times herein mentioned,
25 AAA Home Rescuers, LLC dba Citizens Home Advocacy Group ("Citizens") was and is a
26 Nevada limited liability company with an office located at 5888 West Sunset Road, Suite 101,
27 Las Vegas, Nevada 89118. Currently, Citizens status with the Nevada Secretary of State is
28 "active."

1 2. On approximately January 5, 2010, the Division issued Citizens an independent
2 licensee covered service provider license (License No. 3284). The Division currently
3 classifies Citizens license as "active."

4 3. Based upon information and belief, and at all relevant times herein mentioned,
5 Mandy Peacock ("MP"), an individual, was an owner, officer, employee and manager of
6 Citizens.

7 4. On approximately January 5, 2010, the Division issued MP an associated
8 licensee license (License No. 46630) as an employee of Citizens. The Division currently
9 classifies MP's license as "active licensed."

10 5. Citizens and MP are hereinafter referred to individually as Respondent or
11 collectively as Respondents, as the context requires.

12 6. Pursuant to Section 63(1) of the Regulation, "[i]n addition to the other duties
13 imposed upon the Commissioner by law for the general supervision of licensees, the
14 Commissioner will...[c]onduct an examination of each independent licensee doing business in
15 this State within 3 months after the independent licensee commences business in this State
16 and at least annually thereafter..."

17 7. Pursuant to Section 63(2) of the Regulation, "[f]or each...examination, a
18 licensee shall pay a fee based on the rate established pursuant to NRS 645F.280 and section
19 64 of this regulation."

20 8. Pursuant to Section 63(1) of the Regulation, the Division commenced a regularly
21 scheduled annual examination of Citizens on May 11, 2010 which revealed, among other
22 things, that Citizens:

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

3 b. Failed to keep and maintain complete and suitable records of all covered
4 services transactions it conducted, including, but not limited to, records related to the trust
5 account(s) which clearly identify: the name, address and telephone number of each
6 homeowner; the account number of each loan; the address and contact information of each
7 lender or loan servicer related to each loan; the amount and date of each deposit; and the
8 amount and date of each withdrawal with the name of each recipient; and
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10 c. Failed to reconcile its bank accounts and/or failed to have monthly
11 reconciled balances on deposits equal to all moneys collected and deposited and not yet
12 legitimately disbursed.

13 9. Pursuant to NRS 645F.394, "[a]ll money paid to a person who performs any
14 covered service for compensation, a foreclosure consultant or a loan modification consultant
15 by a person in full or partial payment of covered services to be performed: (a) [m]ust be
16 deposited in a separate checking account located in a federally insured depository financial
17 institution or credit union in this State which must be designated a trust account; (b) [m]ust be
18 kept separate from money belonging to the person who performs any covered service for
19 compensation, the foreclosure consultant or the loan modification consultant; and (c) [m]ust
20 not be withdrawn by the person who performs any covered service for compensation,
21 foreclosure consultant or loan modification consultant until the completion of every covered
22 service as agreed upon in the contract for covered services." See NRS 645F.394(1).
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24 10. Pursuant to Section 73 of the Regulation, "a 'separate trust account' means a
25 trust account maintained with a federally insured depository institution located in this State
26 that is separate from accounts belonging to the independent licensee. The trust account:
27 [m]ust at all times have a reconciled balance on deposit equal to all money collected and
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1 deposited and not yet legitimately disbursed... [and] [m]ust be reconciled monthly by the
2 independent licensee..."

3 11. Pursuant to NRS 645F.394, "[t]he person who performs any covered service for
4 compensation, the foreclosure consultant or the loan modification consultant shall keep
5 records of all money deposited in a trust account pursuant to subsection 1. The records must
6 clearly indicate the date and from whom he or she received money, the date deposited, the
7 dates of withdrawals, and other pertinent information concerning the transaction, and must
8 show clearly for whose account the money is deposited and to whom the money belongs.
9 The person who performs any covered service for compensation, the foreclosure consultant
10 or the loan modification consultant shall balance each separate trust account at least monthly
11 and provide to the Commissioner, on a form provided by the Commissioner, an annual
12 accounting which shows an annual reconciliation of each separate trust account. All such
13 records and money are subject to inspection and audit by the Commissioner and authorized
14 representatives of the Commissioner." See NRS 645F.394(2).
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16 12. Pursuant to Section 69 of the Regulation, "[t]he licensee may not change the
17 location of its principal office or a branch office until the Commissioner has approved the
18 transfer." See Section 69(2) of the Regulation.
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20 13. Pursuant to Section 70 of the Regulation, "1. A licensee may not close his
21 principal office or a branch office until:

22 (a) The licensee has returned the license; and

23 (b) The Commissioner has approved the closure."
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25 14. Pursuant to Section 72 of the Regulation, "[e]ach licensee shall keep and
26 maintain, at all times at each location where the licensee conducts business, complete and
27 suitable records of all transactions by the licensee at that location."
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1 15. Pursuant to the Gramm-Leach-Bliley Act, 15 USC § 6801, et seq., “each financial
2 institution has an affirmative and continuing obligation to respect the privacy of its customers
3 and to protect the security and confidentiality of those customers' nonpublic personal
4 information” and “shall establish appropriate standards... relating to administrative, technical,
5 and physical safeguards[:] 1. [T]o insure the security and confidentiality of customer records
6 and information; 2. [T]o protect against any anticipated threats or hazards to the security or
7 integrity of such records; and 3. [T]o protect against unauthorized access to or use of such
8 records or information which could result in substantial harm or inconvenience to any
9 customer.”

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11 16. Since the date of the May 11, 2010 examination, Citizens has changed the
12 location of its principal office or closed and abandoned its principal office without surrendering
13 its license or receiving approval from the Commissioner.

14 17. At or after the time Citizens changed the location of its principal office or closed
15 and abandoned its principal office, it left behind, unsecured, privileged and confidential
16 customer information.

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

4 19. Pursuant to Section 108 of the Regulation, "[i]f a person engages in an activity
5 in violation of the provisions of this chapter or chapter 645F of NRS or an order of the
6 Commissioner, the Commissioner may issue an order directing the person to cease and
7 desist from engaging in the activity." See Section 108(1) of the Regulation.

8 VIOLATIONS OF LAW

9 Respondents have violated NRS 645F.394 and Section 103 of the Regulation in that
10 they:

11 1. Failed to always place moneys collected from homeowners for the provision of
12 covered services into a separate trust account, in violation of NRS 645F.394(1) and (2) and
13 Sections 73 and 103(3)(n) of the Regulation;

14 2. Failed to keep and maintain complete and suitable records of all covered services
15 transactions it conducted, in violation of NRS 645F.394(2);

16 3. Failed to reconcile its bank accounts and/or failed to have monthly reconciled
17 balances on deposits equal to all moneys collected and deposited and not yet legitimately
18 disbursed, in violation of Section 73 of the Regulation;

19 4. Changed the location of its principal office and/or closed and abandoned its
20 principal office without surrendering its license or receiving approval from the Commissioner,
21 in violation of Sections 69 and 70 of the Regulation, respectively;

22 5. Failed to maintain proper records and failed to exercise reasonable care by not
23 implementing safeguards to protect the sensitive customer information found unprotected in
24 its closed or abandoned principal location, in violation of Sections 73 and 103(3)(f) of the
25 Regulation and in violation of the Gramm-Leach-Bliley Act, 15 USC§ 6801, et seq.; and
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2 6. Failed to pay its examination fee in violation of Section 103(3)(k) of the
3 Regulation.

4 **ORDER**

5 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS**
6 that, based on Respondents multiple violations of Chapter 645F of NRS and the Regulation,
7 and pursuant to Chapter 645F of NRS and Section 108(1) of the Regulation,
8 **RESPONDENTS CITIZENS AND MP, AND EACH OF THEM, IMMEDIATELY CEASE AND**
9 **DESIST** from the following activities:
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11 1. Advertising for and/or soliciting covered services, foreclosure consultant and/or
12 loan modification consultant business in or outside of the State of Nevada, whether as an
13 independent licensee or as an associate licensee, without further written approval of the
14 Division to conduct such activities; and

15 2. Offering or providing any of the services of a covered service provider,
16 foreclosure consultant and/or loan modification consultant, or otherwise engaging in, carrying
17 on or holding themselves out as engaging in or carrying on the business of a covered service
18 provider, foreclosure consultant and/or loan modification consultant, whether as an
19 independent licensee or as an associate licensee, without further written approval from the
20 Division to conduct such activities.
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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 such
26 Respondent is advised, however, that the provisions of this Order to Cease and Desist are
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1 effective immediately upon such Respondent being served therewith, whether or not such
2 Respondent requests a hearing.

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 open or pending contracts, if any,
5 with all homeowners and refund to such homeowners all moneys collected by such
6 Respondents from such homeowners for which completed services have not been rendered,
7 or (b) obtain the written consent of the homeowners to transfer their files, moneys and
8 contracts to a licensed, bonded independent licensee, HUD-approved counseling service or
9 other entity exempt from Chapter 645F of NRS.
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11 **IT IS FURTHER ORDERED**, that Respondents shall:

12 1. Immediately notify in writing all homeowners involved in an open or pending
13 covered service transaction of this Order and of Respondents' new physical address and
14 telephone number;

15 2. Submit to the Commissioner, within three (3) business days from the date of the
16 service of this Order, a list of all open or pending covered service transactions, along with proof
17 of mailing of the written notice required in section 1, above, and the filing with the Division of an
18 appropriate change of address and/or closure of principal location form(s), if not already filed;
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20 3. Retain, within five (5) business days after service of this Order and at their own
21 expense and choosing, a Nevada licensed or registered certified public accountant to reconcile
22 all books and records of the licensed entity's operating accounts and trust accounts maintained
23 for customer funds, including reconciliation to bank statements, and all transfers between
24 operation and trust accounts, from inception of Respondent Citizens to the date of this Order,
25 and submit the reconciliation to the Commissioner within thirty (30) days from the date of the
26 service of this Order. Such reconciliation shall specifically include a complete accounting of all
27 moneys that, pursuant to NRS 645F.394 and Section 103 of the Regulation, should have
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1 been held in trust for each homeowner for whom Respondent Citizens has not fully completed
2 covered services for which it contracted. Further, such certified public accountant shall be
3 unrelated to Respondents or their family members, and Respondents shall provide the name,
4 address, and telephone number of such certified public accountant to the Division immediately
5 upon his or her retention;

6 4. Upon submission to the Commissioner of the reconciliation provided for in
7 Number 3, above, Respondents shall deposit sufficient money into a trust account(s) to rectify
8 any shortfall that is discovered as a result of such reconciliation, and shall provide proof of such
9 deposit in writing to the Commissioner.
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11 **IT IS FURTHER ORDERED** that if any Respondent fails to abide by any of the above
12 referenced conditions now imposed upon his, her or its license under NRS Chapter 645F and
13 the Regulation, such failure shall constitute grounds for summary suspension, revocation or
14 other discipline deemed appropriate in the discretion and within the statutory authority of the
15 Commissioner.
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17 **IT IS FURTHER ORDERED**, pursuant to Chapter 645F of NRS and Section 113(2) of
18 the Regulation that upon written application to the Division within **twenty (20) days** of the
19 date of this Order, Respondents, and each of them, shall be entitled to a hearing with regards
20 to the contents of this Order referenced hereafter. At that hearing the Division will seek:

21 1. The imposition of an administrative fine against Respondents, jointly and
22 severally, in the amount of Fifty Thousand Dollars and No Cents (\$50,000.00), payable to the
23 Division on account of such Respondents violations of Chapter 645F of NRS and the
24 Regulation, the payment of the Division's examination fee, including late charges and
25 collection charges, of Five Thousand Six Hundred Twenty Dollars and Sixty Three Cents
26 (\$5,620.63), the payment of the Division's investigatory and other costs in the amount of One
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1 Thousand Eighty Dollars and No Cents (\$1,080.00), as well as the Division's attorney's fees,
2 if any, incurred herein, all to be proven at the hearing;

3 2. Payment, in full, to the Division of both the administrative fine in the amount of
4 Fifty Thousand Dollars and No Cents (\$50,000.00), the Division's examination fees, including
5 late charges and collection charges, in the amount of Five Thousand Six Hundred Twenty
6 Dollars and Sixty Three Cents (\$5,620.63), the Division's investigatory and other costs in the
7 amount of One Thousand Eighty Dollars and No Cents (\$1,080.00), as well as the Division's
8 attorney's fees, if any, by such Respondents, who shall be jointly and severally liable, within
9 **thirty (30) days** of entry of the Final Order; and
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11 3. Revocation of each Respondent's license.

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

22 Commissioner
23 Division of Mortgage Lending
24 7220 Bermuda Road, Suite A
Las Vegas, NV 89119

25 Should Respondents, or any of them, not timely request a hearing within **twenty (20)**
26 **days** of the date of this Order; the Division will enter a Final Order in this matter against such
27 Respondents, and each of them, as required by Section 113(2) of the Regulation. The
28 Division's Final Order will revoke each such Respondent's license and will require payment by

1 such Respondents, jointly and severally, of the administrative fine, examination fees,
2 investigatory and other costs and the Division's attorney's fees within **thirty (30) days** of the
3 entry of the Final Order.

4 Dated this 2nd day of February, 2010.

5 State of Nevada
6 Department of Business and Industry
7 Division of Mortgage Lending

8 By: 

9 Joseph L. Waltuch, Commissioner