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APPEALS OFFICE

Mortgage Lending Division

BEFORE THE HEARINGS OFFICER

2 In re:)
 3 CASTRO ENTERPRISE,) Appeal No: 11-84238-GK
 4 JOSE CASTRO AND ANGELES CASTRO,)
 5 Respondents.)

DECISION AND ORDER

7 This matter comes before the Hearings Officer on Castro Enterprises', Jose Castro and
 8 Angeles Castro's appeal from an Order to Cease and Desist, Notice of Intent to Order
 9 Restitution, Notice of Intent to Impose Fine, and Notice of Right to Request Hearing (hereinafter
 10 referred to as "Cease and Desist Order") issued by the State of Nevada, Department of Business
 11 and Industry, Division of Mortgage Lending (hereinafter referred to as the "Division") on
 12 February 1, 2011. The Division was represented by Kali Fox Miller, Deputy Attorney General.
 13
 14 Castro Enterprise, Jose Castro, and Angeles Castro were represented by Cuthbert Mack, Esq.

15 Castro Enterprise, a Nevada corporation, is owned by Jose Castro. Jose Castro was
 16 present during the hearing and testified, as did Jose Castro Senior and Angeles Castro. Maureen
 17 Sanchez, Jose Escudero, Xochitl Cortes, and John Sanchez testified on behalf of the Division.

18
 19 The Division filed documentary evidence on March 14, 2011 consisting of 115 pages.
 20 That packet of documents was marked and entered into evidence as Agency's Exhibit "A".
 21 Respondents filed documentary evidence on March 25, 2011 consisting of 120 pages, which was
 22 internally divided with tabs labeled "Exhibit 1" through "Exhibit 22". That documentary packet
 23 as a whole was marked and entered into evidence as Respondents' Exhibit "1".

24
 25 The hearing was conducted pursuant to NRS Chapter 233B, NRS Chapter 645F and all
 26 applicable administrative regulations. Following a review of the evidence, hearing the testimony
 27 of the witnesses, and considering the arguments of counsel, the Hearings Officer renders the
 28 following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Castro Enterprise is a Nevada corporation with Jose Castro being the sole stockholder.
2. On or about November 23, 2009, Jose Castro executed an application for a license as a covered service provider for Castro Enterprise and submitted same to the Division. The application listed himself, his father, Jose Castro Senior, and his mother, Angeles Castro, as those employed or associated with Castro Enterprise. The application listed each individual as having a license "pending".
3. On January 19, 2010, Angeles Castro executed a Designation of Qualified Employee to be a licensed loan modification consultant, foreclosure consultant or covered service provider for Castro Enterprise.
4. In May of 2010, the Division sent correspondence to Castro Enterprise regarding several deficiencies in its application that had to be addressed within 30 days.
5. On June 22, 2010, Castro Enterprise was informed that the deficiencies had not been rectified and that its application was considered abandoned. Authorization to conduct covered services was rescinded and they were told to:

Immediately (a) cancel all contracts with homeowners and refund all homeowner moneys that you are holding in trust to the homeowners or (b) obtain the written consent of the homeowners to transfer their files, moneys and contracts to another bonded independent licensee, HUD-approved counseling services or other entity exempt from Chapter 645F of NRS. In either event, within 10 days of the date of this letter, you must provide written documentation to the Licensing Supervisor of the division of the actions you have taken. You must also immediately terminate the license status of all associated licensees employed by or otherwise associated with you and, within 3 business days of such termination, complete and provide to each terminated associated licensee and the Division an Associated Licensee Termination or Disassociation form, which is posted on the Division's website, www.mld.nv.gov, under the Forms Link.

- 1 6. Castro Enterprise failed to comply with June 22, 2010 correspondence. The
2 evidence shows that the company and its employees continued to operate and
3 conduct further loan modification activities without a license, and none of them
4 was exempt from the requirements of Chapter 645F of NRS and the Regulations.
5 They continued to advertise services, provide services, and engage in activities of
6 a loan modification consultant, foreclosure consultant, or covered service
7 provider.
8
- 9 7. Jose Castro was, and still is, 100% owner of Castro Enterprise, and continued to
10 conduct activities on its behalf as a loan modification consultant, foreclosure
11 consultant or covered service provider.
12
- 13 8. Angeles Castro continued to be affiliated with, or was employed by Castro
14 Enterprise, and continued to conduct activities regarding loan modification,
15 foreclosure, or covered service provider after the June 22, 2011 notice was
16 received.
17
- 18 9. In multiple instances, Castro Enterprise failed to comply with the June 22, 2010
19 notice of abandonment of application and immediate rescission of authorization to
20 do business.
21
- 22 10. One such instance involved Xochitl Cortes, who signed a Service Agreement with
23 Castro Enterprise on December 1, 2009 for a mortgage loan modification and
24 paid them \$2,000.00. Cortes testified that she did not complete or sign the
25 expense worksheet found on page 85 of Respondents' Exhibit "1", and pointed
26 out that her last name is spelled wrong on the line purporting to bear her
27 signature as the borrower.
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11. Cortes was frustrated with the efforts of Castro Enterprise, and on June 5, 2010, wrote to her lender, GMAC Mortgage, in an attempt to modify the mortgage herself.
12. On September 3, 2010, Cortes filed a complaint with the Division alleging that Castro Enterprise refused to refund the \$2,000.00 she had paid them to modify the mortgage on her real property located in Las Vegas, Nevada. The complaint further indicated Cortes was instructed to stop paying her mortgage. She subsequently received a foreclosure notice from her lender and was told by Castro Enterprise that this was normal and just part of the modification process. Cortes lost her house due to foreclosure. Her request for a refund of the \$2,000.00 she paid Castro Enterprise to modify her loan was denied.
13. Angeles Castro, on behalf of Castro Enterprise, issued a written response on or about September 16, 2010 denying that they had informed anyone to stop making payments. Their efforts on the modification were set forth documenting their efforts on the file, which extended through August of 2010.
14. The credible evidence establishes that Respondents failed to provide all of the services for which Cortes had paid.
15. Another instance of the failure to comply with the June 22, 2010 notice involved John and Maureen Sanchez, who signed a Service Agreement with Castro Enterprise on April 11, 2010. The Sanchez's paid \$3,000.00 for loan modifications of 2 pieces of real property they owned in Las Vegas, Nevada. Documentation shows that Castro Enterprise continued to work on the Sanchez modifications well after the notice to immediately cancel all contracts and refund money. In August of 2010, the lender for the Sanchez's Ruby Creek property

1 loan proposed a loan modification payment schedule that was actually higher than
2 the original payments.

3 16. On December 6, 2010, John and Maureen Sanchez filed a complaint with the
4 Division regarding Castro Enterprise. Sanchez alleged that they paid Castro
5 \$3,000.00 for assistance in modifying loans on 2 pieces of real property they
6 owned in Las Vegas, Nevada. When things did not progress, Sanchez requested
7 a refund, which was denied. Documentary evidence shows that Castro Enterprise
8 was still working on this account several months after they were told to stop
9 performing such activities. On January 4, 2011 (erroneously dated 2010),
10 Angeles Castro, on behalf of Castro Enterprise, responded to the complaint
11 noting their continued efforts on these properties went well beyond the notice to
12 cancel all contracts and refund money:
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14 17. On February 1, 2011, the Division issued an Order to Cease and Desist, Notice
15 of Intent to Order Restitution, Notice of intent to Impose Fine, and Notice of
16 Right to Request Hearing.
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18 18. Castro Enterprise faxed its request for hearing to the Division of Mortgage
19 Lending on February 25, 2011.
20

21 19. Any Finding of Fact which may be deemed a Conclusion of Law shall be so
22 considered.
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CONCLUSIONS OF LAW

24 1. NRS 645.010 *et.seq.* provides the statutory authority for regulation and supervision of
25 mortgage lending and related professions.
26

27 2. Regulations have been adopted for the licensing and regulation of foreclosure
28 consultants, loan modification consultants, and persons performing any covered service for

1 compensation. The regulations include the grounds and procedure for revocation, suspension
2 and cease and desist orders. NRS 645F.390 and Regulation RO52-09. The Statutes and
3 Regulations also provide for the imposition of administrative fines of not more than \$10,000.00,
4 the payment of restitution, and the issuance of orders to cease and desist from engaging in the
5 activities. See Sections 103(3)(c) and (w), 103(2), and 108(1) of the Regulation, respectively.

7 3. Respondents, and each of them, offered or provided services of a covered
8 services provider, foreclosure consultant or loan modification consultant or otherwise engaged
9 in, carried on or held themselves out as engaging in or carrying on the business of a covered
10 services provider, foreclosure consultant or loan modification consultant without having been
11 issued a license by the Division and without being exempt from licensing pursuant to the
12 provisions of Chapter 645F of NRS or the Regulation, in violation of such provisions.

14 4. Castro Enterprise employed individuals Jose Castro and Angeles Castro, who acted in
15 the capacity of a covered service provider, foreclosure consultant or loan modification consultant
16 after receiving the June 22, 2010 notice to cancel all contracts and refund the homeowners'
17 money. It is also noted that the individuals themselves had not been issued a license by the
18 Division to operate in such capacities.

20 5. The adopted Regulation allows the Division to impose an administrative fine of not
21 more than \$10,000.00. The Division established credible evidence that Respondents Castro
22 Enterprise, Jose Castro, and Angeles Castro violated the Regulations and imposed and
23 administrative fine of \$10,000.00 against Respondents, jointly and severally. Respondents were
24 also to pay \$708.00 to the Division for investigative costs in this matter, in addition to the
25 Division's attorney's fees. The testimony and evidence presented before the Hearing Officer
26 support the fines, costs, and an award of attorney's fees.

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6. Under NRS 645F and the adopted Regulations, the Division may order payment of restitution to a person who has suffered an economic loss as a result of a violation of the provisions of this Chapter. The Division provided evidence of Respondents' violation and Cortes' economic loss resulting therefrom. Respondents Castro Enterprise, Jose Castro and Angeles Castro shall be jointly and severally liable for the payment or restitution in the amount of \$2,000.00 for the economic loss to Cortes.


7. Although the Sanchez family provided supplemental testimony that verified the violations of Respondents, their plight was not referenced in the original Cease and Desist Order issued February 1, 2011. As Respondents were not on notice for any restitution involving the Sanchez matter, such restitution will not be imposed in this Order.

8. Any Conclusion of Law which may be deemed a Finding of Fact shall be so considered.

ORDER

IT IS ORDERED that the February 1, 2011 Order to Case and Desist is AFFIRMED and was proper.

IT IS SO ORDERED this 24th day of May, 2011.


Gregory A. Krohn, Esq.
HEARING OFFICER

NOTICE: Pursuant to N. R.S. 233B.130, should any party desire to appeal this final determination of the Appeals Officer, a Petition for Judicial Review must be filed with the District Court within thirty (30) days after service by mail of this decision.