STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

Before the Commissioner of the Division of Mortgage Lending

In the Matter of: TILA SOLUTIONS Covered Service Provider License No. UNL, and TOM NIEMAN President Covered Service Provider License No. UNL, Respondents.	Order No. 2012-6

ORDER TO CEASE AND DESIST,
ORDER IMPOSING AN ADMINISTRATIVE FINE AND ASSESSING INVESTIGATIVE COSTS,
ORDER TO FILE REPORT,
AND
NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING

Issued and Entered,
This 17th day of April, 2012,
By James Westrin,
Commissioner

I.
ORDER TO CEASE AND DESIST VIOLATING NRS 645F.010 *et seq.*,
ORDER IMPOSING AN ADMINISTRATIVE FINE AND ASSESSING INVESTIGATIVE COSTS
and
ORDER TO FILE REPORT

The Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") having been statutorily charged with the responsibility and authority to administer and enforce Chapter 645F of the Nevada Revised Statutes, NRS 645F.010 *et seq.*, and Chapter 645F of the Nevada Administrative Code, NAC 645F.001 *et seq.*, as amended by

Adopted Regulation of the Commissioner of Mortgage Lending, R052-09 (the "Regulation"), governing the licensing and conduct of covered service providers in the State of Nevada; and,

The Commissioner having been vested with general supervisory power and control over all covered service providers doing business in the State of Nevada pursuant to NRS 645F; and,

The Commissioner having been further vested with broad authority to conduct investigations to determine whether any person has violated any provision of NRS 645F or the Regulation; and,

The Division of Mortgage Lending (the "Division") having initiated an internal investigation of TILA SOLUTIONS, LLC ("TILA") with TOM NIEMAN ("NIEMAN") as president (collectively, the "RESPONDENTS") after receiving information that RESPONDENTS may be engaged in activities or practices that violate NRS 645F; and,

The Division having commenced an investigation pursuant to NAC 645F.001 *et seq.*, as amended by § 63 of the Regulation, and determined that RESPONDENTS were engaged in activity requiring licensure as a covered service provider pursuant to provisions of NRS 645F.010 et seq. and NAC 645F.001 as amended by the Regulation; and,

The Division staff having reported the results of its investigation to the Commissioner; and,

The Commissioner, having reviewed the results of the investigation, made the following FINDINGS OF FACT and CONCLUSIONS OF LAW from such investigation:

Findings of Fact

1. NAC 645F.001 *et seq.*, as amended by § 17 of the Regulation, provides as follows:

> 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.

2. Pursuant to NRS 645F.310, "Covered Service" is defined to include, without limitation, all of the following:

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 of a residence in foreclosure.

6. Advising a homeowner regarding the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court.

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 a residence, the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.

8. <u>Arranging or conducting, or attempting to arrange or conduct, for a homeowner any forensic loan audit or review or other audit or review of loan documents.</u>

9. Arranging or attempting to arrange for a homeowner the purchase by a third party of the homeowner's mortgage loan.

10. Arranging or attempting to arrange for a homeowner a reduction of the principal of the homeowner's mortgage loan when such a mortgage loan is held by or serviced by a third party.

11. Providing the services of a loan modification consultant.

12. Providing the services of a foreclosure consultant.

[Emphasis added.]

3. On December 12, 2011, the Division commenced an investigation into RESPONDENTS' business practices after viewing the RESPONDENTS' website, alerting the Division to possible unlicensed activity. During the course of the investigation the Division determined the RESPONDENTS are engaged in activity requiring licensure as an independent and associated covered service provider, respectively, under NRS 645F. A review of the Division's records reveals that RESPONDENTS are not currently and have never been licensed by the Commissioner as an independent or associated covered service provider, pursuant to provisions of NRS 645F. The investigation specifically revealed the following:

a. RESPONDENTS, operating out of a business location at 1489 W. Warm Springs Road, Suite 110, in Henderson, Nevada, are advertising services to Nevada homeowners offering "forensic loan document reviews", "securitization audits", "robo signing audits", and other covered services claiming to assist a homeowner to prevent foreclosure.

b. RESPONDENTS operate a website, located at www.tila-now.com, on which RESPONDENTS offer to perform "forensic loan audits", "securitization audits", and "robo signing audits" for homeowners and other covered services claiming to assist a homeowner to prevent foreclosure. RESPONDENTS' website at http://www.tila-now.com/faq/ solicits homeowners with the following claims:

> **"How do I know if I need a Forensic Loan Audit?**
>
> If you have any of the signs of a predatory loan, you need a forensic loan audit. If your lender has refused to modify your loan, you need a forensic loan audit. If you are still current and the lender says he won't modify your loan until you miss payments, you need a forensic loan audit. If you got your loan in the past decade, you need a forensic loan audit."

"How do I know if I should get a Securitization Audit?

If your lender has turned you down for a loan modification and started foreclosure on you, then in light of the robo-signing scandal and the securitization scandal, you should safely assume that you need to get a securitization audit. Lenders do not stop foreclosures unless you can prove to them they are the ones guilty of violating the law. The Securitization Audit is the audit that shows this.

If your loan has been sold, or if you got your loan in the past decade, those are also two excellent signs that you need a securitization audit. If MERS appears anywhere on your foreclosure or pre-foreclosure documents, then you need a securitization audit."

"Can I really put an end to foreclosure proceedings?

Yes you can. Tila Solutions has found that when you combine the Forensic Loan Audit or the Securitization Audit with the negotiations, the lenders will change their spots and finally look at the solutions to keeping you in your home."

"What's the best way for me to stop foreclosure?

Contact us. If you believe you face the threat of foreclosure contact us immediately. Our staff will give you immediate attention to protect your home and family. Our goal is to prevent foreclosure through effective solutions that work for you. We strive to give you more than a quick fix; you'll get a lasting solution to your unique circumstances so you never have to face foreclosure again."

"My lender says that I should not have to pay for services provided by the authorized third party until the work has been completed. Why do you charge a fee?

Many states have now been pressured (mostly by lender influence) to pass laws that require homeowners loan modification fees be billed at the end of the service. We do not conduct loan modification services and the loan mod attorneys that we can refer you to will be in compliance with the billing or fee requirements of their state.

We are an audit company, providing an investigation into your loan. We will require a partial payment to begin. Audits are costly to conduct, and we must ensure that you receive the highest quality service that we can provide to you."

c. Prior to conducting a "forensic loan audit", "securitization audit", or "robo signing audit" for a homeowner or providing other covered services to assist a homeowner to prevent foreclosure, RESPONDENTS charge homeowners an advance fee in the amount of $1,450.00. If the homeowner provides RESPONDENTS with their mortgage note, deed of trust or mortgage, current mortgage statement, and any foreclosure documents that may have been served on the homeowner, RESPONDENT decreases its advance fee to $1,150.00. In addition, RESPONDENT offers a payment option to homeowners whereby the homeowner agrees to pay half of the fee up-front and pay the remaining balance within 30 days.

4. NAC 645F.001 *et seq.*, as amended by § 108(1)-(3) of the Regulation, vests in the Commissioner the authority to order a person engaging in activity in violation of NRS 645F or the Regulation to immediately cease and desist from engaging in the activity.

5. NRS 645F.410(1) grants the Commissioner the authority to impose an administrative penalty of not more than $25,000 on any person licensed or required to be licensed pursuant to provisions of NRS 645F who violates any provisions of this chapter or any regulation adopted pursuant thereto or any other applicable law.

6. NRS 645F.396(3) and NRS 645F.291 grant the Commissioner the authority to inspect and audit all records of a person engaging in covered service activity and to order a person to produce books, records or papers to the commissioner that the commissioner considers necessary for the proper supervision and enforcement of NRS 645F.

7. Any finding of fact that may be deemed a conclusion of law shall be so construed.

Conclusions of Law

8. It is a violation of NAC 645F.001 et seq., as amended by § 17 and § 102 of the Regulation, for a person to advertise, engage in, or otherwise carry on or hold oneself out as engaging in or carrying on the activities of a covered service provider without first obtaining a license under provisions of NRS 645F and NAC 645F.

9. By offering, soliciting or advertising to perform a "forensic loan audit", "securitization audit", or "robo signing audit" for a homeowner or to provide assistance to homeowners to stop foreclosure,

RESPONDENTS have advertised, engaged in, or otherwise held themselves out as covered service providers, in violation of NAC 645F.001 et seq., as amended by § 17 and § 102 of the Regulation.

10. The Commissioner is authorized pursuant to NAC 645F.001 *et seq.*, as amended by § 108 the Regulation, to order a person to cease and desist from engaging in any activity that violates any provision of NRS 645F.

11. The Commissioner is authorized pursuant to NRS 645F.410(1) to impose an administrative penalty of not more than $25,000 on any person licensed or required to be licensed as a covered service provider who violates any provisions of this chapter or any regulation adopted pursuant thereto or any other applicable law.

12. The Commissioner is authorized pursuant to NRS 645F.396(3) and NRS 645F.291 to inspect and audit all records of a person engaging in covered service activity and to order a person to produce books, records or papers to the commissioner that the commissioner considers necessary for the proper supervision and enforcement of NRS 645F.

13. Any conclusion of law that may be deemed a finding of fact shall be so construed.

Order

The Commissioner having formed the opinion based upon the foregoing that RESPONDENTS are engaged in unlicensed activity in violation of NRS 645F and NAC 645F, and concluded and determined that RESPONDENTS should be ordered to: 1) cease and desist from engaging in any activity requiring licensure under NRS 645F, 2) pay an administrative fine, 3) pay the Division's investigative costs, and 4) produce and submit records to the Division.

NOW, THEREFORE, IT IS ORDERED that RESPONDENTS shall immediately CEASE AND DESIST from advertising, engaging in, or otherwise carrying on or holding themselves out as engaging in or carrying on the activities of a covered service provider requiring licensure under NRS 645F in the State of Nevada.

IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the amount of Twenty-Five Thousand Dollars and No Cents ($25,000.00) shall be and hereby is imposed, jointly and severally, on RESPONDENTS, in accordance with NRS 645F.410. The ADMINISTRATIVE FINE shall be due and

payable on the 30th day following the effective date of this order and shall be tendered to the Division in accordance with the attached wire transfer instructions.

IT IS FURTHER ORDERED that RESPONDENTS shall be and hereby are, jointly and severally, assessed the Division's INVESTIGATIVE COSTS in the amount of Nine Hundred Thirty Dollars and No Cents ($930.00), in accordance with NRS 622.400. INVESTIGATIVE COSTS shall be due and payable on the 30th day following the effective date of this order and shall be tendered to the Division in accordance with the attached wire transfer instructions.

IT IS FURTHER ORDERED that within five (5) calendar days of the effective date of this ORDER, RESPONDENTS shall produce and submit to the Division a record identifying each Nevada homeowner that RESPONDENTS have provided "forensic loan audit", "securitization audit", or "robo signing audit" services to, or otherwise contracted with for the purposes of providing assistance to save the homeowners home from foreclosure, since July 1, 2011. The record produced shall, at a minimum, provide: 1) the name, address, and home and mobile telephone number of each Nevada homeowner that paid RESPONDENTS an advance fee or entered into the Agreement with RESPONDENTS since July 1, 2011 to present; 2) the date(s) that RESPONDENTS had contact with the Nevada homeowner and description of the nature of such contact(s); and 3) the amount of compensation that each Nevada homeowner paid to RESPONDENTS and the date upon which it was paid. The REPORT shall be delivered to the Division in electronic format by electronic mail to Tony Frascarelli, Chief Compliance Investigator at tfrascarelli@mld.nv.gov.

IT IS FURTHER ORDERED that an administrative hearing shall be scheduled in this matter only if RESPONDENTS timely request an administrative hearing in accordance with the instructions set forth in Section II of this ORDER entitled Notice of Opportunity for an Administrative Hearing. If no administrative hearing is requested within 20 calendar days of the effective date of this ORDER, RESPONDENTS shall be deemed to have waived and relinquished the right to an administrative hearing in this matter and a FINAL ORDER shall be issued in this matter.

IT IS FURTHER ORDERED that this Order shall be and is effective and enforceable on the date that it is issued, as shown in the caption hereof.

IT IS FURTHER ORDERED that this Order shall remain effective and enforceable until terminated, modified, set aside, or suspended in writing by the Commissioner.

IT IS FURTHER ORDERED that the Commissioner specifically retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as he shall deem just, necessary, and appropriate to enforce provisions of NRS 645F and NAC 645F and to protect the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: James Westrin
JAMES WESTRIN
COMMISSIONER

II.

NOTICE OF OPPORTUNITY FOR AN ADMINSITRATIVE HEARING

NAC 645F.001 et seq., as amended by § 108(4)-(5) of the Regulation, provides as follows:

(4) Not later than 20 calendar days after receiving an order pursuant to this section, the person who receives the order may file a verified petition with the Commissioner to request a hearing. Upon receipt of the verified petition, the Commissioner may, for good cause shown, suspend the order pending the hearing. The Commissioner will hold the hearing on a date not later than 30 calendar days after the date the petition is filed unless the Commissioner and the person agree to another date. The order to cease and desist is rescinded if the Commissioner fails to:

(a) Hold a hearing:

(1) Not later than 30 calendar days after the petition is filed; or

(2) On a date agreed to by the Commissioner and the person; or

(b) Render a written decision within 45 days after the hearing is concluded.

(5) The decision of the Commissioner after a hearing is a final decision of the Commissioner for the purposes of judicial review. [Emphasis added.]

NAC 645F.001 et seq., as amended by § 113 of the Regulation, provides as follows:

1. If the Commissioner enters an order taking any disciplinary action against a person, denying a person's application for a license, denying a provider the right to teach approved courses, denying the approval of a provider's course or denying the right of an instructor of a provider to teach an approved course or approved courses, the Commissioner will cause a written notice of the order to be served personally or sent by certified mail or telegram to the person.

2. Unless a hearing has already been conducted concerning the matter, the person, upon application, is entitled to a hearing. If the person does not make such an application within 20 days after the date of the initial order, the Commissioner will enter a final order concerning the matter.

3. A person may appeal a final order of the Commissioner taking any disciplinary action against the person in accordance with the provisions of chapter 233B of NRS that apply to a contested case. [Emphasis added.]

If you wish to exercise your right to an opportunity for an administrative hearing, within 20 calendar days after the date of this Order, you must file a verified petition with the Commissioner to request a hearing. The verified petition requesting a hearing must be delivered to:

Division of Mortgage Lending
Attn. Susan Slack
7220 Bermuda Road, Suite A
Las Vegas, Nevada 89119

If you fail to timely file a verified petition to request a hearing, your right to a hearing to contest this matter will be deemed waived and relinquished.

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, April 17, 2012, 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 AN ADMINISTRATIVE FINE AND ASSESSING INVESTIGATIVE COSTS, ORDER TO FILE REPORT, AND NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING, for TILA SOLUTIONS AND TOM NIEMAN., addressed as follows:

Tom Nieman
TILA Solutions, LLC
1489 W. Warm Springs Road, Suite 110
Henderson, NV 89014

Certified Receipt Number: 7009 2250 0001 8859 3193

DATED this 17th day of April, 2012

By: Susan Slack
Employee of the Division