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: MY STATE PROCESSING MINERVA E. YOUNG, Director/Trustee Covered Service Provider License No. UNL, and DAVID YOUNG Covered Service Provider License No. UNL, Respondents.	Order No. 2012-10

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

Issued and Entered,
This 3rd day of May, 2012,
By James Westrin,
Commissioner

I.
ORDER TO CEASE AND DESIST VIOLATING NRS 645F.010 *et seq.*,
ORDER TO MAKE RESTITUTION,
ORDER IMPOSING AN ADMINISTRATIVE FINE AND 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 received six (6) complaints against the MY STATE PROCESSING ("MY STATE"), and DAVID YOUNG ("YOUNG") (collectively, the "RESPONDENTS") alleging that RESPONDENTS were engaged in activities or practices that violate NRS 645F; and,

The Division Staff having commenced an investigation of such complaints 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. 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.

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.

3. On February 2, 2012, the Division received a complaint from Complainant DM ("DM"); on March 8, 2012, the Division received a complaint from Complainant SW ("SW"); on March 12, 2012, the Division received a complaint from Complainant SH ("SH"); on March 16, 2012, the Division received a complaint from Complainant DG ("DG"); on April 4, 2012, the Division received a complaint from Complainant JS ("JS"); and on April 5, 2012 the Division received a complaint from Complainant JC ("JC"), against RESPONDENTS and the Division immediately commenced an investigation into RESPONDENTS' business practices. During the course of the investigation the Division determined the following:

a. YOUNG was granted an associated covered service provider license by the Commissioner on August 12, 2010, pursuant to provisions of NRS 645F. On that date, YOUNG was employed by and associated with the MAC Group, an entity formerly licensed by the Commissioner as an independent covered service provider. On or about March 24, 2011, YOUNG'S association with the MAC Group ended. Upon the conclusion of YOUNG'S association with the MAC Group on March 24, 2011, YOUNG'S eligibility to act as an associated covered service provider ceased until he became associated with another licensed independent covered service provider. YOUNG never became associated with another licensed independent covered service provider and, on July 1, 2011, YOUNG'S associated covered service provider license was terminated for failure to renew.

b. MY STATE is a Nevada business entity, organized and incorporated pursuant to the laws of the State of Nevada on January 25, 2011. MINERVA E. YOUNG is the sole director and trustee of MY STATE.

c. RESPONDENTS have been actively engaged in the business of a covered service provider requiring licensure pursuant to provisions of NRS 645F.010 *et seq.* and NAC 645F.001, as amended by the Regulation, and RESPONDENTS are not currently and have at no time relevant to this

matter been licensed by the Commissioner as an independent or associated covered service provider, pursuant to provisions of NRS 645F. Specifically, the RESPONDENTS offered to provide loan modification services, solicited homeowners representing to be "one of the companies working with the state on these" loan modification issues and in the case of Complainant JS RESPONDENTS represented they had been assigned the loan from Complaints JS's lender to restructure their loan.

d. RESPONDENTS solicited, and offered assistance obtaining a loan modification to, homeowners through its website located at mystateprocessing.com, YOUNG'S business card, and cold calls.

RESPONDENTS' website, under the slogan "mySTATEPROCESSING, home loan modifications made easy" encourages homeowners to "[t]ake the first step to saving your home by simply clicking the button below" to submit an online application to "pre-qualify". RESPONDENTS' website explains to homeowners that "[o]nce you complete the form...we ask you a few simple questions to start the pre qualification process." And further describes the loan modification process to homeowners as follows: "Depending on who your lender is, we can then take the necessary steps to get the process started. If you lender is participating in one of our "instant" loan modification programs, we can call you lender and verify your loan modification is approved once you have given us the proper authorization to speak with your lender. If your lender is not participating in one of our "instant" loan modification programs, we will call your lender and speak to a case manager about your specific situation...Rest assured, our agents are here to help you get the best loan modification possible...You can deal with your lender yourself, but in most cases it is difficult. We take on the hard work for you and will get you the best deal possible, resulting in the lowest monthly payments possible."

e. Complainant DM was initially contacted by RESPONDENTS in April 2011, after initially working with The MAC Group. Complainant DM was advised RESPONDENTS were starting a new business and would be willing to assist Complainant DM to obtain a modification of his first and second mortgage loans and further advised Complainant DM that he was "preapproved". Complainant DM made a payment in the amount of $5,000.00 to the RESPONDENTS. As security for the payments RESPONDENTS issued three separate checks to Complainant DM totaling $5,000.00, if the attempt to obtain loan modifications failed. Seeing no progress being made Complainant DM became suspicious

and attempted to negotiate the checks that RESPONDENTS has issued, but the checks were dishonored because RESPONDENTS had insufficient funds in the account. After contacting the RESPONDENTS a commitment was made by RESPONDENTS for a refund of the full $5,000.00 that DM had paid to RESPONDENTS. In accordance with this agreement, two payments of $1,000.00 were made to Complainant DM, but the remaining $3,000.00 was never refunded by the RESPONDENTS.

f. In July 2011, Complainant SW was contacted by RESPONDENTS' employee who told Complainant SW that RESPONDENTS could help her save her home. Following this contact, Complainant SW agreed to use RESPONDENTS' services and made a payment in the amount of $1,575.00 to the RESPONDENTS. Complainant SW did not receive a loan modification and demanded a refund, but RESPONDENTS failed to refund any money to Complainant SW.

g. On or around May 2011, RESPONDENTS contacted Complainant SH to offer its services to help Complainant SH obtain a modification of his first and second mortgage loan. In fact, RESPONDENTS represented to Complainant SH that it was "one of the companies working with the State on these matters". Following this solicitation, Complainant SH made a payment to RESPONDENTS in the amount of $1,600.00 for loan modification services. Complainant SH did not receive a loan modification and demanded a refund, but RESPONDENTS failed to refund any money to Complainant SH.

h. On June 27, 2011, Complainant DG entered into a contract with RESPONDENTS for the purpose of obtaining assistance from RESPONDENTS in obtaining a modification of his mortgage loan. In relation to this agreement, Complainant DG made a payment to RESPONDNETS in the amount of $2,500.00 for loan modification services. Complainant DG did not receive a loan modification and demanded a refund, but RESPONDENTS failed to refund any money to Complainant DG.

i. On or about April 21, 2011, YOUNG contacted Complainant JS offering to provide assistance to Complainant JS to obtain a modification of his mortgage loan. YOUNG advised Complainant JS that RESPONDENTS had obtained his name and number through his lender, Wells Fargo Home Mortgage Company, and claimed that they had been assigned by Wells to help him get his mortgage restructured so his home would not go back to the bank. Complainant JS agreed to retain

RESPONDENT for the purpose of obtaining loan modification services and entered into a contratct for those services. In relation to this contract, Complainant JS made payments to RESPONDENTS totaling $2,300.00. Complainant JS did not receive a loan modification and demanded a refund, but RESPONDENTS failed to refund any money to Complainant JS.

j. On July 11, 2011, Complainant JC contacted RESPONDENTS concerning retaining their services to assist her to obtain a modification of her mortgage loan. Following this initial contact, Complainant JC entered into a contract with RESPONDENTS for the purpose of obtaining assistance from RESPONDENTS in obtaining a modification of her mortgage loan. In relation to this contract, Complainant JC made a payment to RESPONDNETS in the amount of $2,500.00 for loan modification services. Complainant JC did not receive a loan modification and demanded a refund, but RESPONDENTS failed to refund any money to Complainant JC.

k. As a result of RESPONDENTS' unlicensed activity in violation of NAC 645F.001 *et seq.*, as amended by § 17 and § 102 of the Regulation, Complainant DM suffered a direct economic loss of $3,000.00; Complainant SW suffered a direct economic loss of $1,575.00; Complainant SH suffered a direct economic loss of $1,600.00; Complainant DG suffered a direct economic loss of $2,500.00; Complainant JS suffered a direct economic loss of $2,300.00; and Complainant JC suffered a direct economic loss of $2,500.00.

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. NAC 645F.001 *et seq.*, as amended by § 103(2) of the Regulation, vests in the Commissioner the authority to order a person who engages in an activity for which licensure is required under NRS 645F or the Regulation 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 or an order of a court of competent jurisdiction.

6. 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.

7. NRS 645F.291 and NRS 645F.396(3) grant the Commissioner the authority to order a covered service provider to make a special report to the commissioner that the commissioner considers necessary for the proper supervision and enforcement of NRS 645F.

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

Conclusions of Law

9. 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.

10. By offering, soliciting or advertising to assist homeowners to save their home, obtain a loan modification or principal reduction, and by entering into contracts with the above-described Complainants and receiving fees, 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.

11. In connection with the six complaints that the Division investigated, RESPONDENTS received payments totaling $5,000.00 from Complainant DM; $1,575.00 from Complainant SW; $1,600.00 from Complainant SH; $2,500.00 from Complainant DG; $2,300.00 from Complainant JS; and $2,500.00 from Complainant JC. RESPONDENTS' unlicensed activity, in violation of NAC 645F.001 *et seq.*, as amended by § 17 and § 102 of the Regulation, resulted in a direct economic loss to Complainant DM in the amount of $3,000.00; Complainant SW in the amount of $1,575.00; Complainant SH in the amount of $1,600.00; Complainant DG in the amount of $2,500.00; Complainant JS in the amount of $2,300.00; and Complainant JC in the amount of $2,500.00.

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

13. The Commissioner is authorized pursuant to NAC 645F.001 *et seq.*, as amended by § 103(2) of the Regulation, to order a person to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions NRS 645F.

14. 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.

15. The Commissioner is authorized pursuant to NRS 645F.291 and NRS 645F.396(3) to order a covered service provider to make a special report to the commissioner that the commissioner considers necessary for the proper supervision and enforcement of NRS 645F.

16. 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) make restitution to those individuals injured by Respondents conduct, 3) pay an administrative fine; 4) pay the Division's investigative costs, and 5) produce and submit records to the Division.

NOW, THEREFORE, IT IS ORDERED that MY STATE PROCESSING and DAVID YOUNG shall immediately CEASE AND DESIST from advertising, engaging in, or otherwise carrying on or holding themselves out as engaging in or carrying on any activities that require licensure as a covered service provider under NRS 645F.

IT IS FURTHER ORDERED that MY STATE PROCESSING and DAVID YOUNG shall be and hereby are required to make RESTITUTION to Complainant DM in the amount of $3,000.00; Complainant SW in the amount of $1,575.00; Complainant SH in the amount of $1,600.00; Complainant DG in the amount of $2,500.00; Complainant JS in the amount of $2,300.00; and Complainant JC in the amount of $2,500.00. MY STATE PROCESSING and DAVID YOUNG shall be jointly and severally liable for the amount of RESTITUTION required to be made herein. The

required RESTITUTION shall be made to Complainant DM, Complainant SW, Complainant SH, Complainant DG, Complainant JS, and Complainant JC no later than 30 days after the effective date of this order. MY STATE PROCESSING and DAVID YOUNG shall contact the Division within 21 days of the effective date of this order to make arrangements for the delivery of RESTITUTION to Complainant DM, Complainant SW, Complainant SH, Complainant DG, Complainant JS, and Complainant JC.

IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the amount of Fifty Thousand Dollars and No Cents ($50,000.00) shall be and hereby is imposed, jointly and severally, on MY STATE PROCESSING and DAVID YOUNG, in accordance with NRS 645F.410. The ADMINSITRATIVE 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 One Thousand Twenty Dollars and No Cents ($1,020.00), 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 loan modification services to, or otherwise contracted with for the purposes of providing assistance to save the homeowners home from foreclosure or modify their mortgage loan, since January 25, 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 January 25, 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 MY STATE PROCESSING and or DAVID YOUNG 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 MY STATE PROCESSING and DAVID YOUNG 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 of the Regulation, provides as follows:

1. If 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 to the person directing the person to cease and desist from engaging in the activity.

2. The order to cease and desist must be in writing and must state that, in the opinion of the Commissioner, the person has engaged in an activity:

(a) For which the person has not received a license as required by this chapter or chapter 645F of NRS; or

(b) In a manner that violates the provisions of this chapter or chapter 645F of NRS or an order of the Commissioner.

3. A person who receives an order to cease and desist pursuant to this section shall not engage in any activity governed by this chapter or chapter 645F of NRS after receiving the order unless the order is suspended or rescinded.

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 <u>within 20 days</u> 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, <u>within 20 calendar days after receiving this Order</u>, you must file a verified petition with the Commissioner to request a hearing.

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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, May 3rd, 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 TO MAKE RESTITUTION, ORDER IMPOSING AN ADMINISTRATIVE FINE AND INVESTIGATIVE COSTS, ORDER TO FILE REPORT, AND NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING, for MY STATE PROCESSING, MINERVA E. YOUNG AND DAVID YOUNG, addressed as follows:

Minerva E. Young
My State Processing
7477 W. Lake Mead Boulevard, Suite 150
Las Vegas, NV 89128

Certified Receipt Number: 7009 2250 0001 8859 3353

Minerva E. Young
9461 Bluff Ledge Avenue
Las Vegas, NV 89149

Certified Receipt Number: 7009 2250 0001 8859 3346

David Young
9461 Bluff Ledge Avenue
Las Vegas, NV 89149

Certified Receipt Number: 7009 2250 0001 8859 3339

DATED this 3rd day of May, 2012

By: Susan Slack
Employee of the Division