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: FREE FRESH START, LLC Covered Service Provider License No. UNL, Respondent.	Order No. 2012-07

FINAL ORDER
TO CEASE AND DESIST,
IMPOSING AN ADMINISTRATIVE FINE AND ASSESSING INVESTIGATIVE COSTS,
AND
TO FILE REPORT

Issued and Entered,
This 9th day of May, 2012,
By James Westrin,
Commissioner

WHEREAS, the Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") is statutorily charged with the responsibility and authority to administer and enforce Chapter 645F of the Nevada Revised Statutes, NRS 645F.010 *et seq*. (the "Act"), 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,

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

WHEREAS, on or about April 16, 2012, the Commissioner issued to Respondents an ORDER TO CEASE AND DESIST, ORDER IMPOSING AN ADMINISTRATIVE FINE AND INVESTIGATIVE COSTS, ORDER TO FILE REPORT, AND NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING (the "Order"), attached hereto as Exhibit 1 and incorporated herein by this reference; and,

WHEREAS, the Order was served on Respondents on April 18, 2012, via certified mail; and,

WHEREAS, the Order advised Respondents that Respondents were entitled to an administrative hearing in this matter if Respondents filed a written request for a hearing within 20 days of receipt of the Order; and,

WHEREAS, Respondents failed to file a written request for a hearing within 20 days of receipt of the Order, as required by Chapter 645F of the NAC, NAC 645F.001 et seq., as amended by § 108 of the Regulation.

NOW, THEREFORE, based upon the factual findings set forth above and the files and records of the Division of Mortgage Lending, **IT IS HEREBY ORDERED THAT:**

1. The findings of fact and conclusions of law set forth in the Order shall be and hereby are found to be true and correct.

2. A FINAL ORDER TO CEASE AND DESIST AND ORDER IMPOSING AN ADMINISTRATIVE FINE AND ASESSING INVESTIGATIVE COSTS, AND TO FILE A REPORT shall be and hereby is issued and entered against Respondents. FORTHWITH, Respondents shall:

   a. CEASE AND DESIST from engaging in any activity requiring licensure under the Act or the Regulation.

   b. Remit the ADMINISTRATIVE FINE and INVESTIGATIVE COSTS, as set forth in the Order.

   c. FILE A REPORT providing the information, as set forth in the Order.

3. This Final Order shall be and is effective on the date is issued and entered, as shown in the caption hereof.

4. This Final Order shall remain in effect and fully enforceable until terminated, modified, or set aside, in writing by the Commissioner.

5. The Commissioner specifically retains jurisdiction of the matter(s) contained herein to issue such further order or orders as he may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: James Westrin
JAMES WESTRIN
COMMISSIONER

EXHIBIT “1”

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: FREE FRESH START, LLC Covered Service Provider License No. UNL, Respondent.	Order No. 2012-07

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 16th 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 FREE FRESH START LLC, ("RESPONDENT") after receiving information that RESPONDENT 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 RESPONDENT was 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 March 16, 2012, the Division commenced an investigation into RESPONDENT'S business practices after receiving information that RESPONDENT was soliciting Nevada homeowners through a mailer claiming that the homeowner may be eligible to join as a plaintiff in "a national litigation aimed at fraudulent lender actions". During the course of the investigation the Division determined the RESPONDENT is engaged in activity requiring licensure as an independent and associated covered service provider, respectively, under NRS 645F. The investigation specifically revealed the following:

a. RESPONDENT is not currently and has never been licensed by the Commissioner as an independent or associated covered service provider, pursuant to provisions of NRS 645F.

b. RESPONDENT is operating out of business locations at 304 Park Avenue South, 11th Floor, New York, New York and 5482 Wilshire Blvd., Suite 1573, Los Angeles, California.

c. RESPONDENT is advertising to audit loan documents and provide "securitization reports" to homeowners with the claim that the homeowner may be eligible to use the results of the audit and securitization report to join a "national litigation settlement" for the stated purposes of:

" Seeking $75,000 in damages per individual"

"Going after your Fraudulent Mortgage Note"

"Multiple Claims of Fraud and Misrepresentation"

"Complete forgiveness of loan"

d. RESPONDENT is soliciting Nevada homeowners through direct mailings which have the appearance of an official government agency.

e. RESPONDENT'S direct mailing solicitation, though disclaiming that RESPONDENT does not "offer legal advice" and is "not a law firm" contains the following claims:

"Why are you getting this notice?

Our office is investigating the lending practices of [Lender] to determine whether [Lender] engaged in deceptive or fraudulent lending practices. Records indicate that you may have the type of home loan or mortgage our investigative auditors are investigating."

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"We provide affordable legal representation BEFORE borrowers are forced into foreclosure with goals towards:

- **Assisting borrowers to keep homes out of foreclosure.**
- **Seeking compensation for borrowers subjected to improper or deceptive lending practices.**
- **Reducing payments due or interest rates paid to make loans affordable."**

f. RESPONDENT'S solicitations and other communications imply that through RESPONDENT'S efforts the homeowner may able to achieve a "principal reduction to 80% of current value or lower", "a 2% principal and interest or less", and "monetary damages".

g. RESPONDENT operates a website, located at www.freefreshstart.org. On RESPONDENT'S website, RESPONDENT provides information pertaining to its programs and program applications, including that RESPONDENT conducts a customized "Securitization Analysis Report" in exchange for an undisclosed fee.

h. Program applications available on RESPONDENT'S website also represent that if a borrower is unable to produce a mortgage statement; mortgage note, deed of trust, notice of default or notice of trustee sale, RESPONDENT will contact the lender on the borrower's behalf to obtain those documents.

i. RESPONDENT'S "Securitization Analysis and Report" contract (the "contract") provides, in part, that Respondent "shall provide the following services:

(a) Review and analyze information provided by CUSTOMER to determine qualification of subject for Home Affordable Mortgage Program (HAMP) and other government loan modification programs, prepare Loan Disposition Analysis Report containing results of analysis…"

RESPONDENT'S contract further provides as follows:

"Service Fees

(a) The price for each Securitization Analysis is $_____.00 per Report, payable in advance."

RESPONDENT'S contract further discloses that RESPONDENT'S Report is not "intended to constitute the rendering of legal services" and "may not be construed as legal advice", and that RESPONDENT is "not authorized to practice law".

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 provide forensic audits or otherwise conduct an audit or review of a homeowners' loan documents, or provide assistance to homeowners to save their home from foreclosure, RESPONDENTS have advertised, engaged in, or otherwise held themselves out as a covered service provider, 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 RESPONDENT is engaged in unlicensed activity in violation of NRS 645F and NAC 645F, and concluded and determined that RESPONDENT should be ordered to: 1) cease and desist from engaging in any activity requiring licensure under NRS 645F, 2) pay an administrative fine, and 3) pay the Division's investigative costs.

NOW, THEREFORE, IT IS ORDERED that RESPONDENT 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 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 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 assessed the Division's INVESTIGATIVE COSTS in the amount of Three Hundred Thirty Dollars and No Cents ($330.00), 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, RESPONDENT shall produce and submit to the Division a record identifying each Nevada homeowner that RESPONDENT have provided a forensic audit or otherwise conducted an audit or review of a homeowners' loan documents, or otherwise provided assistance to homeowners for the purpose of saving their 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 RESPONDENT an advance fee or entered into the Agreement with RESPONDENT since July 1, 2011 to present; 2) the date(s) that RESPONDENT had contact with the Nevada homeowner and a description of the nature of such contact(s); and 3) the amount of compensation that each Nevada homeowner paid to RESPONDENT 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.

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IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: _____
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 16, 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 FREE FRESH START, LLC., addressed as follows:

Free Fresh Start, LLC
304 Park Avenue South, 11th Floor
New York, NY 10010

Certified Receipt Number: 7009 2250 0001 8859 3179

Free Fresh Start, LLC
5482 Wilshire Boulevard #1573
Los Angeles, CA 90036

Certified Receipt Number: 7009 2250 0001 8859 3162

DATED this 16th day of April, 2012

By: Susan Slack
Employee of the Division

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 10th, 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, FINAL ORDER TO CEASE AND DESIST, IMPOSING AN ADMINISTRATIVE FINE AND ASSESSING INVESTIGATIVE COSTS, AND TO FILE REPORT, for FREE FRESH START, LLC, addressed as follows:

Free Fresh Start, LLC
304 Park Avenue South, 11th Floor
New York, NY 10010

Certified Receipt Number: 7009 2250 0001 8859 3360

Free Fresh Start, LLC
5482 Wilshire Boulevard #1573
Los Angeles, CA 90036

Certified Receipt Number: 7009 2250 0001 8859 3377

DATED this 9th day of May, 2012

By: Susan Slack
Employee of the Division