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: C&S SERVICES, CSR SERVICES, Covered Service Provider License No.: UNL and XOCHITL CERVANTES, Covered Service Provider License No.: UNL Associated Covered Service Provider License No.: UNL Respondents.	Order No. 2012-17

ORDER TO CEASE AND DESIST VIOLATING NRS 645F.010 *et seq.*,
ORDER TO MAKE RESTITUTION,
ORDER IMPOSING AN ADMINISTRATIVE FINE AND ADMINISTRATIVE COSTS,
AND
NOTICE OF OPPORTUNITY FOR HEARING

Issued and Entered,
This 21st day of August, 2012,
By James Westrin,
Commissioner

I.
ORDER TO CEASE AND DESIST VIOLATING NRS 645F.010 *et seq.*,
ORDER TO MAKE RESTITUTION,
and
ORDER IMPOSING AN ADMINISTRATIVE FINE AND ADMINISTRATIVE COSTS

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.005 *et seq.*, 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 a complaint against C&S SERVICES ("C&S"), CSR SERVICES ("CSR") and XOCHITL CERVANTES ("CERVANTES"), (collectively, the "RESPONDENTS") alleging that RESPONDENTS were engaged in activities requiring licensure as a covered service provider pursuant to the provisions of NRS 645F.010 *et seq.*; and,

The Division having commenced an investigation pursuant to NAC 645F.440 and during such investigation 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.005 *et seq.*; and,

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

The Commissioner having reviewed the results of the investigation and made the following FINDINGS OF FACT and CONCLUSION OF LAW:

Findings of Fact

1. NAC 645F.200 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 June 23, 2010, the Division received a complaint from HD ("Complainant HD") against RESPONDENTS and the Division immediately commenced an investigation into RESPONDENTS' business practices. During the course of the investigation the Division determined the RESPONDENTS are actively 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 the provisions of NRS 645F. The investigation specifically revealed the following:

a. RESPONDENTS were operating out of a business location at 1415 S. Arville Street, Suite 100-C, Las Vegas, Nevada 89102, as indicated on the top of their contract agreement.

b. RESPONDENTS entered in into a contract dated April 30, 2010, with Complainant HD to provide loan modification and other covered services pursuant to NRS Chapter 645F.

c. In connection with this contract, RESPONDENTS collected $2,500.00 from Complainant HD from approximately May 3, 2010 to August 8, 2010 for covered services described within the contract.

d. Thereafter, from approximately October 6, 2010 to February 5, 2011, RESPONDENTS collected an additional $4,680.06 from Complainant HD. RESPONDENTS collected these funds in the form of a series of blank money orders that Complainant HD brought to RESPONDENTS with the understanding and belief that RESPONDENTS would send these money orders to Complainant HD's loan servicer, Bank of America, on behalf of Complainant HD in payment or partial payment of Complainant HD's obligation secured by a mortgage in foreclosure. Upon receipt of these blank money orders, RESPONDENTS would take the blank money orders into another room and make a copy of the blank money orders and insert the name "Bank of America LP Services" as the payee and provide these

copies to Complainant HD, who believed that the money orders were being sent to Bank of America on his behalf. However, these money orders were never sent to Bank of America on behalf of Complainant HD as payment or partial payment of their obligation secured by a mortgage in foreclosure. In fact, receipts obtained for the cashed money orders reveal that the money orders were actually made payable to the RESPONDENTS or, in one case, an employee of the RESPONDENTS, and were converted to RESPONDENT's own use.

e. As a result of the unlicensed activity of RESPONDENTS in violation of NRS 645F, Complainant HD suffered direct economic harm in the amount of $7,180.06.

4. NAC 645F.850 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 645.835(2) vests in the Commissioner the authority to order a person who engages in an activity for which licensure is required under NRS 645F to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of the chapter.

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.

Conclusions of Law

7. It is a violation of NAC 645F.200 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.

8. By entering into a contract with HD to provide loan modification or covered services pursuant to NRS 645F and receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage RESPONDENTS violated NAC 645F.200.

Order

The Commissioner having formed the opinion based upon the foregoing that RESPONDENTS 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 violating NRS 645F; 2) pay restitution; 3) pay an administrative fine; and 4) pay the Division's administrative costs.

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 any activities of a covered service provider requiring licensure under NRS 645F in the State of Nevada.

IT IS FURTHER ORDERED that RESPONDENTS, jointly and severally, shall be and hereby are required to make RESTITUTION to Complainant HD for the sum of Seven Thousand One Hundred Eighty Dollars and Six Cents ($7,180.06) no later than 30 days after the effective date of this order. RESPONDENTS shall contact the Division within 21 days of the effective date of this order to make arrangements for the delivery of the required RESTITUTION to Complainant HD.

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. 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, jointly and severally, the Division's ADMINISTRATIVE COSTS in the amount of Three Thousand Thirty Dollars and No Cents ($3,030.00). The ADMINISTRATIVE 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 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.

IT IS FURTHER ORDERED that this Order shall be and is effective and enforceable on the date that it is issued and entered, 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 NRS 645F and NAC 645F and protect the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: _____
JAMES WESTRIN,
COMMISSIONER

II.

NOTICE OF OPPORTUNITY FOR AN ADMINSITRATIVE HEARING

NAC 645F.850 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.855 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.

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, August 22, 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 VIOLATING NRS 645F.010, ORDER TO MAKE RESTITUTION, ORDER IMPOSING AN ADMINISTRATIVE FINE AND ADMINISTRATIVE COSTS, AND NOTICE OF OPPORTUNITY FOR HEARING for, C&S SERVICES, CSR SERVICES and XOCHITL CERVANTES, addressed as follows:

Xochitl Cervantes
C&S Services
2980 S. Rainbow Blvd. # 100
Las Vegas, NV 89146

Certified Receipt Number: 7009 2250 0001 8861 2504

DATED this 21st day of August, 2012

By: Susan Slack
Employee of the Division