STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF MORTGAGE LENDING

In the Matter of: EZ DEBT SOLUTIONS, LLC Covered Service Provider License No. UNL and JOSE AVILA Covered Service Provider License Number UNL, Respondents.	**Order No.: 2012-18** **DECISION AND ORDER**

ISSUE

The issue before the Hearing Officer is whether EZ Debt Solutions, LLC and Jose Avila (hereinafter "Respondents") engaged in activities requiring licensure as a "covered service provider" pursuant to Chapter 645F of the Nevada Revised Statutes ("NRS 645F") and 645F of the Nevada Administrative Code ("NAC 645F") , and, if so, whether the administrative fine of Twenty-Five Thousand Dollars and No Cents ($25,000.00) was properly imposed on the Respondents by James Westrin, the Commissioner of the Division of Mortgage Lending (the "Commissioner") pursuant to his 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, dated August 21, 2012 (hereafter referred to as the "Commissioner's Order").

JURISDICTION

This matter is properly before the Hearing Officer. EZ Debt Solutions, LLC is formed in the State of Nevada with the Nevada Secretary of State and at all times relevant hereto conducted

business from its offices in Las Vegas, Nevada. Jose Avila at all times relevant hereto has resided in the State of Nevada and conducts business in the City of Las Vegas, Nevada. The facts and circumstances giving rise to the instant proceedings are based on alleged violations of Chapter 645F of the Nevada Revised Statutes and Nevada Administrative Code, respectively, occurring within the State of Nevada. The Mortgage Lending Division of the Department of Business and Industry (the "Division"), through the Commissioner, has been statutorily charged with the responsibility and authority to administer and enforce the provisions of Chapter 645F of the Nevada Revised Statutes (see NRS 645F.101 *et.seq.*) and Chapter 645F of the Nevada Administrative Code (see NRS 645F.005, *et. seq.*), subject to administrative supervision by the Director of Business and Industry. Nev. Rev. Stat. §645F.250.

DECISION

Based on the Findings of Fact and Conclusions of Law set forth herein, and based on the substantial evidence provided at the hearing, the Respondents, EZ DEBT SOLUTIONS, LLC and JOSE AVILA, unlawfully engaged in activities as a "covered service provider" when they advertised and held themselves out as such and by representing a member of the public in connection with a loan modification and a foreclosure mediation held pursuant to AB 149 and receiving compensation for such activities without first obtaining the proper licensing from the Mortgage Lending Division of the Department of Business & Industry. As such, the Commissioner properly issued the Commissioner's Order, including without limitation, the imposition of a Cease and Desist Order and the assessment of an administrative fine against Respondents in the amount of Twenty-five Thousand Dollars and no cents ($25,000.00).

FINDINGS OF FACT

The Respondents conduct business at 2030 E. Flamingo Road, Suite 115, Las Vegas, NV 89119. When the Division received a complaint from a member of the public ("Complainant VC") stating that the Respondents (or Respondents' agent) were engaged in activities requiring

licensure as a "covered service provider" pursuant to the provisions of NRS 645F.010 *et.seq.* and NAC 645F.005 *et.seq.* or practices that violate NRS 645F and NAC 645F, to wit: representing Complainant VC in connection with a certain loan modification as well at a foreclosure mediation conducted pursuant to AB 149, and that Respondents had received compensation related to such activities in the amount of Three Thousand Dollars and No Cents ($3,000.00), the Division inquired into such alleged activities. Upon verification that the Respondents' business activities were subject to licensing, the Division commenced formal enforcement action against the Respondents via the issuance of the Commissioner's Order on August 21, 2012[1], which was duly served on Respondents and Respondents' attorney, Michael J. Harker, Esq.[2]

The Respondents were sent a copy of the Commissioner's Order and timely requested an evidentiary hearing, which was held on December 11, 2012 at 9:00 am PST. At the time of the evidentiary hearing, Respondents, through their attorney, David Rahm, Esq., stipulated on the record that the Respondents had provided "covered services" under NRS 645F and NAC 645F and that Respondents had received compensation from Complainant VC in the amount of Three Thousand Dollars and no cents ($3,000.00), but provided testimony attempting to demonstrate to the Hearing Officer that this was an isolated incident caused by an error in opening this file under EZ DEBT SOLUTIONS, LLC rather than under Michael Harker's law office, and that the administrative fine imposed by the Commissioner in the Commissioner's Order in the amount of Twenty-Five Thousand Dollars and no cents ($25,000.00) was excessive and should be reduced.

Prior to the hearing, Respondents' former attorney, Michael J. Harker, Esq., in a letter dated February 23, 2011 addressed to Ms. Susan Slack at the Division[3], admitted that the Respondents had provided "covered services" as defined in NRS 645F.310, and had received compensation therefor, but that the Respondents were unaware of the requirements contained in

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[1] The Findings of Fact set forth in the Commissioner's Order are hereby incorporated herein in their entirety.

[2] Mr. Harker withdrew from his representation of the Respondents by letter dated October 15, 2012. David Rahm, Esq. appeared on behalf of Respondents at the Pre-Hearing Conference on November 7, 2012 and submitted his Appearance of Record the same day. Mr. Rahm also appeared on behalf of the Respondents at the evidentiary hearing.

[3] See Exhibit "D" attached to the Division's Exhibit 1.

NRS 645F, and that, in any event, the Respondents provided Complainant VC with valuable services, to wit:

"...They [Respondents] acknowledge that they assisted this individual in obtaining a loan modification and more importantly, assisting this individual and [sic] prepare for an AB149 Mediation. ...[O]nce they realized that there were new requirements regarding posting a bond with your department, they chose to seize [sic] all business and once again, have done so. However, it is the position of EZ Debt Solutions that they did their work diligently. Julio no longer works with the company and Mr. Avila believes that only $2,000.00 was paid. Notwithstanding, the monies that were paid were well earned."

Respondents' position at the hearing was that Respondent JOSE AVILA ("Avila") was employed as a legal assistant for Michael Harker, Esq., and that once Avila learned that Respondents were required to be licensed pursuant to NRS 645F and NAC 645F in order to provide "covered services", all future clients were handled through Mr. Harker's law firm; however this one isolated file was allegedly inadvertently opened and handled through EZ DEBT SOLUTIONS, LLC (which Respondents claimed was merely a marketing company for loan modification and debt reduction services to the Hispanic community in Las Vegas, Nevada).

Although it is not necessary for the Hearing Officer to make a specific finding of fact on whether Respondents' activities constituted "covered services" under NRS 645F and NAC 645 F, which require licensure, or whether Respondents wrongfully accepted compensation from Complainant VC in the amount of Three Thousand Dollars and no cents ($3,000.00), due to Respondents' stipulation on the record at the time of the hearing and Mr. Harker's letter of February 23, 2011 that the Respondents engaged in "covered services" under NRS 645F and NAC 645F without the requisite licensure and that Respondents received such compensation, the Hearing Officer is compelled to provide his findings as they are relevant to the appropriateness of the administrative fine imposed by the Commissioner in the Commissioner's Order.

Based on the testimony provided at the hearing, along with the various exhibits introduced into evidence, it is my determination that the Respondents' activities with regard to Complainant VC constituted "covered services" under NRS 645F and NAC 645F which required

licensure. Although Respondent Avila attempted to avoid the statutory requirements of NRS 645F and NAC 645F by claiming that he was employed as a legal assistant for Michael Harker, Esq. and was merely acting as a translator for Spanish speaking clients of Mr. Harker, and that this particular client was an isolated incident, I am not persuaded by this argument, and it is my determination based on the facts and exhibits presented at the hearing that Respondents were hiding behind Mr. Harker's law license in order to avoid compliance with the licensure requirements contained in NRS 645F and NAC 645F[4].

By way of example, it was apparent based on the testimony presented at the hearing, that the person who attended the foreclosure mediation with Complainant VC on July 20, 2010 (and who was identified merely as "Julio") was an employee or agent of either EZ DEBT SOLUTIONS, LLC or JOSE AVILA, and was not Mr. Harker's employee or agent. The mediator properly did not allow Julio to participate in the foreclosure mediation. The Rules of the Foreclosure Mediation Program promulgated by the Supreme Court of Nevada, limits persons who can represent borrowers in foreclosure mediations to either attorneys who are licensed in Nevada, loan modification specialists who are licensed under NRS 645F.310 or approved HUD housing counselors who are employed by HUD certified Housing Counseling Agencies.[5]). Respondents' assertion at the hearing that the Respondents had not been engaged to represent Complainant VC at the foreclosure mediation is also not credible and is at odds with the allegations asserted in Mr. Harker's letter of February 23, 2011.

It is not relevant to my decision in this matter that the parties at the foreclosure mediation apparently reached agreement on a deed-in-lieu of foreclosure[6] or that the Respondents allegedly had previously obtained a loan modification for Complainant VC, or that Respondents may not have acted with a fraudulent intent. Violations of 645F and NAC 645F are not dependent on the

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[4] See NRS 645F.380(1). Nothing contained in this Decision and Order is intended to make any factual findings or determinations relative to Michael Harker, Esq., but is merely intended to address Respondent Jose Avila's allegation that he was working under the auspices of Mr. Harker.

[5] See Foreclosure Mediation Rule 10(b), NV Supreme Court ADKT 0435, as amended.

[6] See Mediator's Statement attached as Exhibit "F" to the Division's Exhibit 1.

success or failure of the "covered services" provided by an unlicensed company or individual or on the state of mind of the Respondents. The purpose of NRS 645F and NAC 645F is to require licensure of persons providing "covered services" in order to provide protection to members of the public from hiring unlicensed individuals or companies to provide "covered services" who have not filed the requisite financial bonds with the Division. It is also not relevant to this determination that Complainant VC may have signed a waiver of liability in connection with the alleged payment of partial restitution to Complainant VC as the Complainant VC does not have the legal authority under NRS 645F and NAC 645F to waive liability arising thereunder which is under the jurisdiction of the Division and the Commissioner.

For the reasons set forth above, including, without limitation the Respondents' stipulation to the violation of NRS 645F, it is my determination that the Commissioner properly exercised his authority pursuant to NRS 645F in imposing the cease and desist order, the administrative fine of Twenty-Five Thousand Dollars and no cents ($25,000.00), as well as all other against fines and penalties against the Respondents.

CONCLUSIONS OF LAW

1. It is a violation of NRS 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 the provisions of NRS 645F and NAC 645F.

2. By entering into an agreement with Complainant VC to provide loan modification or "covered services" pursuant to NRS 645F and receiving money for the purpose of providing loan modification or "covered services", Respondents violated NAC 645F.200.

3. In connection with the complaint that the Division investigated, Respondents received payments totaling $3,000.00 As a result of Respondents' unlicensed activity in violation of NAC 645F.200, Complainant VC suffered a direct economic loss in the amount of

Three Thousand Dollars and no cents ($3,000.00). The fact that Respondents may have returned some of the monies to Complainant VC and offered to make full restitution to Complainant VC at the time of the hearing, while admirable, does not vitiate the violation of NAC 645F.200.

4. The Commissioner is authorized pursuant to NAC 645F.850 to order a person engaging in activity in violation of NRS 645F or NAC 645F to immediately cease and desist from engaging in any activity that violates the provisions of NRS 645F.

5. The Commissioner is authorized pursuant to NAC 645.835(2) to order a person who engages in activity in violation of NRS 645 or NAC 645F to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of NAC 645F.

6. The Commissioner is authorized pursuant to NRS 645F.410(1) to impose an administrative penalty of not more than Twenty-Five Thousand Dollars and no cents ($25,000.00) on any person licensed or required to be licensed pursuant to the provisions of NRS 645F who violates any provisions of NRS 645F or any regulation adopted pursuant thereto or any other applicable law.

ORDER

Based on the foregoing finds of fact and conclusions of law, and with good cause appearing therefor, it is hereby ORDERED:

1. 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.

2. The Respondents, jointly and severally, are hereby required to make RESTITUTION to Complainant VC in the amount of Three Thousand Dollars and No Cents ($3,000.00) no later than thirty (30) days following the date of this Order and shall be tendered to

the Division in accordance with the wire transfer instructions attached to the Commissioner's Order. Upon presentation to the Division by Respondents of original receipts signed by Complainant VC evidencing the refund of fees to Complainant VC (whether in whole or in part), in form and substance reasonably satisfactory to the Division, those amounts shall be offset against the amount of RESTITUION to be paid herein,

3. The Respondents, jointly and severally, are hereby required to pay the administrative fine of Twenty-Five Thousand Dollars and no cents ($25,000.00) , no later than thirty (30) days following the date of this Order and shall be tendered to the Division in accordance with the wire transfer instructions attached to the Commissioner's Order.

4. The Respondents, jointly and severally, are hereby required to pay the Division's Administrative Costs in the amount of Seven Hundred Eighty Dollars and no cents ($780.00), no later than thirty (30) days following the date of this Order and shall be tendered to the Division in accordance with the wire transfer instructions attached to the Commissioner's Order.

5. The Respondents, jointly and severally, are hereby required to pay the Divison's attorneys' fees no later than thirty (30) days following the date of this Order and shall be tendered to the Division in accordance with the wire transfer instructions attached to the Commissioner's Order. The amount due hereunder shall be calculated at the rate of One Hundred Thirty Dollars and No Cents ($130.00) per hour, up to a maximum of Two Thousand Six Hundred Dollars and No Cents ($2,600.00), based upon a written invoice to be presented to the Respondents by the Division within ten (10) days of the date of this Order.

SO ORDERED THIS 4th day of January, 2013.

STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY

By: _____

Dean J. Gould, Esq., Hearing Officer
Department of Business and Industry
Division of Mortgage Lending
555 E. Washington Avenue, Suite 4900
Las Vegas, NV 89101
(702) 486-2756

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, and that on January 9, 2013, 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, DECISION AND ORDER, addressed as follows:

Commissioner James Westrin
Department of Business & Industry
Division of Mortgage Lending
7220 Bermuda Road, Suite A
Las Vegas, NV 89119

Certified Receipt Number: 7008 1140 0002 5689 9941

DATED this 9th day of January, 2013

By: _____
Patty L. Walsh, Legal Secretary II

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: EZ DEBT SOLUTIONS, LLC Covered Service Provider License No. UNL, and JOSE AVILA Covered Service Provider License No. UNL, Respondents.	Order No. 2012-18

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 INVESTIGATIVE 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 EZ DEBT SOLUTIONS, LLC ("EZ") and JOSE AVILA ("AVILA") (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.* or practices that violate NRS 645F; and,

The Division staff having thereafter commenced an investigation of RESPONDENT pursuant to NAC 645F.440 and during such investigation determined RESPONDENTS' were engaged in activity requiring licensure as a covered service provider pursuant to provisions of NRS 645F.010 et seq. and NAC 645F.050 *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 made the following FINDINGS OF FACT and CONCLUSIONS OF LAW from such investigation:

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 February 4, 2011, the Division received a complaint from ER aka VC ("Complainant VC") against RESPONDENTS and the Division immediately commenced an investigation into RESPONDENTS' business practices. During the course of the investigation the Division determined the RESPONDENTS have been actively engaged in activity required licensure as an independent and associated covered service providers, 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 in independent or associated covered service provider, pursuant to the provision of NRS 645F. The investigation specifically revealed the following:

a. RESPONDENTS were operating a covered service business out of an office location at 2030 E. Flamingo Road, Suite 115, Las Vegas, Nevada 89119.

b. On or about February 10, 2012, Complainant VC engaged RESPONDENTS to perform covered service activity on his behalf for the purposes of obtaining mortgage relief services. Thereafter, Complainant VC made three payments in the amount of $1,000.00 each to RESPONDENTS. The first payment was made on February 10, 2010, the second payment was made on March 31, 2010, and the final payment was made on July 16, 2010. The total amount of payments made by Complainant VC to RESPONDENTS was $3,000.00.

c. RESPONDENTS through their attorney, Michael Harker, represented that, while RESPONDENTS did not hold the requisite license under NRS 645F to offer or provide covered service activities, they admit that they did in fact engage in activity requiring licensure under NRS 645F and assert that they did provide assistance to Complainant VC to obtain a loan modification and provided representation to Complainant VC in Complainant VC's preparation for an AB149 Mediation.

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 an agreement with Complainant VC to provide loan modification or covered services pursuant to NRS 645F and receiving money for the purpose of providing loan modification or covered services RESPONDENTS violated NAC 645F.200.

9. In connection with the complaint that the Division investigated, RESPONDENTS received payments totaling $3,000.00. As a result of RESPONDENTS' unlicensed activity in violation of NAC 645F.200, Complainant VC suffered a direct economic loss in the amount of $3,000.00.

10. The Commissioner is authorized pursuant to NAC 645F.850 to order a person engaging in activity in violation of NRS 645F or the Regulation to immediately cease and desist from engaging in any activity that violates any provision of NRS 645F.

11. The Commissioner is authorized pursuant to NAC 645.835(2) 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 NRS 645F.

12. 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 pursuant to provisions of NRS 645F who violates any provisions of NRS 645F or any regulation adopted pursuant thereto or any other applicable law.

Order

The Commissioner having formed the opinion based upon the foregoing that RESPONDENTS engaged in activity in violations 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 VC for the sum of Three Thousand Dollars and No Cents ($3,000.00) 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 VC.

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 the Division's ADMINISTRATIVE COSTS in the amount of Seven Hundred Eighty Dollars and No Cents ($780.00). 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
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 by Certified First Class US Mail or other form of mail delivery that provides a proof of delivery and receipt, or by hand-delivery, 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, EZ DEBT SOLUTIONS, LLC and JOSE AVILA, addressed as follows:

Jose Avila
2030 E. Flamingo Road #115
Las Vegas, NV 89119

Certified Receipt Number: 7009 2250 0001 8861 1187

Michael Harker, Esq.
5550 Painted Mirage Road, Ste. 255
Las Vegas, NV 89149

Certified Receipt Number: 7009 2250 0001 8861 1194

DATED this 21st day of August, 2012

By: Susan Slack
Employee of the Division