

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:

HANAMICHI S. MITZOI

A/K/A HANAMICHI SACURAGUI MITZUI-PAZ,

Covered Service Provider License No.: UNL

Associated Covered Service Provider License No.: UNL

Respondent.

Order No. 2014-01

Case No. 2013-08

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

Issued and Entered,
This 13th day of January, 2014,
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,

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

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

5 The Division of Mortgage Lending (the "Division") having received a complaint against
6 HANAMICHI S. MITZOI A/K/A HANAMICHI SACURAGUI MITZUI-PAZ ("RESPONDENT"),
7 alleging that RESPONDENT was engaged in activities requiring licensure as a covered service provider
8 pursuant to the provisions of NRS 645F.010 *et seq.*; and,

9 The Division having commenced an investigation pursuant to NAC 645F.440 and during such
10 investigation determined that RESPONDENT was engaged in activity requiring licensure as a covered
11 service provider pursuant to provisions of NRS 645F.010 *et seq.* and NAC 645F.005 *et seq.*; and,

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

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

15 **Findings of Fact**

16 1. NAC 645F.200 provides as follows:

17 A person shall not advertise services as, provide any of the services of, act
18 as or conduct business as a covered service provider, foreclosure
19 consultant or loan modification consultant or otherwise engage in, carry
20 on or hold himself out as engaging in or carrying on the activities of a
21 covered service provider, foreclosure consultant or loan modification
22 consultant unless the person has a license as a covered service provider,
23 foreclosure consultant or loan modification consultant, as applicable,
24 issued pursuant to this chapter and chapter 645F of NRS.

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

27 1. Financial counseling, including, without limitation, debt counseling
28 and budget counseling.

1 2. Receiving money for the purpose of distributing it to creditors in
2 payment or partial payment of any obligation secured by a mortgage or
3 other lien on a residence in foreclosure.

4 3. Contacting a creditor on behalf of a homeowner.

5 4. Arranging or attempting to arrange for an extension of the period
6 within which a homeowner may cure a default and reinstate an obligation
7 pursuant to a note, mortgage or deed of trust.

8 5. Arranging or attempting to arrange for any delay or postponement of
9 the time of a foreclosure sale of a residence in foreclosure.

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

13 7. Giving any advice, explanation or instruction to a homeowner which
14 in any manner relates to the cure of a default in or the reinstatement of an
15 obligation secured by a mortgage or other lien on a residence, the full
16 satisfaction of the obligation, or the postponement or avoidance of a
17 foreclosure sale.

18 8. Arranging or conducting, or attempting to arrange or conduct, for a
19 homeowner any forensic loan audit or review or other audit or review of
20 loan documents.

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

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

26 11. Providing the services of a loan modification consultant.

27 12. Providing the services of a foreclosure consultant.

28 3. NAC 645F.800 provides as follows:

1 It is unlawful for any person to provide or offer to provide any of the
2 services of a covered service provider, foreclosure consultant or loan
3 modification consultant or otherwise to engage in, carry on or hold himself
4 or herself out as engaging in or carrying on the business of a covered
5 service provider, foreclosure consultant or loan modification consultant
6 without first obtaining the applicable license issued pursuant to this
7 chapter and chapter 645F of NRS, unless the person:

- 8 1. Is exempt from the provisions of this chapter and chapter 645F of
9 NRS; and
- 10 2. Complies with the requirements for that exemption.

11 4. On October 18, 2012, the Division received a complaint from FG (“Complainant FG”)
12 against RESPONDENT and the Division immediately commenced an investigation into
13 RESPONDENT’S business practices. During the course of the investigation the Division determined
14 that the RESPONDENT was actively engaged in activity requiring licensure as an independent and
15 associated covered service provider, respectively, under NRS 645F. A review of the Division’s records
16 reveals that RESPONDENT is not currently and has never been licensed by the Commissioner as an
17 independent or associated covered service provider, pursuant to the provisions of NRS 645F. The
18 investigation specifically revealed the following:

19 a. RESPONDENT was operating out of a business location at 3838 Raymert Drive, Las
20 Vegas, Nevada 89121, using the name of his previous employer, as disclosed by the RESPONDENT in
21 correspondence dated December 6, 2012.

22 b. RESPONDENT was contacted by Complainant FG in December 2011 seeking assistance
23 in obtaining a loan modification and entered into a verbal agreement with Complainant HD to provide
24 loan modification and other covered services pursuant to NRS Chapter 645F.

25 c. In connection with this agreement, RESPONDENT charged \$3,000.00 for the services
26 being provided and collected \$2,525.25 from Complainant FG from approximately December 2011 to
27 April 2012 for covered services.

1 d. RESPONDENT collected cash payments on December 22, 2011 and April 4, 2012, in
2 the amounts of \$300.00 and \$200.00, respectively. An additional \$2,025.50 was collected from
3 Complainant FG. RESPONDENT collected these funds in the form of a series of blank money orders
4 that Complainant FG brought to RESPONDENT with the understanding and belief that
5 RESPONDENTS would send these money orders to Complainant FG's loan servicer, Aurora, on behalf
6 of Complainant FG. Upon receipt of these blank money orders, RESPONDENT inserted the name of
7 Aurora as the payee and provided copies to Complainant FG, who believed that the money orders were
8 being sent to Aurora on his behalf. However, these money orders were never sent to Aurora on behalf
9 of Complainant FG as payment or partial payment of their obligation secured by a mortgage in
10 foreclosure. In fact, receipts obtained for the cashed money orders reveal that the money orders were
11 actually made payable to the RESPONDENT, or in two cases, individuals the RESPONDENT owed
12 money, and were converted for RESPONDENT'S own use.

13 e. As a result of the unlicensed activity of RESPONDENT in violation of NRS 645F,
14 Complainant FG suffered direct economic harm in the amount of \$2,525.50.

15 5. NAC 645F.850 vests in the Commissioner the authority to order a person engaging in
16 activity in violation of NRS 645F or the Regulation to immediately cease and desist from engaging in
17 the activity.

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

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

25 Conclusions of Law

26 8. It is a violation of NAC 645F.200 for a person to advertise, engage in, or otherwise carry
27 on or hold oneself out as engaging in or carrying on the activities of a covered service provider without
28 first obtaining a license under provisions of NRS 645F and NAC 645F.

1 9. By entering into a verbal agreement with Complainant FG to provide loan modification
2 or covered services pursuant to NRS 645F and receiving money for the purpose of distributing it to
3 creditors in payment or partial payment of any obligation secured by a mortgage RESPONDENT
4 violated NAC 645F.800.

5 10. In connection with the complaint filed that the Division investigated, RESPONDENTS
6 received payments totaling \$2,525.50 from Complainant SR. RESPONDENTS' unlicensed activity, in
7 violation of NAC 645F.800 resulted in a direct economic loss to Complainant FG in the amount of
8 \$2,525.50.

9 **Order**

10 The Commissioner having formed the opinion based upon the foregoing that RESPONDENT
11 engaged in unlicensed activity in violation of NRS 645F and NAC 645F, and concluded and determined
12 that RESPONDENT should be ordered to: 1) cease and desist violating NRS 645F; 2) pay restitution; 3)
13 pay an administrative fine; and 4) pay the Division's administrative costs.

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

18 IT IS FURTHER ORDERED that RESPONDENT, shall be and hereby is required to make
19 RESTITUTION to Complainant FG for the sum of \$2,525.50 no later than 30 days after the effective
20 date of this order. RESPONDENT shall contact the Division within 21 days of the effective date of this
21 order to make arrangements for the delivery of the required RESTITUTION to Complainant FG.

22 IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the amount of \$25,000.00
23 shall be and hereby is imposed, on RESPONDENT. The ADMINISTRATIVE FINE shall be due and
24 payable on the 30th day following the effective date of this order and shall be tendered to the Division in
25 accordance with the attached wire transfer instructions.

26 IT IS FURTHER ORDERED that RESPONDENT shall be and hereby is assessed, the
27 Division's ADMINISTRATIVE COSTS in the amount of \$1,260.00. The ADMINISTRATIVE
28

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

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

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

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

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

16
17 IT IS SO ORDERED.

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19
20 DIVISION OF MORTGAGE LENDING

21
22 By 
23 JAMES WESTRIN,
24 COMMISSIONER
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1 II.

2 NOTICE OF OPPORTUNITY FOR AN ADMINISTRATIVE HEARING

3 NAC 645F.850 provides as follows:

4 1. If a person engages in an activity in violation of the provisions of
5 this chapter or chapter 645F of NRS or an order of the Commissioner, the
6 Commissioner may issue an order to the person directing the person to
7 cease and desist from engaging in the activity.

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

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

13 (b) In a manner that violates the provisions of this chapter or chapter
14 645F of NRS or an order of the Commissioner.

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

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

27 (a) Hold a hearing:

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

- 1 (2) On a date agreed to by the Commissioner and the person; or
2 (b) Render a written decision within 45 days after the hearing is
3 concluded.

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

6 NAC 645F.855 provides as follows:

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

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

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

21 **If you wish to exercise your right to an opportunity for an administrative hearing, within**
22 **20 calendar days after receiving this Order, you must file a verified petition with the**
23 **Commissioner to request a hearing.**

24 The verified petition requesting a hearing must be delivered to:

25 Division of Mortgage Lending
26 Attn. Susan Slack
27 7220 Bermuda Road, Suite A
28 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.**