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: RED LAS VEGAS, INC. a/k/a REAL ESTATE DEVELOPMENT, LLC, a/k/a RED LV, Mortgage Broker License No. UNL, Covered Service Provider License No. UNL, and ORLANDO VERA, President & Owner, Mortgage Broker/Agent License No. UNL, Covered Service Provider License No. UNL, Respondents.	Order No. 2014-114 Case No. 2014-114

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

Issued and Entered,
This 26th day of June, 2014,
By James Westrin,
Commissioner

I.

ORDER TO CEASE AND DESIST VIOLATING NRS 645B.010 *et seq.* and 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 Chapters 645B and 645F of the Nevada Revised Statutes, NRS 645B.010 *et seq.* ("NRS 645B") and NRS 645F.010 *et seq.* ("NRS 645F") (collectively, "the Statutes"),

as well as Chapters 645B and 645F of the Nevada Administrative Code, NAC 645B.001 et seq. ("NAC 645B"), and NAC 645F.005 *et seq.* ("NAC 645F") (collectively, "the Regulations"), governing the licensing and conduct of mortgage brokers and mortgage agents, and the licensing and conduct of covered service providers doing business in the State of Nevada; and,

The Commissioner having been vested with general supervisory power and control over all mortgage brokers and mortgage agents pursuant to NRS 645B, and general supervisory and control over all covered service providers 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 provisions of the Statutes or the Regulations; and,

The Division of Mortgage Lending (the "Division") having received several complaints forwarded from the Nevada Real Estate Division indicating that RED LAS VEGAS, INC. a/k/a REAL ESTATE DEVELOPMENT, LLC a/k/a RED LV ("RED LV"), and its President and Owner, ORLANDO VERA ("VERA") (collectively, the "RESPONDENTS"), were engaged in activities or conduct requiring licensure as a mortgage broker and as a covered service provider, respectively, under the Statutes and Regulations; and,

The Division having commenced an investigation pursuant to NRS 645B.060(2)(c) and NAC 645F.440, and determined from such investigation that RESPONDENTS were engaged in activities requiring licensure as a mortgage broker and covered service provider, respectively, under the Statutes and Regulations; 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:

Findings of Fact

1. NRS 645B.900 prohibits any person from offering or providing any of the services of a mortgage broker or mortgage agent or otherwise engaging in, carrying on or holding himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent without first obtaining the applicable license pursuant to this chapter, unless the person is properly exempt from licensure.

2. NRS 645B.0127.1(a)-(c), in pertinent part, defines "Mortgage Broker" to include "any person who, directly or indirectly" does any of the following:

> (a) Holds himself or herself out for hire as an agent for any person in an attempt to obtain a loan which will be secured by a lien on real property;
>
> (b) Holds himself out or herself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property;
>
> (c) Holds himself or herself out as being able to make loans secured by liens on real property[.]

3. NAC 645F.200 and NAC 645F.800 prohibit any person from advertising services as, providing any of the services of, or acting as or conducting business as a covered service provider, foreclosure consultant or loan modification consultant, or otherwise engaging in, carrying on or holding himself or herself 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, or is properly exempt from licensure under, NRS 645F.

4. 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.

5. NRS 645F.320 defines a "Foreclosure consultant" as follows:

"Foreclosure consultant" means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to perform for compensation, or who, for compensation, performs any covered service that the person represents will do any of the following:

1. Prevent or postpone a foreclosure sale;

2. Obtain any forbearance from any mortgagee or beneficiary of a deed of trust;

3. Assist the homeowner to exercise the right of reinstatement provided in the legal documents;

4. Obtain any extension of the period within which the homeowner may reinstate the homeowner's obligation;

5. Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or included in the mortgage or deed of trust;

6. Assist the homeowner in foreclosure or loan default to obtain a loan or advance of money;

7. Avoid or ameliorate the impairment of the homeowner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale;

8. Save the homeowner's residence from foreclosure; or

9. Assist the homeowner to obtain a foreclosure reconveyance.

6. NRS 645F.365 defines a "Loan modification consultant" as follows:

"Loan modification consultant" means a person who, directly or indirectly, makes any solicitation, representation or offer to a homeowner to perform for compensation, or who, for compensation, performs any act that the person represents will adjust the terms of a mortgage loan in a manner not provided for in the original or previously modified mortgage loan. Such an adjustment includes, without limitation:

1. A change in the payment amount;

2. A change in the loan amount;

3. A loan forbearance;

4. A change in the loan maturity; and

5. A change in the interest rate.

7. Upon receipt of the complaints, the Division commenced an investigation into RESPONDENTS' business practices pursuant to NRS 645B.060(2)(c) and 645F.440.

8. During the course of the investigation, the Division determined that RESPONDENTS are actively engaged in activities requiring licensure as a mortgage broker under NRS 645B and licensure as an independent or associated covered service provider under NRS 645F.

9. RESPONDENTS are not currently and have at no time relevant to this matter been licensed by the Commissioner as a mortgage broker under NRS 645B or as a covered service provider under NRS 645F.

10. The investigation specifically revealed the following:

a. Websites

Respondents advertise and offer their services through the internet on at least two websites located at letredhelp.com and principalreductionus.com. The websites identify a Nevada office located in Las Vegas and provide a Las Vegas telephone number. From these websites, Respondents solicit homeowners to contact them for "foreclosure defense", "principal reduction", "loan modification", and "short sale" assistance, claiming that Respondents' "trained staff have a great deal of experience with the loan modification process" and that they "utilize a team who will let you know your options and try to rescue you from financial ruin." Respondents also offer to provide "hard money loans" to refinance homeowners into new loans or to find financing for a borrower to purchase a home.

b. Complainants JP and VP

On or about October 31, 2013, the Division received a forwarded complaint from Complainants JP and VP. The complaint alleges that on October 20, 2012, the Complainants were contacted by RED LV offering a "fix" for the short-sale of their home. On October 20, 2012, Complainants JP and VP met with Respondents' unlicensed agent, Gabriel Ramallo, and entered into a written "Home [k]eeper's Principal Reduction Program" agreement. Pursuant to the agreement, Respondents' agreed to perform certain "Principal Reduction" services consisting of the preparation of a Principal Reduction Plan; the gathering, analysis and packaging of information and documentation in support of the plan; the presentation of the plan to the loss mitigation or appropriate lender personnel; corresponding directly

with the lender on behalf of client; and the use of good faith efforts to achieve lender approval of the plan. In exchange for the above services and purported "consulting activities", Complainants JP and VP (1) agreed to not communicate directly with their lender and route all communication through Respondent and (2) paid to Respondents a total of $3,200.00 in fees. The fees were tendered to Respondents in four installments in the form of checks drawn on Complainants' account as follows:

i. Check no. 127, in the amount of $1,000.00, dated October 26, 2012, payable to R.E.D. L.V.

ii. Check no. 128, in the amount of $1,000.00, dated November 26, 2012, payable to R.E.D. L.V.

iii. Check no. 129, in the amount of $600.00, dated December 26, 2012, payable to R.E.D. L.V.

iv. Check no. 131, in the amount of $600.00, dated January 26, 2013, payable to R.E.D. L.V.

In addition to the above fees, Respondents collected an additional $5,000.00 from Complainants JP and VP in the form of money orders payable to "RED" dated April 26, 2013 ($1,000.00); June 3, 2013 ($2,000.00); and June 20, 2013 ($2,000.00) as an alleged "down payment".

11. NAC 645B.515 vests in the Commissioner the authority to order a person engaging in activity in violation of NRS 645B or NAC 645B to immediately cease and desist from engaging in the activity.

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

13. NRS 645B.955 and NAC 645F.835(2) vests in the Commissioner the authority to order a person who engages in an activity for which licensure is required under NRS 645B and NRS 645F, respectively, to pay restitution to any person who has suffered an economic loss as a result of the provisions of these respective chapters.

14. NRS 645B.690 requires the Commissioner to impose an administrative fine of not more than $50,000.00 on a person that offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on

the business of a mortgage broker or mortgage agent and, at the time the person was required to have a license pursuant to this chapter and the person did not have such a license.

15. 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.

16. NRS 622.400 authorizes the Division to recover from a person reasonable attorney's fees and costs incurred as part of its investigative, administrative, and disciplinary proceedings against the person.

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

Conclusions of Law

18. It is a violation of NRS 645B.900 for a person to offer or provide any of the services of a mortgage broker or otherwise to engage in, or carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage broker without first obtaining the applicable license issued pursuant to this chapter.

19. It is a violation of NAC 645F.200 and NAC 645F.800 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, or being properly exempt, under the provisions of NRS 645F and NAC 645F.

20. RESPONDENTS are engaged in activities or conduct which require licensure under the Statutes and Regulations and, not holding the required licenses, RESPONDENTS are in violation of NRS 645B.900 and NRS/NAC 645F. In particular:

a. By offering on its website to provide hard-money loans to assist consumers in pursuit of the purchase or refinancing of a home, RESPONDENTS are holding themselves out for hire to serve as an agent for any person in attempt to obtain a mortgage loan to be secured by a lien on real property and/or to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property, activities or conduct within the meaning of NRS 645B.0127(1) which requires licensure as a mortgage broker; and

b. By providing or offering to provide covered services for compensation, as defined by NRS 645F.310, to Complainants JP and VP, RESPONDENTS have advertised, engaged in, or otherwise held themselves out as covered service provider(s) in violation of NAC 645F.200 and NAC 645F.800. RESPONDENTS are not exempt from the provisions of NAC 645F or NRS 645F.

21. In connection with the two complaints that the Division investigated, RESPONDENTS received payments totaling $8,200.00. RESPONDENTS' unlicensed activity, in violation of NAC 645F.200 and NAC 645F.800 resulted in a direct economic loss to Complainants JP and VP in the amount of $8,200.00.

22. 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 engaged in unlicensed activity in violation of NRS 645B, NRS 645F and NAC 645F;

THEREFORE, IT IS HEREBY ORDERED that RED LAS VEGAS, INC., a/k/a REAL ESTATE DEVELOPMENT, LLC a/k/a RED LV and ORLANDO VERA shall:

a. 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 mortgage broker under NRS 645B.

b. 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 requiring licensure under NRS 645F and NAC 645F.

c. Make RESTITUTION to Complainants JP and VP in the sum of $8,200.00 no later than 30 days after the effective date of this order. The RESTITUTION shall be and hereby is required, jointly and severally, by RED LAS VEGAS, INC. a/k/a REAL ESTATE DEVELOPMENT, LLC and ORLANDO VERA in accordance with NAC 645F.835(2). 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 Complainants JP and VP.

d. Pay an ADMINISTRATIVE FINE in the amount of $25,000.00. The ADMINISTRATIVE FINE shall be and hereby is imposed, jointly and severally, on RED LAS

VEGAS, INC. a/k/a REAL ESTATE DEVELOPMENT, LLC a/k/a RED LV and ORLANDO VERA in accordance with NRS 645B.690 and NRS 645F.410(1). 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.

e. Pay the Division's INVESTIGATIVE COSTS in the amount of $1,416.00, in accordance with NAC 645F.410(1) and NRS 622.400. The 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 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 30 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 645B, NAC 645B, NRS 645F and NAC 645F and to protect the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: _____
JAMES WESTRIN
COMMISSIONER

II.

NOTICE OF OPPORTUNITY FOR AN ADMINISTRATIVE HEARING

NAC 645B.515[1] provides as follows:

1. If a person engages in an activity in violation of the provisions of this chapter or chapter 645B 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 or certificate of exemption as required by chapter 645B of NRS; or

(b) In a manner that violates the provisions of this chapter or chapter 645B of NRS.

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

4. Not later than **30 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

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[1] Please note that except for the period of time in which request for hearing must be made, NAC 645F.850, which is likewise relevant to this matter, provides for the same authority of the Commissioner to grant a cease and desist order. However, while NAC 645F.850(4) requires that the hearing of an order directing the person to cease and desist from engaging in activity in violation of Chapters 645F of the NRS or NAC must be filed within *20 calendar days* after receipt thereof, NAC 645B.515(4) requires that request for hearing of an order directing the person to cease and desist from engaging in activity in violation of the provisions of Chapters 645B of the NRS or NAC, must be filed no later than *30 calendar days* after receipt. Accordingly, as violations of both chapters 645B *and* 645F of the NRS and NAC are subject of the instant Cease and Desist Order, and in attempt to reduce confusion in this matter, the Commissioner thereby enlarges the time under which challenge to said Order pursuant to NAC 645F.850 must be made, to 30 calendar days. Consequently, appeal of the Cease and Desist Order as limited to this matter must be filed no later than 30 calendar days after receipt thereof.

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.]

NRS 645B.750 provides as follows:

1. If the Commissioner enters an order taking any disciplinary action against a person or denying a person's application for a license, the Commissioner shall 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.

If you wish to exercise your right to an opportunity for an administrative hearing, <u>WITHIN 30 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, June 26th, 2014, 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, AND NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING in the matter of RED LAS VEGAS, INC. A/K/A REAL ESTATE DEVELOPMENT, LLC, A/K/A RED LV AND ORLANDO VERA, addressed as follows:

Orlando Vera
1102 Macy Street
La Habra, CA 90631

Certified Receipt Number: 7009 2250 0001 8859 3391

Orlando Vera
10142 Rosin Avenue
Whittier, CA 90603

Certified Receipt Number: 7009 2250 0001 8859 3407

Orlando Vera
2nd Office Real Estate Development, LLC
1840 Whittier Blvd.
La Habra, CA 90638

Certified Receipt Number: 7009 2250 0001 8859 3414

DATED this 26th day of June, 2014

By: Susan Slack
Employee of the Division