

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:

21st CENTURY MEDIATION, LLC,
Covered Service Provider License No.: UNL,

and

CHRISTOPHER WAGES,
Associated Covered Service Provider License No.: UNL,

and

MILES GODBEY,
Associated Covered Service Provider License No.: UNL,

Respondents.

Order No. 2014-107
Case No. 2014-107

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

Issued and Entered,
This 1st day of August, 2014,
By James Westrin,
Commissioner

I.
ORDER TO CEASE AND DESIST
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*

1 *seq.*, and Chapter 645F of the Nevada Administrative Code, NAC 645F.005 *et seq.*, governing the
2 licensing and conduct of covered service providers in the State of Nevada; and,

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

5 The Commissioner having been further vested with broad authority to conduct investigations to
6 determine whether any person has violated any provision of NRS 645F or NAC 645F; and,

7 The Division of Mortgage Lending (the "Division") having received a complaint against 21st
8 CENTURY MEDIATION, LLC ("21st CENTURY"), alleging that 21st CENTURY was engaged in
9 activities requiring licensure as a covered service provider pursuant to the provisions of NRS 645F.010
10 *et seq.*; and,

11 The Division having commenced an investigation pursuant to NAC 645F.440 and during such
12 investigation determined that 21st CENTURY was engaged in activity requiring licensure as a covered
13 service provider pursuant to provisions of NRS 645F.010 *et seq.* and NAC 645F.005 *et seq.*; and,

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

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

17 **Findings of Fact**

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

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

27 [Emphasis added].

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

3 1. Financial counseling, including, without limitation, debt counseling
4 and budget counseling.

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

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

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

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

14 6. Advising a homeowner regarding the filing of any document or
15 assisting in any manner in the preparation of any document for filing with
16 a bankruptcy court.

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

22 8. Arranging or conducting, or attempting to arrange or conduct, for a
23 homeowner any forensic loan audit or review or other audit or review of
24 loan documents.

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

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

4 11. *Providing the services of a loan modification consultant.*

5 12. *Providing the services of a foreclosure consultant.*

6 [Emphasis added].

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

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

- 12 1. Prevent or postpone a foreclosure sale;
- 13 2. Obtain any forbearance from any mortgagee or beneficiary of a deed
14 of trust;
- 15 3. Assist the homeowner to exercise the right of reinstatement provided
16 in the legal documents;
- 17 4. Obtain any extension of the period within which the homeowner may
18 reinstate the homeowner's obligation;
- 19 5. Obtain any waiver of an acceleration clause contained in any
20 promissory note or contract secured by a mortgage on a residence in
21 foreclosure or included in the mortgage or deed of trust;
- 22 6. Assist the homeowner in foreclosure or loan default to obtain a loan
23 or advance of money;
- 24 7. Avoid or ameliorate the impairment of the homeowner's credit
25 resulting from the recording of a notice of default or the conduct of a
26 foreclosure sale;
- 27 8. Save the homeowner's residence from foreclosure; or
- 28 9. Assist the homeowner to obtain a foreclosure reconveyance.

1 4. NRS 645F.365 defines a “Loan modification consultant” as follows:

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

- 8 1. A change in the payment amount;
- 9 2. A change in the loan amount;
- 10 3. A loan forbearance;
- 11 4. A change in the loan maturity; and
- 12 5. A change in the interest rate.

13 5. NAC 645F.800 provides as follows:

14 It is unlawful for any person to provide or offer to provide any of the
15 services of a covered service provider, foreclosure consultant or loan
16 modification consultant or otherwise to engage in, carry on or hold himself
17 or herself out as engaging in or carrying on the business of a covered
18 service provider, foreclosure consultant or loan modification consultant
19 without first obtaining the applicable license issued pursuant to this
20 chapter and chapter 645F of NRS, unless the person:

- 21 1. Is exempt from the provisions of this chapter and chapter 645F of
22 NRS; and
- 23 2. Complies with the requirements for that exemption.

24 6. On or about June 28, 2013, the Division received a complaint against 21st CENTURY, and the
25 Division immediately commenced an investigation. During the course of the investigation the Division
26 determined that 21st CENTURY was actively engaged in activity requiring licensure as an independent
27 and associated covered service provider, respectively, under NRS 645F. The investigation specifically
28 revealed the following:

1 a. 21st CENTURY is an inactive, limited liability company organized under the laws of
2 Texas, with its business location identified by the Texas Secretary of State as 3010 LBJ Freeway, Suite
3 1200, Dallas, Texas 75234.

4 b. 21st CENTURY's managing members are identified as CHRISTOPHER LEE WAGES
5 ("WAGES") and MILES GODBEY ("GODBEY") (collectively, with 21st CENTURY, the
6 "RESPONDENTS")

7 c. A review of the Division's records reveals that 21st CENTURY, WAGES, and
8 GODBEY are not currently and have never been licensed by the Commissioner as an independent or
9 associated covered service provider, pursuant to the provisions of NRS 645F.

10 d. On or about June 2013, RESPONDENTS mailed to Complainant LG, at his home in
11 Nevada, a solicitation entitled "Important Notice of Pending Foreclosure, Auction and Eviction," in
12 which RESPONDENTS explicitly identified Complainant's existing loan and falsely informed
13 Complainant LG that his home was currently in foreclosure and scheduled for public auction on
14 September 19, 2013. The solicitation was contained in a large envelope stating "IMPORTANT
15 DOCUMENTS ENCLOSED," "EMERGENCY GOVERNMENT ASSISTANCE AVAILABLE."

16 e. RESPONDENTS advised Complainant LG that "[t]o apply for assistance and stop the
17 sale of your home, contact us no later than 48 hours of receiving this letter." Included in the unsolicited
18 mailing were forms for Complainant LG to complete (including Complainant's social security number,
19 income, expenses, and financial assets) and fax to RESPONDENTS in order to obtain mortgage
20 assistance or be considered for "foreclosure prevention options".

21 f. Attempts to contact RESPONDENTS at the registered agent address on file with the
22 Texas Secretary of State were unsuccessful.

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

25 8. NRS 645F.410(1) grants the Commissioner the authority to impose an administrative penalty of
26 not more than \$25,000 on any person licensed or required to be licensed pursuant to provisions of NRS
27 645F who violates any provisions of this chapter or any regulation adopted pursuant thereto or any other
28 applicable law.

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

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

5 **Conclusions of Law**

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

9 12. By advertising and offering to provide covered services, as defined in NRS 645F.310, without
10 being properly licensed as required by NRS 645F.200, RESPONDENTS have engaged in, or otherwise
11 held themselves out as covered service providers in violation of NAC 645F.800.

12 **Order**

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

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

21 IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the amount of \$5,000.00
22 shall be and hereby is imposed, jointly and severally, on RESPONDENTS. The ADMINISTRATIVE
23 FINE shall be due and payable on the 30th day following the effective date of this order and shall be
24 tendered to the Division in accordance with the attached wire transfer instructions.

25 IT IS FURTHER ORDERED that RESPONDENTS shall be and hereby are assessed, jointly and
26 severally, the Division's ADMINISTRATIVE COSTS in the amount of \$618.00. The
27 ADMINISTRATIVE COSTS shall be due and payable on the 30th day following the effective date of
28

1 this order and shall be tendered to the Division in accordance with the attached wire transfer
2 instructions.

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

17
18 DIVISION OF MORTGAGE LENDING

19
20
21 By: 

JAMES WESTRIN,
COMMISSIONER

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.**