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,
This1st 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*

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 NAC 645F; and,

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

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

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

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

Findings of Fact

1. NAC 645F.200 provides as follows:

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

[Emphasis added].

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.*

[Emphasis added].

3. 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.

4. 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:
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> 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.

5. NAC 645F.800 provides as follows:

> It is unlawful for any person to provide or offer to provide any of the services of a covered service provider, foreclosure consultant or loan modification consultant or otherwise to engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a covered service provider, foreclosure consultant or loan modification consultant without first obtaining the applicable license issued pursuant to this chapter and chapter 645F of NRS, unless the person:
>
> 1. Is exempt from the provisions of this chapter and chapter 645F of NRS; and
> 2. Complies with the requirements for that exemption.

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

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

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

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

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

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

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

7. 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.

8. 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.

9. 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.

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

Conclusions of Law

11. 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.

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

Order

The Commissioner having formed the opinion based upon the foregoing that RESPONDENTS engaged in unlicensed activity in violation of NRS 645F and NAC 645F, and concluded and determined that RESPONDENTS should be ordered to: 1) cease and desist violating NRS 645F; 2) pay an administrative fine; and 3) 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 an ADMINISTRATIVE FINE in the amount of $5,000.00 shall be and hereby is imposed, jointly and severally, on RESPONDENTS. The ADMINISTRATIVE FINE shall be due and payable on the 30th day following the effective date of this order and shall be tendered to the Division in accordance with the attached wire transfer instructions.

IT IS FURTHER ORDERED that RESPONDENTS shall be and hereby are assessed, jointly and severally, the Division's ADMINISTRATIVE COSTS in the amount of $618.00. 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 requests an administrative hearing in accordance with the instructions set forth in Section II of this ORDER entitled Notice of Opportunity for an Administrative Hearing. If no administrative hearing is requested within 20 calendar days of the effective date of this ORDER, RESPONDENTS shall be deemed to have waived and relinquished the right to an administrative hearing in this matter and a FINAL ORDER shall be issued.

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

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

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

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: _____
JAMES WESTRIN,
COMMISSIONER

II.

NOTICE OF OPPORTUNITY FOR AN ADMINSITRATIVE HEARING

NAC 645F.850 provides as follows:

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

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

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

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

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

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

(a) Hold a hearing:

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

(2) On a date agreed to by the Commissioner and the person; or

(b) Render a written decision within 45 days after the hearing is concluded.

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

NAC 645F.855 provides as follows:

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

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

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

If you wish to exercise your right to an opportunity for an administrative hearing, <u>within 20 calendar days after receiving this Order</u>, you must file a verified petition with the Commissioner to request a hearing.

The verified petition requesting a hearing must be delivered to:

Division of Mortgage Lending
Attn. Susan Slack
7220 Bermuda Road, Suite A
Las Vegas, Nevada 89119

If you fail to timely file a verified petition to request a hearing, your right to a hearing to contest this matter will be deemed waived and relinquished.

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on, August 4TH, 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 IMPOSING AN ADMINISTRATIVE FINE AND INVESTIGATIVE COSTS, AND NOTICE OF OPPORTUNITY FOR HEARING in the matter of 21st CENTURY MEDIATION, LLC AND CHRISTOPHER WAGES AND MILES GODBEY, addressed as follows:

Christopher Wages & Miles Godbey
21st Century Mediation LLC
14001 North Dallas Parkway, Suite 1200
Dallas TX 75240

Certified Receipt Number: 7009 2250 0001 8859 4626

Christopher Wages & Miles Godbey
21st Century Mediation LLC
3010 Lyndon B Johnson Freeway Suite 1200
Dallas TX 75234

Certified Receipt Number: 7009 2250 0001 8859 4619

Christopher Wages & Miles Godbey
21st Century Mediation LLC
3131 McKinney Avenue, Suite 600
Dallas TX 75204

Certified Receipt Number: 7009 2250 0001 8859 4602

Christopher Wages & Miles Godbey
21st Century Mediation LLC
4001 McEwen Road, Suite 112
Dallas TX 75244

Certified Receipt Number: 7009 2250 0001 8859 4596

DATED this 1st day of August, 2014

By: Susan Slack
Employee of the Division