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: KIRK EDWARD BRITT Mortgage Agent License No. UNL, NMLS ID No. 350743, Respondent.	Order No.: 2014-141 Case No.: 2014-141

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

Issued and Entered,
This 18th day of December, 2014,
By James Westrin,
Commissioner

I.
ORDER TO CEASE AND DESIST VIOLATING NRS 645B.010 *et seq.*,
ORDER TO MAKE RESTITUTION,
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 645B of the Nevada Revised Statutes, 645B.010 *et seq.* ("NRS 645B" or "the Act"), and Chapter 645B of the Nevada Administrative Code, NAC 645B.001 *et seq.* ("NAC 645B" or "the Regulation"), governing the licensing and conduct of mortgage brokers and mortgage agents in the State of Nevada; and,

The Commissioner having been vested with general supervisory power and control over all mortgage brokers doing business in the State of Nevada pursuant to NRS 645B; and,

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

The Division of Mortgage Lending (the "Division") having received information indicating that KIRK EDWARD BRITT (hereafter, "RESPONDENT"), was engaged in activities requiring licensure as a mortgage agent under the Act; and,

The Division Staff having commenced an investigation of RESPONDENT'S business practices pursuant to NRS 645B.060(2)(c), and determined, from that investigation, that RESPONDENT was engaged in activity requiring licensure as a mortgage agent under the Act; 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. NRS 645B.400 prohibits a person from acting as or providing any of the services of a mortgage agent or otherwise engaging in, carrying on or holding himself or herself out as engaging in carrying on the activities of a mortgage agent unless the person has a license as a mortgage agent issued pursuant to NRS 645B.410.

2. NRS 645B.900 prohibits a person from offering or providing any of the services or 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 issued pursuant to this chapter, unless the person is properly exempt from licensure.

3. NRS 645B.0125 defines a "mortgage agent" as follows:

> 1. "Mortgage agent" means:
>
> (a) A natural person who:
>
> (1) Is an employee of a mortgage broker or mortgage banker who is required to be licensed pursuant to this chapter or chapter 645E of NRS; and

(2) Is authorized by the mortgage broker or mortgage banker to engage in, on behalf of the mortgage broker or mortgage banker, any activity that would require the person, if the person were not an employee of the mortgage broker or mortgage banker, to be licensed as a mortgage broker or mortgage banker pursuant to this chapter or chapter 645E of NRS;

(b) A mortgage broker, qualified employee or mortgage banker who is required by NRS 645B.405 or 645E.290 to be licensed as a mortgage agent; or

(c) A loan processor who is an independent contractor and who is associated with a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016.

2. The term includes, but is not limited to, a residential mortgage loan originator.

3. The term does not include a person who:

(a) Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage broker or mortgage banker;

(b) Is an owner, general partner, officer or director of a mortgage broker or mortgage banker who does not engage in any activity that would otherwise require a license as a mortgage broker or mortgage banker;

(c) Except as otherwise provided in paragraph (c) of subsection 1, performs only clerical or ministerial tasks for a mortgage broker or mortgage banker; or

(d) Collects payments and performs related services, including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E or 645F of NRS.

4. NRS 645B.01325, in applicable part, defines a "residential mortgage loan originator" as follows:

> "Residential mortgage loan originator" means a natural person who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain.

5. RESPONDENT is not currently and has at no time relevant to this matter been licensed by the Commissioner to act as or provide any of the service of a mortgage agent under the Act.

6. The Division's investigation specifically revealed the following:

a. On or about October 11, 2005, RESPONDENT made application for and was granted a Nevada mortgage agent license by the Commissioner (MLD License No. 33527). RESPONDENT was issued NMLS ID No. 350743.

b. On or about February 13, 2012, RESPONDENT made application for the renewal of his Nevada mortgage agent license.

c. On or about April 8, 2013, based upon information obtained in the course of performing his supervisory responsibilities, the Commissioner issued and served upon RESPONDENT, a Notice of Intent to Issue Final Order Revoking, and Denying Renewal of Mortgage Agent License and Notice of Opportunity for Hearing (Order No. 2013-01).

d. On or about June 26, 2013, the Commissioner issued and entered against RESPONDENT, a Final Order Denying Mortgage Agent License (Order No. 2013-03).

e. Beginning on or about July 15, 2013, and continuing through at least October 10, 2013, RESPONDENT orchestrated or participated in a scheme, plan, device or artifice to allow, further, facilitate, or otherwise provide the mechanism by which RESPONDENT could and did engage in activity requiring licensure as a mortgage agent under the Act. In furtherance of the scheme, plan, device or artifice, and to conceal the unlicensed activity, RESPONDENT utilized the name, signature, and unique identifier of a Nevada-licensed mortgage agent with whom he partnered in relation to the scheme, plan, device or artifice, to appear as the loan originator on at least three loan files that were, in truth and fact, originated by the unlicensed RESPONDENT. Namely, RESPONDENT

took the loan application from each borrower and offered and negotiated loan terms with each borrower.

f. With respect to each of the above-described loan origination activities, RESPONDENT further utilized or colluded with the aforementioned licensed mortgage agent with whom he partnered with in relation to the scheme, plan, device, or artifice, to serve as the conduit by which RESPONDENT secured receipt of compensation or other pecuniary gain based upon RESPONDENT'S unlicensed activities.

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

8. NRS 645B.690 grants the Commissioner the authority to impose an administrative penalty of not more than $50,000 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 NRS 645B and the person did not have such a license.

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

Conclusions of Law

10. It is a violation of NRS 645B.400 and NRS 645B.900, for a person to offer or provide any of the services of a mortgage agent or otherwise to engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage without first obtaining the applicable license issued pursuant to this NRS 645B.

11. RESPONDENT engaged in activities or conduct which require licensure under the Act, and by not holding the required license, RESPONDENT has committed violations of NRS 645B.400 and NRS 645B.900. In particular, by orchestrating or participating in a scheme, plan, device or artifice by which he engaged in unlicensed conduct in connection with at least three loan files subject of that scheme, plan, device, or artifice, RESPONDENT was enabled to and did offer, negotiate, provide and achieve residential loans secured by real property in Nevada.

12. By engaging in the above-described conduct, RESPONDENT engaged in unlicensed mortgage agent activity prohibited by the Act and in violation of the Commissioner's Order dated July 26, 2013.

13. The Commissioner is authorized pursuant to NAC 645B.515 to order a person to cease and desist from engaging in any activity that violates any provision of the Act.

14. The Commissioner is required pursuant to NRS 645B.690 to impose, for each violation, an administrative fine of not more than $50,000 on a person who offers or provides any of the services of a mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage agent and, at the time the person was required to have a license pursuant to the Act and he person did not have such a license.

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

Order

The Commissioner having determined based upon the foregoing that RESPONDENT has engaged in unlicensed activity in violation of NRS 645B:

THEREFORE, IT IS ORDERED that KIRK EDWARD BRITT shall:

(a) Immediately CEASE AND DESIST from engaging in, or otherwise carrying on or holding himself out as engaging in or carrying on any activities that require licensure as a mortgage agent under the Act.

(b) Pay an ADMINISTRATIVE FINE in the amount of $15,000.00 in accordance with NRS 645B.690. 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.

(c) Pay the Division's INVESTIGATIVE COSTS in the amount of $5,580.00, in accordance with 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 RESPONDENT 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 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 and NAC 645B 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, provides as follows:

If a person engages in an activity in violation of the provisions of this chapter or chapter 645B of NRS, 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 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 date 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 date the hearing is concluded.

5. The decision of the Commissioner after a hearing is a final decision of the Division 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 shall enter a final order concerning the matter.

3. A person may appeal a final order of the Commissioner 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, within 30 calendar days after receiving this Order, 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, December 23rd, 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 ADMINISTRATIVE HEARING, in the matter of KIRK EDWARD BRITT, addressed as follows:

Kirk Edward Britt
264 Pointe Ranier Avenue
Henderson, NV 89012

Certified Receipt Number: 7009 2250 0001 8859 0031

DATED this 23rd day of December, 2014

By: _____
Employee of the Division