

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:

MATTHEW GARNES,
Mortgage Agent License No. UNL,

Respondent.

Order No. 2014-110

Case No. 2014-110

CONSENT ORDER
TO CEASE AND DESIST VIOLATING NRS 645B,
TO PAY AN ADMINISTRATIVE FINE AND ADMINISTRATIVE COSTS,
AND GRANTING MORTGAGE AGENT LICENSE WITH CONDITIONS

Issued and Entered,
This 18th day of August, 2015,
By James Westrin,
Commissioner

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, NRS 645B.010 *et seq.* ("NRS 645B"), and Chapter 645B of the Nevada Administrative Code, NAC 645B.001 *et seq.* ("NAC 645B") (collectively, the "Act"), governing the licensing and conduct of mortgage brokers and mortgage agents 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 doing business in the State of Nevada pursuant to NRS 645B; and,

The Commissioner having been further vested with broad discretion in granting licenses and determining suitability of applicants for licensure under the Act; and,

1 MATTHEW GARNES ("GARNES") having made application to the Commissioner for a
2 mortgage agent license under the Act on October 22, 2013; and,

3 The Division of Mortgage Lending (the "Division") staff having thereafter commenced an
4 investigation pursuant to NRS 645B.410 of GARNES' qualifications and suitability to be issued a
5 mortgage agent license under the Act. That investigation revealed the following:

6 (a) GARNES previously held a mortgage agent license, MLD License No. 9615, from
7 February 20, 2003 until February 21, 2010, when it was terminated for failure to renew.

8 (b) On August 13, 2010, a final order was issued against GARNES which ordered GARNES
9 to cease and desist from engaging in unlicensed activity and imposed an administrative fine in the
10 amount of \$7,500.00 and the Division's investigative costs in the amount of \$480.00. The
11 administrative fine and investigative costs were due and payable within 30 days of entry of the final
12 order. GARNES failed to respond to the final order or tender payment of the administrative fine and
13 investigative costs as required by the order and the final order was forwarded to the Nevada State
14 Controller's Office for collection. On or about January 31, 2014, following submission of the instant
15 application for licensure, GARNES made payment in the amount of \$4,000.00 in settlement of the
16 outstanding debt.

17 (c) On or about June 17, 2013, the Division received a complaint concerning GARNES.
18 The Division commenced an investigation of the complaint and from that investigation determined that
19 GARNES had engaged in conduct and activity in violation of the Act. Namely, contrary to NRS
20 645B.0125 and NRS 645B.400, GARNES was engaged in the activity of an independent contractor loan
21 processor without the requisite mortgage agent license under the Act.

22 The Division and GARNES having conferred concerning this matter, and GARNES having
23 expressed a desire to cooperate with the Division and to avoid the time and expense of a formal
24 enforcement hearing, and the parties determined to resolve this matter in accordance with the following
25 terms:

26 (a) GARNES agrees to CEASE AND DESIST from any and all violations of the Act.

27 (b) GARNES agrees to pay an ADMINISTRATIVE FINE in the amount of \$2,500.00, in
28 accordance with NRS 645B.690. It is agreed that if GARNES fully complies with all terms of this

1 Order, the ADMINISTRATIVE FINE, in the amount of \$2,500.00, will be waived and rescinded. If
2 GARNES fails to fully comply with all terms of this Order, the ADMINISTRATIVE FINE will become
3 due immediately.

4 (c) GARNES agrees to pay the Division's ADMINISTRATIVE COSTS in the amount of
5 \$1,350.00.

6 (d) A mortgage agent license will be granted to GARNES subject to the following
7 conditions:

8 1. The terms and conditions of the mortgage agent license will remain in effect for a
9 period beginning on the effective date of this Order, as shown in caption hereof, and ending upon either
10 the voluntary revocation of the license, or the issuance of a non-conditional mortgage agent license,
11 provided the Commissioner determines that GARNES is otherwise eligible and suitable for licensure
12 under the Act, on January 1, 2017.

13 2. GARNES agrees that he will conduct his business in accordance with Act.

14 3. GARNES agrees that he will timely pay all administrative fines, costs, fees, and
15 assessments due from him in relation to this Order and all future amounts due to the Division for
16 renewal, examination and investigation.

17 4. GARNES agrees that he will not act as or apply to act as the qualified employee
18 of any licensee under the Act or any Chapter of the Nevada Revised Statutes administered by the
19 Commissioner.

20 5. GARNES agrees to file a Monthly Activity Report ("MAR") recapping all
21 residential mortgage loans in which he has taken a mortgage loan application. The MAR shall be
22 submitted to the Division by the 15th day of each month for the activity of the previous month. The
23 MAR shall be submitted to sslack@mld.nv.gov and include all of the following information:

- 24 a. Loan number;
- 25 b. Date application taken;
- 26 c. Borrower name;
- 27 d. Property address;
- 28 e. Purpose;

- 1 f. Loan Amount;
- 2 g. Terms:
- 3 h. Compensation; and
- 4 i. Name of loan processor

5 If GARNES took no mortgage loan applications during a month, the report must indicate zero
6 mortgage loans taken.

7 6. GARNES further agrees that, upon the determination by the Commissioner that
8 any of the foregoing conditions have been violated, this conditional license may, in the sole discretion
9 of the Commissioner, be voluntarily revoked. GARNES agrees and understands that he is consenting to
10 the voluntary revocation of the conditional license and is waiving his right to judicial review under NRS
11 chapter 233B.

12 7. GARNES agrees that if the Commissioner, upon receipt of a complaint and,
13 following investigation of such complaint, determines that GARNES has engaged in any activity that
14 would generally subject a licensee to discipline, GARNES will be deemed to be in violation of the
15 terms and conditions of this Order and that GARNES' agrees to submit to the voluntary revocation of
16 the conditional license.

17 8. GARNES agrees that he will timely and freely respond to any request from the
18 Division for information or records concerning his activity conducted under the conditional license.

19 If GARNES fully complies with the foregoing terms and conditions of this conditional license
20 between the effective date of this Order and January 1, 2017, then GARNES' conditional status will be
21 lifted and a full non-conditional mortgage agent license will be granted, provided the Commissioner
22 determines that GARNES is otherwise eligible and suitable for licensure under the Act; and,

23 GARNES, having knowingly and voluntarily affixed his signature to the attached
24 VOLUNTARY CONSENT TO ENTRY OF CONSENT ORDER, incorporated herein by reference, has
25 consented to the issuance of this CONSENT ORDER TO CEASE AND DESIST VIOLATING NRS
26 645B, TO PAY AN ADMINISTRATIVE FINE AND ADMINISTRATIVE COSTS, AND
27 GRANTING MORTGAGE AGENT LICENSE WITH CONDITIONS with the intent to be legally
28 bound hereby, and has waived and relinquished any and all rights that he may now or hereafter have to

1 be served with a notice of charges and an administrative hearing in this matter or to judicial review of,
2 or otherwise challenge or contest, the entry of this Order; and,

3 GARNES having had the opportunity to consult with legal counsel of his choosing concerning
4 the matter; and,

5 The Commissioner having determined that the terms of this Order are a reasonable resolution of
6 this matter and in the public interest.

7 NOW, THEREFORE, IT IS HEREBY ORDERED that:

8 1. GARNES shall CEASE AND DESIST from any and all violations of the Act.

9 2. GARNES shall pay to the Division an ADMINISTRATIVE FINE in the amount of
10 \$2,500.00. The collection of the ADMINISTRATIVE FINE shall be deferred subject to the following:

11 a. If GARNES fully complies with all the terms of this Order, from its effective date
12 through January 1, 2017, the ADMINISTRATIVE FINE, in the amount of \$2,500.00,
13 shall be waived and rescinded.

14 b. If GARNES fails to fully comply with any term of this Order, the
15 ADMINISTRATIVE FINE, in the amount of \$2,500.00, shall immediately become
16 due and payable to the Division.

17 3. GARNES shall to pay to the Division its ADMINISTRATIVE COSTS in the amount of
18 \$1,350.00. The ADMINISTRATIVE COSTS shall be and are due upon GARNES' execution of the
19 Order and shall be tendered to the Division in accordance with the attached Invoice.

20 4. A mortgage agent license shall be granted and issued to GARNES subject to the
21 conditions set forth above in paragraph (d)(1)-(8) upon GARNES execution and delivery of the attached
22 Order and payment of the related administrative costs.

23 5. This Order shall be effective and is enforceable on the date that it is issued, as shown in
24 the caption hereof.

25 6. This Order shall remain effective and enforceable until terminated, modified, set aside,
26 or suspended in writing by the Commissioner.

1 7. The Commissioner specifically retains jurisdiction over the matters contained herein and
2 has the authority to issue such further order(s) as he shall deem just, necessary, and appropriate to
3 enforce the provisions of the Act and protect the public.

4
5 IT IS SO ORDERED.

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7
8 DIVISION OF MORTGAGE LENDING

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10 
11 By: _____
12 JAMES WESTRIN, COMMISSIONER