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: MARIO C. TALAMANTE, Mortgage Broker License No. UNL, Respondent.	Order No. 2015-024 Case No. 2015-024

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

Issued and Entered,
This 20th day of October, 2016,
By Marcel F. Schaerer,
Acting Commissioner

I.
ORDER TO CEASE AND DESIST, 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 Chapter 645B of the Nevada Revised Statutes, 645B.010 *et seq.* ("NRS 645B" or "the Statute"), 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 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 authority to conduct investigations to determine whether any person is violating or has violated any provision of the Statute or the Regulation; and,

The Division of Mortgage Lending (the "Division") having received information indicating that MARIO C. TALAMANTE ("TALAMANTE") was engaged in activity requiring licensure as a mortgage broker under the Statute; and,

The Division having received a complaint against TALAMANTE on or about October 14, 2014 and commenced an investigation pursuant to NRS 645B.060(2)(c) on or about October 15, 2014, and having subsequently expanded such investigation following receipt of independent correspondence on July 22, 2015, providing notification of the alleged misconduct of a person identified as "Mario Mill," determined, from that investigation, that RESPONDENT was engaged in activity requiring licensure as a mortgage broker under the Statute; and,

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

The Commissioner having reviewed the results of the investigation, makes 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 issued pursuant to this chapter, unless the person is properly exempt from licensure.

2. NRS 645B.0127(1)(a)-(c), in pertinent part, defines "[m]ortgage broker" to include "any person who directly or indirectly" does any of the following:

> (a) Holds himself or herself out for hire to serve 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 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. The Division's investigation specifically found the following:

a. TALAMANTE is not currently and at no time relevant to this matter been licensed as a mortgage broker in Nevada under the Statute.

b. From on or about May 19, 2000, through December 31, 2011, TALAMANTE was licensed as a mortgage agent by the Commissioner (License No. 13629, NMLS License No. 317854). TALAMANTE failed to renew his license as of January 1, 2012.

c. Effective from approximately March 16, 2010 until January 4, 2011, TALAMANTE was associated with or employed by a licensed Nevada mortgage broker at its principal Las Vegas, Nevada office.

d. Commencing on or about September 2013, Nevada residents M.S. and her husband, J.M.L., met with TALAMANTE to obtain, in addition to desired debt relief services, TALAMANTE'S assistance in procuring a loan to enable them to purchase a Nevada residence.

e. On or about November 16, 2013, TALAMANTE contacted M.S. to request that she provide him with a deposit which he claimed necessary to commence the loan process. M.S. accordingly met with TALAMANTE later that day in his private business office (as situated in the same office building where his former employing broker was located) where she paid him $1,250.00. As signed by TALAMANTE on November 16, 2013, the receipt reflects cash payment by M.S. to TALAMANTE in such amount (Receipt No. 797464), and includes the following attributive language: "Refundable if not closed (part closing costs)" and "Expenses to loan in progress/credit related."

f. At or about the time that M.S. met with TALAMANTE and made payment of the aforementioned $1,250.00 to him on November 16, 2013, TALAMANTE informed M.S. that he would be unable to initiate the loan process unless she provided him with an additional $600.00 in funds, which she paid him in a separate cash transaction. Thus as also signed by TALAMANTE on

November 16, 2013, the receipt therefor reflects cash payment by M.S. and J.M.L. to TALAMANTE in the amount of $600.00 (Receipt No. 797493), and includes the following attributive language: "Refundable if no closing (part closing costs)" and "Expenses to loan in progress/credit related."

g. On or about January 16, 2014, TALAMANTE contacted M.S. to request that she provide him funds in the amount of $125.00 for the purpose of obtaining her credit report. As signed by TALAMANTE on January 16, 2014, the receipt reflects cash payment by M.S. to TALAMANTE in the amount of $125.00 (Receipt No. 797495), and includes the following attributive language: "full report/credit fico rescoring."

h. At or about the time that M.S. met with TALAMANTE in January 2014, TALAMANTE referred M.S. to TALAMANTE'S friend, "LMA," a Nevada-licensed mortgage agent, who was associated with or employed by "LB," a licensed Nevada banker. In correspondence received by the Division from TALAMANTE on October 29, 2014, TALAMANTE admitted that he had referred M.S. to LMA at LB.

i. Following M.S.'s provision of financial and personal information to LMA over the telephone concerning her desired residential mortgage loan, LMA, in correspondence on LB letterhead dated February 5, 2014, notified M.S. that she had obtained conditional loan approval in the amount of $155,000.00.

j. On or about February 7, 2014, TALAMANTE contacted M.S. to request that she provide him funds in the amount of $742.00 to obtain a locked interest rate for the purchase of certain residential property. As signed by TALAMANTE on February 7, 2014, the receipt reflects cash payment by M.S. to TALAMANTE in the amount of $742.00 (Receipt No. 797466), and includes the following attributive language: "_____ Strawberry Ln" and "Rate Buy Down / 3.99%--4.125%."

k. On February 21, 2014, M.S. paid TALAMANTE $450.00 for charges he represented to M.S. as necessary to complete an appraisal for residential property for sale at _____Sunrise Drive in Las Vegas, Nevada ("Sunrise house"), for which M.S. had entered into a residential purchase agreement on February 17, 2014. As signed by TALAMANTE on February 21, 2014, the receipt reflects cash payment by M.S. to TALAMANTE in the amount of $450.000 (Receipt No. 797492), and includes the following attributive language: "_____ Sunrise Dr / Appraisal."

l. On or about March 5, 2014, upon obtaining payment of $19.00 and verbal authorization by J.M.L. to pull his credit report, the qualified employee of TALAMANTE'S former employing broker (to whom TALAMANTE had reportedly referred J.M.L. and M.S. for assistance) ordered preparation of a credit report on their behalf. The record reflects that LB also ordered a credit report for M.S. on such date.

m. On or about March 10, 2014, M.S. met with LMA at LB's office to complete a residential loan application for the amount of $166,920.00 and prepare disclosure statements for the purchase of the Sunrise house. The residential loan application was signed by M.S. as well as LMA, who was identified upon the application as the loan originator. The application form specified that LB was the loan origination company with respect to the matter.

n. On or about March 17, 2014, as contained on LB letterhead, LMA mailed notification to M.S. that based upon the review of her credit score and information obtained from the credit reporting agency, her application for a mortgage loan had been denied.

o. On or about October 24, 2014, TALAMANTE informed a Division investigator that he "made referrals" to several persons to "go for loans," but could not recall either the cash taken from M.S. or the receipts therefor; he stated that "maybe he told them what to do."

p. On or about June 20, 2015, in an independent matter, the contracting parties in a real-estate transaction agreed to the terms for purchase of a Nevada residential property by J.M. J.M. had previously met with TALAMANTE in TALAMANTE'S private business office for the purpose of obtaining a loan. Thereafter, the seller's listing agent received from J.M.'s real estate agent, a conditional loan approval letter as contained on LB letterhead ("Pre-Approval Letter"). As dated April 29, 2015, the Pre-Approval Letter had been issued to J.M. by a person identified as "Mario I. Mill" with provision of Mr. Mill's alleged NMLS mortgage-agent number and cell-phone number.

q. Upon information and belief, LB did not consent to or otherwise authorize issuance of the Pre-Approval Letter to J.M. and did not employ anyone by the name of "Mario Mill." The NMLS contains no record of any licensed person with both the first name of "Mario" and the surname of "Mill." As reflected in the NMLS, the unique NMLS number identified in the Pre-Approval Letter as belonging to "Mario I. Mill," is rather the number assigned to a *different individual* who had

previously been licensed as a mortgage loan originator in two states other than Nevada, and who is not implicated in this matter.

r. Upon information and belief, the cell-phone number identified in the Pre-Approval Letter for contact of "Mario I. Mill" is not a telephone number which has ever been assigned to a "Mario I. Mill," "Mario Mill" or LB. However, at least one of the other telephone numbers that J.M.'s real estate agent identified as a contact for reaching "Mr. Mill," specifically a different cell number, belonged to TALAMANTE. The telephone conversations shared between J.M.'s real estate agent and the person who represented himself to the real estate agent as being "Mr. Mill," were actually telephone conversations that occurred between the real estate agent and TALAMANTE.

s. The e-mail address utilized in e-mailed conversations between "Mr. Mill" and J.M.'s real estate agent concerning the residential property transaction(s) from at least approximately June 22, 2015 through July 20, 2015, was mariotalamante@gmail.com, the e-mail address of TALAMANTE.

t. J.M. confirmed that TALAMANTE was the person with whom he was dealing with respect to his desired residential loan and until approximately August 2015 (after the date that J.M. telephoned TALAMANTE to inquire why an appraisal had not been performed upon the subject property pending closure of the sale, and was informed by TALAMANTE that TALAMANTE was not a licensed mortgage broker or agent), J.M. continued communication with TALAMANTE.

u. In correspondence received by the Division from TALAMANTE on September 2, 2015, TALAMANTE claimed that he wanted J.M. "to find a good mortgage lender" and that he, TALAMANTE, "didn't make any income or origination on his transaction." In response to the Division's inquiry concerning the identity of "Mario Mill," TALAMANTE represented that "Mr. Mill" was a person who approached TALAMANTE to introduce himself as a "loan officer" upon overhearing TALAMANTE'S discussion with a friend at a Las Vegas casino "about the economy," after which TALAMANTE provided "Mr. Mill" with his e-mail address.

v. From approximately November 16, 2013 through July, 2015, TALAMANTE engaged in, carried on, or held himself out as a mortgage broker within the meaning of NRS 645B.0127 when he met with M.S. and J.M.L., as well as independently with J.M., to provide alleged assistance in

the procurement of Nevada residential mortgage loans, accepted fees from M.S. and J.M.L. in the purported attempt to achieve such a loan, and orchestrated or engaged in a scheme to facilitate the process by providing a sense of credibility and authority to the transactions in which TALAMANTE engaged (by referring M.S. and J.M.L. to TALAMANTE'S former employing broker for assistance in obtaining a credit report, and to LMA, TALMANTE'S friend at LB, with whom TALAMANTE partnered to represent that conditional loan approval and been achieved, and who served as the alleged mortgage loan originator in completing a loan application). In furtherance of the scheme, and to conceal the unlicensed activity as related to the residential mortgage transactions concerning J.M., TALAMANTE utilized the false name of "Mario I. Mill" to impersonate a person whom he identified as Mr. Mill; attributed as belonging to himself, the unique NMLS identifier that had been issued to another; and misappropriated LB's letterhead upon the correspondence he issued to J.M., in which TALAMANTE, as "Mario I. Mill," informed J.M. that J.M. had obtained conditional loan approval.

w. In connection with the foregoing described conduct related to the attempts of M.S. and J.M.L. to obtain a Nevada residential mortgage loan, M.S. and J.M.L. paid to TALAMANATE a total of approximately $3,167.00 in fees, tendered in cash form directly to TALAMANTE, as evidenced by the receipts signed by TALAMANTE.

x. M.S. and J.M.L. did not obtain any loan for which they paid TALAMANTE to negotiate or obtain on their behalf.

y. As a result of TALAMANTE'S unlicensed activity in violation of the Statute, M.S. and J.M.L. suffered direct economic harm in the approximate amount of $3,167.00.

z. TALAMANTE engaged in activities and conduct which required licensure as a mortgage broker under the Statute.

4. 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.

5. NRS 645B.955(1) vests in the Commissioner the authority to order a person who engages in an activity for which licensure is required pursuant to the Statute, to pay restitution to any person who has suffered an economic loss as a result of violation of the Statute.

6. NRS 645B.690(1) 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.

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

Conclusions of Law

8. Unless otherwise exempt, it is a violation of NRS 645B.900 for any person to offer or provide any of the services of a mortgage broker or mortgage agent or to engage in, carry on, or otherwise hold himself or herself oneself 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 the Statute.

9. By providing or offering to provide the services of a mortgage broker without having first obtained the applicable license under the Statute, and not being exempt from the licensure requirements, TALAMANTE is in violation of NRS 645B.900.

10. In connection with the complaint investigated by the Division with respect to M.S. and J.M.L., TALAMANTE received payments from M.S. and J.M.L. totaling approximately $3,167.00. TALAMANTE'S unlicensed activity, in violation of NRS 645B.900, resulted in direct economic loss to M.S. and J.M.L. in the approximate amount of $3,167.00.

11. 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 TALAMANTE has been or is engaged in activities in unlicensed activities in violation of the Statute, and concluded and determined that TALAMANTE should be ordered to: 1) cease and desist from engaging in any activity requiring licensure under NRS 645B; 2) make restitution; 3) pay an administrative fine; and 4) pay the Division's investigative costs:

NOW, THEREFORE, IT IS ORDERED that MARIO C. TALAMANTE shall immediately CEASE AND DESIST from advertising, engaging in, or otherwise carrying on or holding himself out as engaging in or carrying on any activities that require licensure as a mortgage broker under the Statute.

IT IS FURTHER ORDERED that MARIO C. TALAMANTE shall make restitution to M.S. and J.M.L. in the sum of $3,167.00 no later than 30 days after the effective date of this Order. TALAMANTE 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 M.S. and J.M.L.

IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the amount of $20,000.00 shall be and hereby is imposed on MARIO C. TALAMANTE in accordance with NRS 645B.690(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.

IT IS FURTHER ORDERED that MARIO C. TALAMANTE shall be and hereby is assessed the Division's INVESTIGATIVE COSTS in the amount of $4,830.00, 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, RESPONDENT 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 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 the Commissioner shall deem just, necessary, and appropriate to enforce NRS 645B and NAC 645B and protect the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: [redacted]
Marcel F. Schaerer, Acting 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.

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: MARIO C. TALAMANTE, Mortgage Broker License No. UNL, Respondent.	Order No. 2015-024 Case No. 2015-024

REQUEST FOR INFORMAL CONFERENCE OR HEARING

I, _____ hereby request an informal conference or contested case hearing, as applicable, in the above-captioned matter.

CONTACT INFORMATION
(Provide contact information and check as applicable)

Home address: _____

_____

Mailing address: _____

_____

Home Phone: _____ Mobile Phone: _____

Office Phone: _____ E-mail Address: _____

COUNSEL CONTACT INFORMATION

Name of Counsel: _____

Address: _____

_____

Office Phone: _____ E-mail Address: _____

_____ I **am not** represented by counsel and direct all documents and correspondence regarding this matter to be sent to me at the address represented above.

_____ I am represented by counsel and direct all documents and correspondence regarding this matter to be sent to my counsel of record at the address provided above. (Attorneys must attach and file an appearance with this response.)

Respectfully Submitted,

_____