

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,

1 The Commissioner having been further vested with broad authority to conduct investigations to
2 determine whether any person is violating or has violated any provision of the Statute or the Regulation;
3 and,

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

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

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

14 The Commissioner having reviewed the results of the investigation, makes the following
15 FINDINGS OF FACT and CONCLUSIONS OF LAW:

16 **Findings of Fact**

17 1. NRS 645B.900 prohibits any person from offering or providing any of the services of a
18 mortgage broker or mortgage agent or otherwise engaging in, carrying on or holding himself or herself
19 out as engaging in or carrying on the business of a mortgage broker or mortgage agent without first
20 obtaining the applicable license issued pursuant to this chapter, unless the person is properly exempt
21 from licensure.

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

- 24 (a) Holds himself or herself out for hire to serve as an agent for any
25 person in an attempt to obtain a loan which will be secured by a lien on
26 real property;

1 (b) Holds himself or herself out for hire to serve as an agent for any
2 person who has money to lend, if the loan is or will be secured by a lien on
3 real property;

4 (c) Holds himself or herself out as being able to make loans secured by
5 liens on real property[.]

6 3. The Division's investigation specifically found the following:

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

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

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

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

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

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

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

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

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

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

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

23 k. On February 21, 2014, M.S. paid TALAMANTE \$450.00 for charges he
24 represented to M.S. as necessary to complete an appraisal for residential property for sale at
25 _____ Sunrise Drive in Las Vegas, Nevada (“Sunrise house”), for which M.S. had entered into a
26 residential purchase agreement on February 17, 2014. As signed by TALAMANTE on February 21,
27 2014, the receipt reflects cash payment by M.S. to TALAMANTE in the amount of \$450.000 (Receipt
28 No. 797492), and includes the following attributive language: “_____ Sunrise Dr / Appraisal.”

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

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

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

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

17 p. On or about June 20, 2015, in an independent matter, the contracting parties in a
18 real-estate transaction agreed to the terms for purchase of a Nevada residential property by J.M. J.M.
19 had previously met with TALAMANTE in TALAMANTE'S private business office for the purpose of
20 obtaining a loan. Thereafter, the seller's listing agent received from J.M.'s real estate agent, a
21 conditional loan approval letter as contained on LB letterhead ("Pre-Approval Letter"). As dated April
22 29, 2015, the Pre-Approval Letter had been issued to J.M. by a person identified as "Mario I. Mill" with
23 provision of Mr. Mill's alleged NMLS mortgage-agent number and cell-phone number.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 IT IS FURTHER ORDERED that MARIO C. TALAMANTE shall make restitution to M.S. and
5 J.M.L. in the sum of \$3,167.00 no later than 30 days after the effective date of this Order.
6 TALAMANTE shall contact the Division within 21 days of the effective date of this Order to make
7 arrangements for the delivery of the required restitution to M.S. and J.M.L.

8 IT IS FURTHER ORDERED that an ADMINISTRATIVE FINE in the amount of \$20,000.00
9 shall be and hereby is imposed on MARIO C. TALAMANTE in accordance with NRS 645B.690(1).
10 The ADMINISTRATIVE FINE shall be due and payable on the 30th day following the effective date of
11 this Order and shall be tendered to the Division in accordance with the attached wire transfer
12 instructions.

13 IT IS FURTHER ORDERED that MARIO C. TALAMANTE shall be and hereby is assessed the
14 Division's INVESTIGATIVE COSTS in the amount of \$4,830.00, in accordance with NRS 622.400.
15 The INVESTIGATIVE COSTS shall be due and payable on the 30th day following the effective date of
16 this Order and shall be tendered to the Division in accordance with the attached wire transfer
17 instructions.

18 IT IS FURTHER ORDERED that an administrative hearing shall be scheduled in this matter
19 only if RESPONDENT timely requests an administrative hearing in accordance with the instructions set
20 forth in Section II of this Order entitled Notice of Opportunity for an Administrative Hearing. **If no**
21 **administrative hearing is requested within 30 calendar days of the effective date of this ORDER,**
22 **RESPONDENT shall be deemed to have waived and relinquished the right to an administrative**
23 **hearing in this matter and a FINAL ORDER shall be issued in this matter.**

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

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

28

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

4 IT IS SO ORDERED.

5 DIVISION OF MORTGAGE LENDING

6 By: 
7 Marcel F. Schaerer, Acting Commissioner

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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

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

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

5 **NRS 645B.750 provides as follows:**

6 1. If the Commissioner enters an order taking any disciplinary action against a
7 person or denying a person's application for a license, the Commissioner shall
8 cause a written notice of the order to be served personally or sent by certified
9 mail or telegram to the person.

10 2. Unless a hearing has already been conducted concerning the matter, the
11 person, upon application, is entitled to a hearing. If the person does not make
12 such an application **within 20 days** after the date of the initial order, the
13 Commissioner shall enter a final order concerning the matter.

14 3. A person may appeal a final order of the Commissioner in accordance with
15 the provisions of chapter 233B of NRS that apply to a contested case.
16 [Emphasis added.]

17 **If you wish to exercise your right to an opportunity for an administrative hearing, within**
18 **30 calendar days after receiving this Order, you must file a verified petition with the**
19 **Commissioner to request a hearing.**

20 The verified petition requesting a hearing must be delivered to:

21 Division of Mortgage Lending

22 Attn. Susan Slack

23 7220 Bermuda Road, Suite A

24 Las Vegas, Nevada 89119

25 **If you fail to timely file a verified petition to request a hearing, your right to a hearing to**
26 **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: _____

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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,
