

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:

KRKABOB INCORPORATED
D/B/A ARGUS LENDING,
Mortgage Broker License No. 4140,
NMLS ID No. 233989,

and

KENNETH PITTMAN,
President and Sole Owner,
Mortgage Agent License No. 58781,
NMLS ID No. 233927,

Respondents.

Order No. 2018-001

Case No. 2018-001

FINAL ORDER
TO IMPOSE ADMINISTRATIVE FINE AND ASSESS INVESTIGATIVE COSTS

Issued and Entered,
This 17th day of April, 2018,
By Cathy Sheehy,
Commissioner

WHEREAS, the Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending ("the Commissioner") is 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" or "the Statute"), and Chapter 645B of the Nevada Administrative Code, NAC 645B.001 *et seq.* ("NAC 645B" or "the Regulation") (collectively, "the Act"), governing the licensing and conduct of mortgage brokers and mortgage agents in the State of Nevada; and,

WHEREAS, on or about March 12, 2018, the Commissioner issued to KRKABOB INCORPORATED D/B/A ARGUS LENDING ("KRKABOB ARGUS") and KENNETH PITTMAN

1 (“PITTMAN”) (collectively, “RESPONDENTS”) at a Pleasant Hill, California address on Buskirk
2 Avenue, and a Capitola, California post-office box address, NOTICE OF INTENT TO ISSUE AND
3 ENTER FINAL ORDER IMPOSING ADMINISTRATIVE FINE AND REQUIRING PAYMENT OF
4 INVESTIGATIVE COSTS AND NOTICE OF OPPORTUNITY FOR HEARING (“the Notice”)
5 attached hereto as Exhibit 1 and incorporated herein by this reference; and,

6 **WHEREAS**, on or about March 12, 2018, the Notice was served on RESPONDENTS by
7 certified mail receipt requested (Article No. 7012 2920 002 1507 9191, to the Buskirk Avenue, Pleasant
8 Hill address, and Article No. 7012 2920 002 1507 9184 to the Capitola address) and First-Class U.S.
9 Mail; and,

10 **WHEREAS**, on March 19, 2018, a signature confirming receipt of delivery of the Notice at the
11 Buskirk Avenue, Pleasant Hill address was made; and,

12 **WHEREAS**, the Notice advised RESPONDENTS that RESPONDENTS were entitled to an
13 administrative hearing in this matter if RESPONDENTS filed a written request for a hearing within 20
14 calendar days of receipt of the Order; and,

15 **WHEREAS**, RESPONDENTS failed to file a written request for a hearing within calendar 20
16 calendar days of receipt of the Notice, as required by Chapter 645B of the Regulation, specifically
17 NAC 645B.750.

18 **NOW, THEREFORE**, based upon the factual findings set forth above and the files and records
19 of the Division of Mortgage Lending, **IT IS HEREBY ORDERED THAT:**

20 1. The findings of fact and conclusions of law set forth in the Notice shall be and hereby are
21 found to be true and correct.

22 2. A FINAL ORDER TO IMPOSE ADMINISTRATIVE FINE AND ASSESS
23 INVESTIGATIVE COSTS shall be and hereby is issued and entered against RESPONDENTS.
24 FORTHWITH, RESPONDENTS shall:

25 a. Pay to the Division an ADMINISTRATIVE FINE in the amount of
26 \$5,000.00 as set forth in the Notice; and

27 b. Pay to the Division the Division’s INVESTIGATIVE COSTS in the
28 amount of \$2,190.00 as set forth in the Notice.

3. This Final Order shall be and is effective on the date as issued and entered, as shown in the caption hereof.

4. This Final Order shall remain in effect and fully enforceable until terminated, modified, or set aside, in writing, by the Commissioner.

5. The Commissioner specifically retains jurisdiction of the matter(s) contained herein to issue such further order or orders as the Commissioner may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: [REDACTED]
CATHY SHEEHY,
COMMISSIONER

Exhibit 1

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING

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NOTICE OF INTENT TO ISSUE AND ENTER FINAL ORDER
IMPOSING ADMINISTRATIVE FINE AND
REQUIRING PAYMENT OF INVESTIGATIVE COSTS
AND
NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING

The Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") is statutorily charged with the responsibility and authority to administer and enforce Chapters 645B of the Nevada Revised Statutes, NRS 645B.010 *et seq.* ("NRS 645B" or "the Statute") and the Nevada Administrative Code, NAC 645B.001 *et seq.* ("NAC 645B" or "the Regulation") (collectively, "the Act"), governing the licensing and conduct of mortgage brokers and mortgage agents in the State of Nevada; and,

The Commissioner is further granted general supervisory power and control and administrative enforcement authority over all mortgage brokers and mortgage agents doing business in the State of Nevada pursuant to the Act; and,

Pursuant to that statutory authority and responsibility vested in the Commissioner, and in accordance with provisions of NRS 645B and other applicable law, Notice is hereby provided to KRKABOB INCORPORATED D/B/A ARGUS LENDING ("KRKABOB ARGUS") and KENNETH PITTMAN ("PITTMAN") (collectively, "RESPONDENTS"), to give RESPONDENTS notice of facts or conduct which, if true, will result in the issuance of a final order against RESPONDENTS imposing an administrative fine in the amount of \$5,000.00, and requiring payment of investigative costs in the amount of \$2,190.00. Notice is further provided to inform RESPONDENTS that prior to the issuance and entry of such order, RESPONDENTS are entitled to an administrative hearing. If RESPONDENTS desire to avail themselves of the right to an administrative hearing, RESPONDENTS must timely file a written request for an administrative hearing in accordance with the instructions set forth in Section III of this Notice.

I.

FACTUAL ALLEGATIONS

1. KRKABOB INCORPORATED is an active Nevada foreign corporation organized under the laws of California (NV Entity No. E0537892014-3). KRKABOB ARGUS made application for and was granted a Nevada mortgage broker license by the Commissioner on or about December 11, 2014 (License No. 4140, NMLS ID No. 233989) and authorized to operate a branch office located at One East Liberty Street, Suite 600, Office 32, Reno, Nevada, 89501 (NMLS COMPANY ID No. 1196475). The company's main office is situated at 3478 Buskirk Avenue, Suite 262, Pleasant Hill, California, 94523.

2. PITTMAN is the president and sole owner of KRKABOB ARGUS.

3. PITTMAN made application for and was granted a Nevada mortgage agent license by the Commissioner on or about May 18, 2017 (License No. 58781, NMLS ID No. 233927).

4. At all times relevant to this matter, KRKABOB ARGUS held a mortgage broker license under the Statute, and is therefore, subject to the jurisdiction of the Commissioner.

5. Since approximately May 18, 2017, PITTMAN has held a mortgage agent license under the Statute and is therefore, subject to the jurisdiction of the Commissioner.

6. As a condition of holding a Nevada mortgage broker license, the mortgage broker is required to designate a natural person, who meets the requirements set forth in NAC 645B.055(2), to serve

1 as the licensee's qualified employee at each licensed office location in Nevada. Upon approval of the
2 designated qualified employee by the Commissioner, that qualified employee may act on behalf of the
3 mortgage broker. In the event that the designated employee no longer meets the requirements to serve as
4 the qualified employee, the mortgage broker is required by NAC 645B.055(3) to designate a new qualified
5 employee within 30 days (or a date thereafter as agreed to by the Commissioner).

6 7. Effective at all times relevant to this matter, NRS 645B.055 provides as follows:

7 1. Every person, other than a natural person, doing business as a mortgage
8 broker in this State shall designate a natural person as a qualified employee who
9 may, upon approval of the Commissioner, act on behalf of the mortgage broker.

10 2. The Commissioner will approve the qualified employee designated pursuant
11 to subsection 1 if the qualified employee is a natural person who:

12 (a) Is licensed in good standing as a mortgage agent;

13 (b) Is designated by a mortgage broker to act on behalf of the mortgage broker
14 and to supervise the conduct of the business of the mortgage broker and the
15 mortgage agents and other staff members employed by the mortgage broker at the
16 licensed office location;

17 (c) Will be present at the licensed office location for which he or she is the
18 qualified employee the majority of the time that the office is open to the public;
19 and

20 (d) In the immediately preceding 5 years, has at least 2 years of verifiable
21 experience in the business of lending money for real estate or mortgages.

22 3. If the qualified employee designated pursuant to subsection 1 is not approved
23 by the Commissioner pursuant to subsection 2 or ceases to be a qualified
24 employee as defined in NAC 645B.008, the mortgage broker shall designate
25 another qualified employee pursuant to subsection 1 not later than:

26 (a) Thirty calendar days after the date that:

27 (1) The Commissioner notifies the mortgage broker that the initial qualified
28 employee designated pursuant to subsection 1 is not approved; or

1 (2) The qualified employee ceases to be a qualified employee as defined in
2 NAC 645B.008; or

3 (b) A date after the date described in paragraph (a) if agreed to by the
4 Commissioner.

5 4. As used in this section, "verifiable experience in the business of lending
6 money for real estate or mortgages" has the meaning ascribed to it in NAC
7 645B.016.

8 8. On or about March 1, 2017, KRKABOB ARGUS' most recently approved qualified
9 employee for its Nevada office was removed from sponsorship. However, despite subsequent and
10 repeated notifications to RESPONDENTS through the Nationwide Mortgage Licensing System and
11 Registry ("NMLS") and as made by Division staff concerning the company's obligation under the
12 Regulation to make a substitute designation, RESPONDENTS did not designate the company's purported
13 qualified employee to serve in its Nevada office until May 2, 2017, approximately *60 days* later, and
14 having failed to heed a series of further, repeated notifications regarding the failure of that designee to
15 *meet the prerequisites* for a qualified employee as stated in NAC 645B.055(2), and despite having been
16 granted numerous extensions to achieve compliance, RESPONDENTS did not notify the Division of their
17 newest designated qualified employee until November 21, 2017, who at that time was not even a Nevada-
18 licensed mortgage agent. It now being over 11 months following the sponsorship removal of their
19 formerly approved qualified employee, RESPONDENTS' newly designated qualified employee having
20 yet to satisfy all necessary conditions for Commissioner approval as a qualified employee,
21 RESPONDENTS still lack a qualified employee to serve in their Nevada office.

22 9. In particular, the Division's investigation concerning this matter revealed that:

23 (a) On March 3, 2017, after KRKABOB ARGUS' approved, qualified employee in
24 Nevada was removed from company sponsorship, the Division's licensing office notified
25 RESPONDENTS that it must designate a new qualified employee within *30 days*.

26 (b) On April 14, 2017, reminding RESPONDENTS that the Division had already directed
27 a letter to the company in March 2017 advising of the 30-day requirement, a NMLS notification to
28

1 RESPONDENTS mandated the company to submit a designation of qualified employee for its Nevada
2 qualifying location within *10 days* of receipt of "the Final Request letter."

3 (c) On May 2, 2017, approximately 8 days following expiration of the granted 10-day
4 extension period, RESPONDENTS designated "RN" as their replacement qualified employee
5 ("Replacement QE") for their Nevada office, via an uploaded form submitted to the Division through the
6 NMLS.

7 (d) On May 8, 2017, the Division's licensing office transmitted four separate NMLS
8 notifications to RESPONDENTS concerning their failure to comply with the regulatory requirements of
9 NAC 645B.055(2), which resulted in a *posted deficiency* in the NMLS. The Division notified
10 RESPONDENTS that the company had not only failed to remove its former qualified-individual
11 designation from its MU3-form, but the qualified-individual designation form uploaded in the NMLS for
12 RN, was not the correct form, and thus asked that the proper form be submitted/uploaded. The
13 notification advised that the updated form could be found via the NMLS Resource Center. The Division
14 also instructed RESPONDENTS that RN must submit an application for a Nevada mortgage-agent
15 license, and that further, RESPONDENTS must provide W2 forms and a resume as required proof of the
16 candidate's having two years of [verifiable] experience within the past five years. Each notification stated
17 that all requests made by the *Division must be addressed within 30 days*. Should RESPONDENTS have
18 any questions concerning this deficiency, they were advised to contact the specifically-named staff
19 member who had posted the deficiency, at her identified Division e-mail address.

20 (e) On June 26, 2017, approximately 49 additional days having passed with no effort by
21 RESPONDENTS to address the Division's concerns or comply with the Division's most recently made
22 May 8, 2017 directives, the Licensing Office of the Division provided further NMLS notification and
23 posted an *additional deficiency*, for the RESPONDENTS' "out of compliance" status in Nevada. The
24 Division told RESPONDENTS that the company must either have RN apply for his Nevada mortgage-
25 agent license, or designate a new qualifying employee who *meets all Nevada agent requirements*. The
26 Division further notified RESPONDENTS that failure to provide all required documents to the Division
27 by the end of the business day on *July 6, 2017*, may result in administrative action. Should
28

1 RESPONDENTS have any questions concerning this deficiency, they were advised to contact the
2 specifically-named staff member who had posted the deficiency, at his identified Division e-mail address.

3 (f) On July 13, 2017, and as re-sent to PITTMAN about two weeks later on July 26, 2017,
4 when her initial e-mail to him remained unheeded, a Division compliance/audit investigator ("Investigator
5 DK") emailed PITTMAN informing him that while the Division had received RESPONDENTS' request
6 to designate RN as the Replacement QE for their Nevada office, the Division had *since sent* two notices to
7 RESPONDENTS advising that RN must submit an application for a Nevada mortgage-agent license in
8 order to be approved. Alternatively, as instructed by Investigator DK, RESPONDENTS must designate a
9 new qualified employee.

10 (g) On July 27, 2017, PITTMAN e-mailed Investigator DK to explain that he had been
11 away on vacation since July 12, 2017. He explained that in order "to expeditiously resolve this issue," his
12 e-mail response was copied to Joe Pennington, the company's described "Executive Manager," as well as
13 "SS," the alleged president of the third-party licensing service RESPONDENTS allegedly employ to
14 handle RESPONDENTS' licensing needs. PITTMAN asserted that RN was in the licensing process.

15 (h) On July 28, 2017, SS emailed Investigator DK and PITTMAN (as copied to
16 Mr. Pennington) to state he had "not been given a status yet on the NV LO Licensing" for RN.

17 (i) On August 7, 2017, Investigator DK emailed SS (as copied to PITTMAN and
18 Mr. Pennington) to advise that the company was *currently in violation of NAC 645B.055*. Investigator
19 DK reiterated that despite several Division requests to the company attempting to resolve the issue, RN
20 was not currently licensed as a mortgage agent in Nevada, and had *never applied for licensure as a*
21 *mortgage agent in Nevada*. Again, she instructed the company to either have RN apply for his Nevada
22 mortgage agent license with provision of his resume, or that RESPONDENTS designate a new qualified
23 employee who *meets* all Nevada requirements for licensure as a mortgage agent. SS responded that he was
24 aware of the issue and had advised PITTMAN concerning the urgency of the situation.

25 (j) On August 8, 2017, a staff member in the Division's licensing office emailed SS
26 reminding him that while RESPONDENTS were to have designated a new qualified employee within 30
27 days of the date their former qualified employee was removed by the company (the Division having
28 learned of the removal on March 2, 2017), and despite having been granted multiple deadline extensions to

1 attain compliance, RESPONDENTS had yet to achieve satisfaction of the criteria necessary to obtain
2 approval of a qualified employee. The Division staff member asked if the company could ensure the
3 Division's receipt of RN's resume and application for licensure as a Nevada mortgage agent.

4 (k) On August 9, 2017, Mr. Pennington, now identified as the Executive Vice President of
5 KRKABOB ARGUS, emailed Investigator DK to attribute the delay in achieving compliance to a death in
6 RN's family, but knowing "the importance and urgency to have a licensed designated person," was
7 "wrapping up a background check" concerning another person, "ZH," to whom RESPONDENTS planned
8 to offer employment. In response, Investigator DK emailed Mr. Pennington on September 13, 2017,
9 asking that he provide the Division with an update concerning RESPONDENTS' designation of a new
10 qualified employee for their Nevada office. She noted that the NMLS did not reflect any changes.

11 (l) On September 29, 2017, her most recent email to Mr. Pennington having failed to elicit
12 any communicated response, Investigator DK wrote PITTMAN a letter attaching her latest directed email,
13 citing the language of NAC 645B.055 and reminding him that despite the Division's numerous contacts of
14 RESPONDENTS concerning the matter, RESPONDENTS, as of March 2, 2017, did not have an
15 approved qualified employee. Advising that the Division would provide RESPONDENTS one last
16 opportunity to cooperate and come into compliance with legal authority, Investigator DK stressed that
17 failure to provide written response with the requested information to the Division on or before *October 9,*
18 *2017,* will subject the company to an administrative fine under NRS 645B.670. In the meantime, on
19 October 4, 2017, the Division's licensing office, through the NMLS, requested RESPONDENTS to either
20 upload or submit directly to the Division's office in Carson City, a designation of qualified-employee form
21 for the qualified employee.

22 (m) On October 6, 2017, Mr. Pennington emailed RESPONDENTS' reply to Investigator
23 DK's September 29, 2017 correspondence. He claimed that the company had made an employment offer
24 to ZH, whom he identified as RESPONDENTS' new qualified employee. Mr. Pennington promised that
25 he could "assure if you can give us through October this will be resolved and completed." Mr. Pennington
26 further advised that if ZH "doesn't come on board," the company had three other prospects. Investigator
27 DK responded to Mr. Pennington later that afternoon, informing him that ZH was not a licensed Nevada
28 mortgage agent and once again, was a person who would not meet the qualifications to be a qualified

1 employee for RESPONDENTS' Nevada office. She asked that the company advise as to how it will
2 proceed in hiring a qualified employee that will meet the requirements. Mr. Pennington answered that the
3 company had several applicants in the Reno and Las Vegas areas and promised to have, or was confident
4 that they would have in place, a licensed qualified employee "on board this month." Explaining that the
5 company did not have any more time for ZH to "make the transition," it was moving forward with other
6 applicants.

7 (n) On November 14, 2017, Investigator DK emailed Mr. Pennington asking for the status
8 of the company's qualified employee for its Nevada office. One week later, on November 21, 2017,
9 identifying only her first name, Mr. Pennington expressed that RESPONDENTS had just hired a qualified
10 employee for their Reno location, whose start date was scheduled for December 1, 2017, and was "going
11 through the boarding process." However, it was not until Mr. Pennington's answered Investigator DK's
12 subsequent query for the full name of this proposed qualified employee, that the Division was made aware
13 of her complete identity, "AJM," on November 21, 2017.

14 (o) On or about December 9, 2017, as reflected in the NMLS, AJM submitted her
15 application for licensure as a Nevada mortgage agent. Commissioner determination regarding AJM's
16 licensure as a Nevada mortgage agent, a condition-precedent for approval as RESPONDENTS' qualified-
17 employee, remains in a pending-deficient status.

18 10. Contrary to the requirements of NAC 645B.055(2), following sponsorship-removal of its
19 formerly approved and employed qualified employee, KRKABOB ARGUS failed to timely designate for
20 Commissioner approval, a new qualified employee that meets the requirements of the Regulation. As
21 illustrated by the foregoing, despite the Division's exhaustive attempts to procure RESPONDENTS'
22 compliance, RESPONDENTS failed to cooperate with the Division's efforts and continued to postpone
23 designation of a candidate who could satisfy the criteria required of a qualified employee. Moreover,
24 RESPONDENTS' actions have necessarily resulted in delay of the contingent licensing determination
25 upon which Commissioner-approval of a designated qualified employee is based.

26 11. NRS 645B.670(1)(b) grants the Commissioner authority to impose an administrative fine
27 or other discipline against a mortgage broker that violates the Act. NRS 645B.670(1)(b)(3) specifically
28 provides that for each violation committed by a mortgage broker, the Commissioner may impose upon the

1 mortgage broker an administrative fine of not more than \$25,000.00, may suspend, revoke or place
2 conditions upon the mortgage broker's license, or may do both, if the mortgage broker, whether or not
3 acting as such, does not conduct his business in accordance with law or has violated any provision of the
4 Act.

5 12. KRKABOB ARGUS' continued failure to timely designate for Commissioner approval, a
6 new qualified employee that meets the requirements set forth in NAC 645B.055(2), is a violation of
7 NAC 645B.055(3) which subjects RESPONDENTS to an administrative fine under
8 NRS 645B.670(1)(b)(3) and payment of investigative costs pursuant to NRS 622.400.

9 II.

10 NOTICE OF INTENT TO ISSUE AND ENTER FINAL ORDER
11 IMPOSING ADMINISTRATIVE FINE AND
12 REQUIRING PAYMENT OF INVESTIGATIVE COSTS

13 Based upon the factual allegations set forth in Section I, above, RESPONDENTS are hereby
14 given notice that it is the intent of the Commissioner to issue and enter an order against
15 RESPONDENTS, imposing an administrative fine in the amount of \$5,000.00, and requiring payment of
16 investigative costs in the amount of \$2,190.00. Prior to the issuance and entry of such order,
17 RESPONDENTS are entitled to an opportunity for administrative hearing to contest this matter if
18 RESPONDENTS timely make written application for such hearing in accordance with the instructions
19 set forth in Section III below.

20 III.

21 NOTICE OF OPPORTUNITY FOR AN ADMINISTRATIVE HEARING

22 This Notice is provided to RESPONDENTS pursuant to NRS 645B.750, which provides as
23 follows:

24 1. If the Commissioner enters an order taking any disciplinary action
25 against a person or denying a person's application for a license, the
26 Commissioner shall cause a written notice of the order to be served
27 personally or sent by certified mail or telegram to the person.
28

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

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

8 **If RESPONDENTS wish to exercise their right to an opportunity for an administrative**
9 **hearing, within 20 calendar days after the date of this Notice, RESPONDENTS must file a**
10 **verified petition with the Commissioner to request a hearing. The verified petition requesting a**
11 **hearing must be delivered to:**

12 Division of Mortgage Lending
13 Attn. Susan Slack
14 3300 W. Sahara Ave., Suite 285
15 Las Vegas, Nevada 89102

16 **If RESPONDENTS fail to timely file a verified petition to request a hearing,**
17 **RESPONDENTS' rights to a hearing under NRS 645B.750 will be deemed waived and**
18 **relinquished and a final order will be issued and entered in this matter. In addition to the verified**
19 **petition to request a hearing, RESPONDENTS may file a written answer to this Notice of Intent**
20 **to Issue and Enter Final Order Imposing Administrative Fine and Requiring Payment of**
21 **Investigative Costs.**

22 DIVISION OF MORTGAGE LENDING

23 By: 
24 CATHY SHEEHY, COMMISSIONER

25 Dated: 3/12/18