

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

Before the Commissioner of the Division of Mortgage Lending

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In the Matter of:)	
ROBERT C. WELCH III,)	Order No. <u>2018-009</u>
Mortgage Broker License No. UNL,)	Case No. 2018-009
Respondent.)	
)	

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

Issued and Entered,
This 14th day of September, 2018,
By Cathy Sheehy,
Commissioner

I.
ORDER TO CEASE AND DESIST 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.* (“the Statute”), and Chapter 645B of the Nevada Administrative Code, NAC 645B.001 *et seq.* (“the Regulation”) (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 the Statute; 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 Act; and,

1 The Division of Mortgage Lending (“the Division”) having received information indicating that
2 ROBERT C. WELCH III (“RESPONDENT”) is or was engaged in activity requiring licensure as a
3 mortgage broker under the Statute; and,

4 The Division having received a complaint against RESPONDENT on or about December 5,
5 2017, and commenced an investigation pursuant to NRS 645B.060(2)(c), and determined, from that
6 investigation, that RESPONDENT was engaged in activity requiring licensure as a mortgage broker
7 under the Statute; and,

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

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

11 **Findings of Fact**

12 1. Unless a person is exempt from the provisions of the Statute, and has complied with the
13 requirements for that exemption, NRS 645B.900 prohibits any person from offering or providing any of
14 the services of a mortgage broker or mortgage agent, or otherwise engaging in, carrying on or holding
15 himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage
16 agent, without first obtaining a Nevada mortgage broker license or mortgage agent license pursuant to
17 the Statute.

18 2. NRS 645B.0127(1) defines “[m]ortgage broker” to include any person who directly or
19 indirectly does any of the following:

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

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

26 (c) *Holds himself or herself out as being able to make loans secured by*
27 *liens on real property;*

1 (d) Holds himself or herself out as being able to buy or sell notes secured
2 by liens on real property; or

3 (e) Offers for sale in this State any security which is exempt from
4 registration under state or federal law and purports to make investments in
5 promissory notes secured by liens on real property.

6 [Emphasis added.]

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

9 4. The Division's investigation specifically found the following:

10 a. As reflected in the state-business licensing records of the Nevada Secretary of State,
11 RESPONDENT serves as an officer for seven active domestic, limited-liability companies: Wolf
12 Development LLC (Entity No. LLC4609-2003); Iwy Realty, LLC (Entity No.LLC22642-2004); CRC
13 Properties, LLC (Entity No. E012922009-6); C.R.C. Alpine, LLC (Entity No. E0316402012-7); Welch
14 Bros., LLC (Entity No. E0626802012-0); R&R Advanced LLC (Entity No. 0127392016-9); and Last
15 Round, LLC (Entity No. E0475042017-0). With respect to CRC Properties, LLC only, RESPONDENT
16 is additionally identified as the registered agent thereof at a specified location on Olivia Parkway in
17 Henderson, Nevada, which upon information and belief, is the RESPONDENT'S residential address.

18 b. From on or about February 12, 2016 through March 15, 2016, as documented by title-
19 company records, RESPONDENT funded at least two, private-money loans as secured by liens on each
20 of two subject residential properties, both of which at 12% interest-only rates. In particular,
21 RESPONDENT funded a secured, \$240,000.00 private-money loan to an individual for refinancing a
22 loan on her home situated on Red Scott Circle in Las Vegas, Nevada (\$120,000.00 of that amount
23 specifically constituting the "payoff" of a previously-obtained loan to such borrower by another party).
24 The deed of trust securing the \$240,000.00 private-money loan specifically identifies RESPONDENT
25 as the beneficiary. The RESPONDENT additionally funded a private-money loan to another individual
26 in the amount of \$160,000.00, as secured by her residence on Trapani Place in Las Vegas, Nevada.

27 c. By holding himself out as being able to make loans secured by liens on real property,
28 and by providing the source of such funding as described above, RESPONDENT engaged in or carried

1 on the business of a mortgage broker in Nevada with respect to at least two loan transactions concerning
2 residential real property within the meaning of NRS 645B.0127(1)(c).

3 5. RESPONDENT engaged in activities and conduct which require licensure as a mortgage
4 broker under the Statute and is not exempt from licensure under the Statute.

5 6. On January 16, 2018, accompanied by an affidavit for his completion and signature,
6 Division Compliance/Audit Investigator DM mailed correspondence to RESPONDENT at his Olivia
7 Parkway address, advising him that based upon the contents of a recently received complaint describing
8 RESPONDENT'S alleged, unlicensed mortgage broker activities, requested that he submit the
9 following information to the Division: A detailed, written description of his mortgage lending activities
10 in Nevada; for the period of January 2016 through December 2017, a list of all loans made and/or
11 arranged on Nevada real property which had not been processed through a Nevada-licensed mortgage
12 broker; and an explanation concerning why he engaged in the activity of a mortgage broker in Nevada,
13 without possessing a license to do so. Directing the RESPONDENT to include with his response, any
14 supporting materials he wished the Division to consider, Compliance/Audit Investigator DM instructed
15 him to provide his answers on or before January 30, 2018. She further explained that failure to timely
16 submit the information requested may subject him to administrative fines and penalties under the Act.

17 7. When by late January 31, 2018, having received no reply from RESPONDENT,
18 Compliance/Audit Investigator DM mailed a second letter to RESPONDENT at his Olivia Parkway
19 address, attaching a copy of her original correspondence and affidavit for his completion and signature.
20 She informed RESPONDENT that his response was due to the Division no later than February 9, 2018,
21 and that failure to comply may subject him to administrative fines and penalties under the Act.

22 8. To date, RESPONDENT has not responded to the Division's requests for information.

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

24 **Conclusions of Law**

25 10. Unless otherwise exempt, it is a violation of NRS 645B.900 for any person to offer or
26 provide any of the services of a mortgage broker or mortgage agent, to engage in, carry on, or otherwise
27 hold himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage
28 agent without first obtaining the applicable license issued pursuant to the Statute.

1 effective date of this Order and shall be tendered to the Division with the ADMINISTRATIVE FINE in
2 accordance with the attached wire transfer instructions.

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


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

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

13 IT IS FURTHER ORDERED that the Commissioner specifically retains jurisdiction over the
14 matters contained herein and has the authority to issue such further order(s) as the Commissioner shall
15 deem just, necessary, and appropriate to enforce the Act and protect the public.

16 IT IS SO ORDERED.

17 DIVISION OF MORTGAGE LENDING

18
19 By: 
20 Cathy Sheehy, Commissioner

21 II.

22 NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING

23 **NAC 645B.515 provides as follows:**

24 1. If a person engages in an activity in violation of the provisions of this
25 chapter or chapter 645B of NRS, the Commissioner may issue an order to the
26 person directing the person to cease and desist from engaging in the activity.

27 2. The order to cease and desist must be in writing and must state that, in
28 the opinion of the Commissioner, the person has engaged in an activity:

1 (a) For which the person has not received a license or certificate of
2 exemption as required by chapter 645B of NRS; or

3 (b) In a manner that violates the provisions of this chapter or chapter
4 645B of NRS.

5 3. A person who receives an order to cease and desist pursuant to this
6 section shall not engage in any activity governed by chapter 645B of NRS after
7 receiving the order unless the order is suspended or rescinded.

8 4. Not later than **30 calendar days** after receiving an order pursuant to
9 this section, the person who receives the order may file a verified petition with
10 the Commissioner to request a hearing. Upon receipt of the verified petition, the
11 Commissioner may, for good cause shown, suspend the order pending the
12 hearing. The Commissioner will hold the hearing on a date not later than 30
13 calendar days after the date the petition is filed unless the Commissioner and the
14 person agree to another date. The order to cease and desist is rescinded if the
15 Commissioner fails to:

16 (a) Hold a hearing:

17 (1) Not later than 30 calendar days after the date the petition is filed;

18 or

19 (2) On a date agreed to by the Commissioner and the person; or

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

22 5. The decision of the Commissioner after a hearing is a final decision of
23 the Division for the purposes of judicial review.

24 [Emphasis added.]

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

26 1. If the Commissioner enters an order taking any disciplinary action
27 against a person or denying a person's application for a license, the Commissioner
28

1 shall cause a written notice of the order to be served personally or sent by certified
2 mail or telegram to the person.

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

7 3. A person may appeal a final order of the Commissioner in accordance
8 with the provisions of chapter 233B of NRS that apply to a contested case.

9 [Emphasis added.]

10 **If you wish to exercise your right to an opportunity for an administrative hearing, within**
11 **30 calendar days after receiving this Order, you must file a verified petition with the**
12 **Commissioner to request a hearing.**

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

14 Division of Mortgage Lending

15 Attn. Susan Slack

16 3300 West Sahara Avenue, Suite 285

17 Las Vegas, Nevada 89102

18 **If you fail to timely file a verified petition to request a hearing, your right to a hearing to**
19 **contest this matter will be deemed waived and relinquished**