

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:

AMERIHOME MORTGAGE COMPANY, LLC
Mortgage Servicer License No. UNL (unlicensed),

Respondent.

Order No. 2020-010
Case No. 2020-010

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

Issued and Entered,
This 15th day of March, 2021,
By Cathy Sheehy,
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 645F of the Nevada Revised Statutes and Chapter 645F of the Nevada Administrative Code (collectively, “the Act”), governing the licensing and conduct of mortgage servicers doing business in the State of Nevada; and,

The Commissioner is statutorily vested with general supervisory power and control over all mortgage servicers doing business in the State of Nevada pursuant to the Act; 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,

The Division of Mortgage Lending (“the Division”) having received information indicating that AMERIHOME MORTGAGE COMPANY, LLC (hereinafter “AMERIHOME”) is engaged in activity requiring licensure as a mortgage servicer under the Act; and

1 The Division having commenced an investigation of AMERIHOME's business practices
2 pursuant to NAC 645F.965(2)(i), and having determined from that investigation that AMERIHOME is
3 engaged in activity requiring licensure as a mortgage servicer under the Act; and

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

5 The Commissioner having reviewed the results of the investigation, makes the following
6 FINDINGS OF FACT and CONCLUSIONS OF LAW.

7 **FINDINGS OF FACT**

8 1. NRS 645F.063 defines "[m]ortgage servicer" as a person who directly services a mortgage
9 loan, or who is responsible for interacting with a borrower, managing a loan account on a daily basis,
10 including, without limitation, collecting and crediting periodic loan payments, managing any escrow
11 account or enforcing the note and security instrument, either as the current owner of the promissory note
12 or as the authorized agent of the current owner of the promissory note. The term includes a person
13 providing such services by contract as a subservicing agent to a master servicer by contract. The term
14 does not include a trustee under a deed of trust, or the trustee's authorized agent, acting under a power of
15 sale pursuant to a deed of trust.

16 2. Except as otherwise provided in NRS 645F.500, NRS 645F.510 prohibits any person from
17 engaging in the business of a mortgage servicer or holding himself or herself out as a mortgage servicer
18 in this State without a license.

19 3. NAC 645F.950 additionally requires "[e]xcept as otherwise provided in NRS 645F.500,
20 a person shall not advertise services as, provide any of the services of, act as or conduct business as a
21 mortgage servicer or otherwise engage in, carry on or hold himself or herself out as engaging in or
22 carrying on the activities of a mortgage servicer unless the person has a license issued pursuant to chapter
23 645F of NRS and the Nevada Mortgage Servicer Regulations."

24 4. Based on an internal complaint with a billing statement from AMERIHOME, the Division
25 became aware of facts indicating that AMERIHOME was engaged in activity requiring licensure under
26 the Act.

27 5. AMERIHOME is not licensed as a Mortgage Servicer in the State of Nevada.

28 6. The Division sent letters to AMERIHOME dated November 1, 2019; November 20, 2019;
December 6, 2019; December 23, 2019; January 1, 2020, and February 10, 2021.

1 7. The Division's letter dated November 1, 2019 advised AMERIHOM E that the Division
2 was in receipt of information indicating that AMERIHOM E "may be engaged in activity requiring
3 licensure as a mortgage servicer under Chapter 645F of Nevada Revised Statutes." The Division further
4 instructed AMERIHOM E to "submit a detailed written description of the Company's business activities
5 in Nevada, provide a list of all Nevada loans serviced by the Company; and an explanation why the
6 Company is engaged in the activity of a mortgage servicer in this state without holding appropriate
7 licensure."

8 8. On November 15, 2019, AMERIHOM E responded explaining their position that they
9 believe that they are not engaged in mortgage servicing in the state of Nevada. They explained their
10 position that they do own Mortgage Servicing Rights but use appropriate sub-servicers. AMERIHOM E
11 further explained that Cenlar and LoanCare service their loans, and that these sub-servicers principally
12 conduct their services for AMERIHOM E using AMERIHOM E's name, but they themselves manage all
13 customer contact.

14 9. On November 20, 2019, the Division sent AMERIHOM E another letter stating that the
15 Division had "concluded an investigation regarding AMERIHOM E mortgage servicing in Nevada
16 without a license. After a thorough review of your (AMERIHOM E's) response to the referenced
17 investigation, the Division determined that AMERIHOM E is conducting unlicensed activity that requires
18 proper licensure as a mortgage servicer, pursuant to NRS 645F.063. AMERIHOM E Mortgage must
19 immediately apply for a mortgage servicer license with the Division."

20 10. On December 2, 2019, AMERIHOM E sent another letter to the Division. AMERIHOM E
21 explained that "our outside counsel informed us that it posed the question to senior representatives within
22 the division twice in recent months, and in each instance those representatives responded that the Division
23 is not applying the mortgage loan servicer licensing obligations to apply to those who only acquire and
24 hold mortgage loan servicing rights." Based partially on that third hand information, AMERIHOM E
25 "ask(ed) the division to reconsider the position you (the Division) articulated in the letter."

26 11. In a letter dated December 6, 2019 the Division asked AMERIHOM E who they had
27 spoken to at the Division and if there was any documentation of such conversation. The Division further
28 attached a copy of a loan statement which indicated that AMERIHOM E was directly servicing an account
within Nevada. The Division noted that "(o)n the document, there is no reference to LoanCare, LLC, or

1 Cenlar, nor does the phone number for customer service refer a consumer to LoanCare, LLC, or Cenlar.
2 I (the Division) called the number on the statement and was directed to AMERIHOMÉ Mortgage.” The
3 Division requested that AMERIHOMÉ explain the company’s business model as it relates specifically
4 to Nevada.

5 12. In a letter dated December 20, 2019, AMERIHOMÉ responded to the Division and, as to
6 who they had spoken to at the Division, AMERIHOMÉ clarified that their outside counsel, the law firm
7 Mayer Brown, is regularly in contact with the Deputy Commissioner of the department. AMERIHOMÉ
8 did not attach or refer to any documentation of this regular contact between those two parties. As to the
9 request for an explanation to the company’s business model, AMERIHOMÉ provided an explanation
10 stating that they are “primarily a correspondent loan purchaser, buying closed loans in the secondary
11 market in all states (other than New York) and the District of Columbia. AMERIHOMÉ then sells the
12 loans, primarily to the agencies (FNMA, FHLMC, GNMA), while retaining the mortgage servicing rights
13 (MSRs).” AMERIHOMÉ explained that they contract with Cenlar, a federally chartered bank, and
14 LoanCare LLC, a licensed servicer. AMERIHOMÉ explained that “Cenlar and LoanCare provide
15 AMERIHOMÉ with “private label” or “branded” servicing (“private label”). As explained by
16 AMERIHOMÉ, one purpose served by private label servicing is “it enhances the borrower relationship,
17 and promotes a stronger brand recognition resulting in greater retention.”

18 13. AMERIHOMÉ explained that their private label servicers provide the following services:
19 (1) a dedicated toll-free number for customers. While some of the correspondence indicates
20 AMERIHOMÉ’s name, the phones are actually answered by the private label servicer’s employees. (2)
21 AMERIHOMÉ’s name and logo appear on most correspondence, as well as printed materials (payment
22 books and statements, letters, notices, ARM loan changes, year-end statement an escrow analysis and
23 more). However, these materials are prepared and delivered by the third-party servicer, and responses are
24 received and processed by the third-party servicers. (3) Customer payments are made payable to
25 AMERIHOMÉ, but received by Cenlar and LoanCare, as they are sent to “lockboxes” maintained by
26 each sub-servicer. (4) All inbound calls are received by the third-party servicer, and any issues handled
27 by the third-party servicer.
28

1 14. AMERIHOMe further explained that they maintain comprehensive oversight of the
2 private label servicer's operations, monitor their policies and procedures, and receive from the third-party
3 service reports of consumer complaints.

4 15. AMERIHOMe included some documents from Cenlar showing the nature of their private
5 label offerings, and explained that LoanCare is set up in essentially the same manner. The document from
6 Cenlar titled "Branded Service Options" includes a list of the services they provide (which appear to be
7 similar to the services addressed within the letter from AMERIHOMe listed above) to include (1) a
8 dedicated toll-free number greets your customers with your name; outbound calls are identified as calls
9 from you. (2) Your name and logo will appear on all correspondence and printed materials (payment
10 books and statements, letters, notices, ARM loan changes, year-end statement an escrow analysis and
11 more). (3) Customer payments are made payable to your organization: payment drafting from checking
12 or savings accounts will have your name recorded on your customer's statement. (4) Monthly credit
13 bureau reporting appears in your name. (5) Direct call transfer capability to your organization will give
14 your customers the opportunity to research sales or refinance opportunities directly with you. (6) Internet
15 based loan level access, fully customized to your website, is available for you to view your portfolio and
16 for your customers to access their loan.

17 16. In a letter dated December 23, 2019, the Division acknowledged AMERIHOMe's
18 providing of more specific details of their business model, and requested an unredacted copy of the
19 "private labeled" or "branded" contracts and asked who owns the promissory notes on the properties
20 serviced by the subcontractors.

21 17. AMERIHOMe responded in a letter dated January 10, 2020. AMERIHOMe advised that
22 that, as of November 30, 2019, 3,286 loans were being subserviced by third-parties. Of the 3,263 being
23 sub-serviced by Cenlar, 536 were owned by FNMA, 762 by FHLMC, 1,774 owned by GNMA, 3 owned
24 by Acele Residential Mortgage Trust, 59 owned by Athene Annuity and Life, 11 owned by Bank of
25 America, 25 owned by Bank of the West, 10 owned by CitiBank, 5 owned by JP Morgan Chase, and 78
26 are owned by AMERIHOMe. Of the 23 loans sub-serviced by LoanCare, 13 are owned by FNMA and
27 10 are owned by FHLMC.

28 18. AMERIHOMe also provided the requested contracts. The contract with LoanCare,
entered into on December 1, 2015 titles AMERIHOMe as the "Lender/Servicer" and LoanCare as

1 “Subservicer.” The contract’s recitals state that the Lender/Servicer (AMERIHOM) is the servicer of
2 record for the loans identified therein. Definition 1.20 defined the expiration date of the agreement as
3 November 30, 2018. On or about April 29, 2019, AMERIHOM signed a Renewal, extending the
4 expiration date to November 30, 2021, attached to the Agreement. Article 2.1 states that Lender/Servicer
5 hereby engages Subservicer to perform and Subservicer agrees to perform the services described in this
6 agreement.

7 19. Article 3.1(g) discusses documentation outlining the Lender Servicer’s branch locations
8 maintained for the purposes of HUD face to face requirements. This list is stated to be attached as Exhibit
9 H, however there is no such attachment in the version provided to the Division by AMERIHOM.

10 20. Article 3.4 considers Misdirected Payments, agreeing to the procedures if any borrower
11 makes a payment to Lender/Servicer under a loan after the transfer date for the related loan. Schedule I
12 (12) requires the Lender/Servicer to forward all payments received by Lender/servicer for loans being
13 subserviced under the agreement to the Subservicer withing 24 hours of receipt.

14 21. Article 6.1(b) represents that Lender/Servicer has all necessary licenses and is in
15 compliance with all material regulations necessary to carry on its business as now being conducted and
16 is licensed, qualified and in good standing in the states where the Mortgaged Properties are located if the
17 laws of such states require licensing or qualification in order for Lender/Service to hold its interest in or
18 servicing rights to the Loans and to the extent necessary to ensure the enforceability of each loan.

19 22. AMERIHOM also included the servicing agreement with Cenlar. The contract with
20 Cenlar, entered into on October 7, 2014 titles AMERIHOM as the “Owner/Servicer” and Cenlar FSB
21 as “Subservicer.” Article 2.1 states that Subservicer shall subservice the Mortgage Loans on a ‘Private
22 label” basis, meaning that all communications and documentation provided to Mortgagors under this
23 agreement shall contain (and/or refer to) the name of Owner/Servicer. In Article 6.5, Owner/Servicer
24 represents that each Mortgage Loan has been serviced in accordance with all applicable Requirements at
25 all times prior to the Transfer Date. Exhibit XI to the Agreement outlines certain responsibilities
26 delegated to Cenlar, and the responsibilities that stay with AMERIHOM, many of which require direct
27 contact with the individual borrowers.

28 23. AMERIHOM additionally stated that management had decided to apply for a Nevada
Mortgage Servicer License regardless of their position that such license is not required.

1 24. In a letter dated January 28, 2020, the Division requested additional information from
2 AMERIHOMe, specifically “a list of Nevada only loans serviced by Cenlar and LoanCare. The Division
3 is requesting a time frame between January 1, 2017 through December 31, 2019 (the last three-years,
4 although AMERIHOMe has been conducting business in the state of Nevada since 2014 and 2015,
5 respectively). The Division requests the following information: the name of the borrower; the property
6 address; the escrow closed date; and the date of transfer to Cenlar or LoanCare (please specify the
7 company).”

8 Additionally, the Division stated it “wholeheartedly agrees AMERIHOMe Mortgage should
9 obtain a license in Nevada as a Mortgage Servicer, pursuant to NRS 645F. 063, as requested in the initial
10 letter dated November 1, 2019.”

11 25. In a letter dated February 12, 2020, AMERIHOMe responded and provided a spreadsheet
12 of the loan-level information regarding Nevada loans being subserviced by Cenlar and LoanCare.
13 AMERIHOMe clarified that they have never originated loans in Nevada.

14 26. On February 10, 2021, the Division sent another letter to AMERIHOMe with additional
15 questions regarding issues such as advertising, operation of a website, customer support, and fallback
16 procedures if there are problematic issues with a loan.

17 27. On February 25, 2021, AMERIHOMe responded to the Division’s February 10, 2021
18 letter. AMERIHOMe, while noting they do not originate loans to Nevada residents, stated that they
19 maintain a website that is accessible from Nevada. AMERIHOMe further stated that “if a consumer
20 using the site desires to make a payment or otherwise engage in a servicing-related transaction, the
21 website has functionality to determine whether the consumer’s loan is serviced by Cenlar or LoanCare,
22 and route the consumer to the appropriate sub-servicer’s website.” Once forwarded to that sub-servicer’s
23 site, “[t]he sub-servicers’ websites accordingly have (has) AmeriHome branding, but are operated and
24 maintained entirely by the sub- servicers” in accordance with the “private label” or “branded” servicing
25 provided to AMERIHOMe by Cenlar and LoanCare. Additionally, AMERIHOMe notes “[a]ll customer
26 support for existing accounts is provided through the sub-servicers’ websites” and “AMERIHOMe’s
27 name and logo appear on billing statements and most other correspondence. However, these materials
28 are generated and delivered by the sub-servicers.”

1 28. On March 5, 2020, AmeriHome applied for a Mortgage Servicer License with the Division;
2 however, was determined to be abandoned on September 30, 2020.

3 29. On October 26, 2020, a second application was submitted; however, has not been
4 approved due to deficiencies.

5 30. NAC 645F.987 authorizes the Commissioner to impose an administrative fine of not more
6 than \$50,000.00, for each violation, if the violation involved activity requiring licensure pursuant to the
7 Act at a time when the person did not hold a license.

8 31. NRS 645F.291(3) authorizes the Commissioner to assess investigation costs against a
9 person when the investigation is conducted to investigate the conduct, activities or business of the person
10 pursuant to the Act.

11 32. Any findings of fact that may be deemed a conclusion of law shall be so construed.

12 **CONCLUSIONS OF LAW**

13 AMERIHOM is in violation of NRS 645F.510 by holding themselves out as a mortgage servicer
14 in the state of Nevada without a license from the Division and in violation of NAC 645F.950 by
15 advertising services as and carrying on and holding itself out as engaging in and carrying out the activities
16 of a mortgage servicer.

17 **ORDER TO CEASE AND DESIST AND**

18 **NOTICE OF RIGHT TO ADMINISTRATIVE HEARING**

19 NAC 645F.988 authorizes the Commissioner to issue a cease-and-desist order, subject to the right
20 of RESPONDENT to request a hearing, as follows:

21 1. If a person engages in an activity in violation of any provision of chapter 645F of
22 NRS or the Nevada Mortgage Servicer Regulations, the Commissioner may issue an order
23 to the person directing the person to cease and desist from engaging in the activity.

24 2. The order to cease and desist must be in writing and served personally or sent by
25 certified mail to the last known address of the person or by other means reasonably
26 calculated to obtain service on the person and must state that, in the opinion of the
27 Commissioner, the person has engaged in an activity:

28 (a) For which the person has not received a license as required by chapter 645F of
29 NRS and the Nevada Mortgage Servicer Regulations; or

30 (b) In a manner that violates the provisions of chapter 645F of NRS or the Nevada
31 Mortgage Servicer Regulations.

32 3. Not later than 30 calendar days after receiving an order pursuant to this section, the
33 person who receives the order may file a written notice with the Commissioner to request
34 a hearing. Upon receipt of the written notice, the Commissioner may, for good cause
35 shown, suspend the order pending the hearing. The Commissioner will hold the hearing
36 on a date not later than 30 calendar days after the date on which the petition is filed unless

1 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:

2 (1) Not later than 60 calendar days after the date on which the written notice is
filed; or

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

4 (b) Render a written decision within 45 days after the date on which the hearing is
concluded.

5 4. A hearing held pursuant to this section must be conducted under the provisions
of chapter 233B of NRS and other applicable provisions of law.

6 5. If a person fails to file a written notice to request a hearing within 30 calendar days
after receiving the order, the Commissioner will issue a final order.

7 6. A final order issued pursuant to subsection 5 or the decision of the Commissioner
after a hearing is a final decision for the purposes of judicial review.

8
9 IT IS ORDERED that AMERIHOMÉ shall immediately CEASE AND DESIST from holding
10 itself out as engaging in or carrying on any activities that require licensure as a mortgage servicer under
11 the Act, until such time as it is granted a license to do so or this order is suspended or rescinded.

12 **NOTICE OF INTENT TO ISSUE AND ENTER FINAL ORDER**
13 **IMPOSING ADMINISTRATIVE FINES,**
14 **AND REQUIRING PAYMENT OF INVESTIGATIVE COSTS**

15 Based upon the factual allegations set forth above, AMERIHOMÉ is hereby given notice that it
16 is the intent of the Commissioner to issue and enter a final order against AMERIHOMÉ to impose as
17 follows:

18 A. An administrative fine against AMERIHOMÉ in the amount of \$100,000 for
19 violations of the Act as described herein;

20 B. Investigative costs against RESPONDENT in the total amount of \$3,225.00.

21 Prior to the issuance and entry of a final order, AMERIHOMÉ is entitled to an opportunity for
22 an administrative hearing to contest this matter if AMERIHOMÉ timely makes written application for
23 such hearing in accordance with the instructions set forth below.¹

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27 ¹ Unless AMERIHOMÉ timely requests an administrative hearing, the amounts set forth herein as the intended fines, costs,
28 and the other discipline set forth herein, shall become the discipline imposed by the Commissioner against AMERIHOMÉ in
a final order to be issued. Any negotiations or other discussions between the Division (directly or through its legal counsel)
and AMERIHOMÉ regarding the matter shall *not* extend the time period in which AMERIHOMÉ must make the request to
preserve the right to hearing.

1 **REQUESTING A HEARING**

2 **If you wish to exercise your right to an opportunity for administrative hearing, within 30**
3 **calendar days after receiving this Notice, you must file a petition with the Commissioner to request**
4 **a hearing. The petition must be delivered to:**

5 Division of Mortgage Lending
6 Attn. Kelley Pacheco
7 3300 West Sahara Avenue, Suite #285
8 Las Vegas, Nevada 89102

9 **If you fail to timely file a petition to request a hearing, your right to a hearing to contest this**
10 **matter will be deemed waived and relinquished and a final order will be issued and entered in this**
11 **matter.**

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13 **IT IS SO ORDERED.**

14 DIVISION OF MORTGAGE LENDING

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16 By: _____
17 Cathy Sheehy, Commissioner
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