

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:

NOVAD MANAGEMENT CONSULTING, LLC.
Mortgage Broker License No. UNL (unlicensed),

Respondent.

Order No. 2019-004
Case No. 2019-004

**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 December, 2020,
By Cathy Sheehy,
Commissioner

**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 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 covered service providers and associated covered service providers 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 NOVAD MANAGEMENT CONSULTING, LLC (hereinafter "NOVAD") is engaged in activity

1 requiring licensure as a mortgage servicer under the Act; and

2 The Division having commenced an investigation of NOVAD's business practices pursuant to
3 NRS 645F.530(2), and having determined from that investigation that NOVAD is engaged in activity
4 requiring licensure as a mortgage servicer under the Act; and

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

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

8 **FINDINGS OF FACT**

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

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

20 3. On or about August 25, 2017, the Division became aware of facts indicating that NOVAD
21 was engaged in activity requiring licensure under the Act. In particular, the Division received an email
22 from the Conference of Bank Supervisors, Multi-State Mortgage Committee Chair Chris Pope that stated:

23 The MMC has become aware that Novad Management Consulting, LLC (NMLS
24 1323497), acquired mortgage servicing rights (MSRs) of HUD HECM Reverse
25 Mortgages beginning in 2015. Novad was awarded a loan servicing contract from HUD
26 on September 29, 2014 and for an unspecified period appeared to be servicing these loans
27 directly. In late 2015, Novad retained the services of Sutherland Mortgage Services
28 (NMLS 9891) to subservice at least some of these loans. It should be noted that Novad is
presently only licensed in one state in any capacity and was only previously licensed in
another state according to NMLS records.

4. NOVAD is not licensed as a Mortgage Servicer in the State of Nevada.

5. The Division sent letters to NOVAD dated September 5, 2017 and September 26, 2017.

1 6. On October 18, 2017, counsel for NOVAD responded to the Division. NOVAD provided
2 a summary of the activities they perform on behalf of HUD. NOVAD explained their position that
3 “NOVAD is exempt from the licensing requirement in your state as my client (NOVAD) performs all
4 activities for loan programs made by the Department of Housing and Urban Development (HUD).”
5 Additionally, NOVAD stated that “NOVAD is the prime contractor on the HUD contract with Sutherland
6 Mortgage Services, Inc. (SMS).” NOVAD further stated that “If it is your opinion that NOVAD is not
7 exempt from the licensing requirement of your state, even though all servicing activities are performed
8 on behalf of the Secretary of HUD, then it is also our opinion that all actions taken are under the
9 supervision and direction of our partner, Sutherland Mortgage Services, Inc. and therefore covered under
10 its license with your state.” NOVAD finally “request(ed) that you (the Division) review this letter and
11 issue a formal opinion as to whether the activities engaged in by Novad Management Consulting, LLC
12 (NOVAD) require a Mortgage Servicer License under the Statutes of Nevada.”

13 7. By letter dated January 12, 2018, the Division responded and explained that “it appears
14 the activities listed in your letter and in the contract would qualify as mortgage loan servicing
15 activities(.)” and that statutory exemptions would not apply to NOVAD. The Division further gave
16 NOVAD until January 31, 2018 to respond.

17 8. By letter dated March 22, 2018, the Division stated “if NOVAD did not qualify for an
18 exemption NOVAD would be required to be licensed as a mortgage loan servicer” and that “the Division
19 never received a response” as requested. Additionally, the Division requested a response from NOVAD
20 and advised NOVAD that if they chose not to be licensed then all Nevada loans under their control would
21 need to be released to a company that is licensed in Nevada. The Division informed NOVAD that they
22 are evaluating whether formal administrative action is warranted pursuant to NRS 645F.510, and to
23 “please provide the Division with a response to this letter by April 13, 2018.

24 9. The Division received no response to the January 12, 2018 letter or the March 22, 2018
25 letter.

26 10. HUD’s website currently states HUD’s Assets Servicing Contractor is NOVAD and their
27 contact information is provided for borrower inquiries and payoff requests.
28

1 IT IS FURTHER ORDERED that NOVAD shall be and hereby is assessed the Division's
2 INVESTIGATIVE COSTS in the amount of \$1,300.00 in accordance with NRS 645F.291(3). The
3 INVESTIGATIVE COSTS shall be due and payable on the 30th day following the effective date of this
4 Order and shall be tendered to the Division with the ADMINISTRATIVE FINE in accordance with the
5 attached wire transfer instructions.

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

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

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

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

19 **IT IS SO ORDERED.**

20 DIVISION OF MORTGAGE LENDING

21 By: 
22 Cathy Sheehy, Commissioner

23 **NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING**

24
25 NAC 645F.988 authorizes the Commissioner to issue a cease-and-desist order, subject to the right
26 of RESPONDENT to request a hearing, as follows:

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

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

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

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

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

(a) Hold a hearing:

(1) Not later than 60 calendar days after the date on which the written notice is
14 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 on which the hearing is
15 concluded.

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

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

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

22 REQUESTING A HEARING

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

26 Division of Mortgage Lending

27 Attn. Kelley Pacheco

28 3300 West Sahara Avenue, Suite #285

Las Vegas, Nevada 89102

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