

1 STATE OF NEVADA
2 DEPARTMENT OF BUSINESS AND INDUSTRY
3 DIVISION OF MORTGAGE LENDING

4 BEFORE THE COMMISSIONER OF THE DIVISION OF MORTGAGE LENDING

5 In the Matter of:)
6) Case No. 2020-0004
7 Robert Gindt,)
8 1802 North Carson Street, LLC, a)
9 Nevada limited liability company,)
10 1850 North Carson, LLC, a Nevada)
11 limited liability company,)
12 Pheasant Ferguson, LLC, a Nevada)
13 limited liability company and)
14 Care Free Hospitality, LLC, a Nevada)
15 limited liability company,)
16 Mortgage Company License No.)
17 Unlicensed)
18 Respondents.)

15 ORDER TO CEASE AND DESIST
16 AND
17 NOTICE OF ORDER IMPOSING
18 ADMINISTRATIVE FINES AND INVESTIGATIVE COSTS,
19 AND
20 NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING

21 Issued and Entered,
22 This 19th day of May, 2021,
23 By Cathy Sheehy,
24 Commissioner

25 The Commissioner of the State of Nevada, Department of Business and Industry,
26 Division of Mortgage Lending (the "Commissioner") is statutorily charged with the
27 responsibility and authority to administer and enforce Chapter 645B of the Nevada Revised
28 Statutes, NRS 645B.010 *et seq.*¹ (hereinafter, "NRS 645B" or "the Statutes"), and Chapter

¹ This reference is intended to include NRS 645E which provided for a mortgage banker license. In 2017, the Nevada Legislature passed AB 468 (2017) which combined the mortgage banker license with the mortgage broker (changed to mortgage company) license in NRS 645B. NRS 645E expired as of December 31, 2019.

1 645B of the Nevada Administrative Code, NAC 645B.001 *et seq.* (hereinafter, "NAC 645B"
2 or "the Regulations") (the Statutes and Regulations are collectively, the "Act"), governing
3 the licensing and conduct of mortgage companies and mortgage loan originators doing
4 business in the State of Nevada; and,

5 The Commissioner is required to conduct investigations as may be necessary to
6 determine whether any person has violated any provision of the Act.

7 Pursuant to that statutory authority and responsibility vested in the Commissioner,
8 and in accordance with provisions of the Act and other applicable law, notice is hereby
9 provided to ROBERT GINDT, 1802 NORTH CARSON STREET, LLC, 1850 NORTH
10 CARSON, LLC, PHEASANT FERGUSON, LLC, and CARE FREE HOSPITALITY, LLC
11 (collectively "RESPONDENTS"), to cease any and all activity for which licensure is
12 required under the Act until such time as they have obtained a license or exemption from
13 the Nevada Division of Mortgage Lending ("the Division").

14 **I. FACTUAL AND LEGAL BASIS**

15 **FOR CEASE AND DESIST ORDER AND ORDER IMPOSING** 16 **ADMINISTRATIVE FINES AND INVESTIGATIVE COSTS**

17 The Commissioner finds that there is sufficient factual basis and legal authority to
18 warrant this order as follows:

19 1. RESPONDENT ROBERT GINDT ("GINDT") is the manager or managing
20 member of RESPONDENTS 1802 NORTH CARSON, LLC, 1850 NORTH CARSON, LLC,
21 PHEASANT FERGUSON, LLC, and CARE FREE HOSPITALITY, LLC.

22 2. GINDT used his personal funds to make loans secured by interests in real
23 property using his limited liability companies, RESPONDENTS 1802 NORTH CARSON,
24 LLC, 1850 NORTH CARSON, LLC, PHEASANT FERGUSON, LLC, and CARE FREE
25 HOSPITALITY, LLC.

26 3. On or about October 17, 2019, the Division received an informal complaint by
27 Rebecca Montero against GINDT by way of an email and call from someone stating GINDT
28 loaned her money secured by a deed of trust on real property.

1 4. On or about October 21, 2019, Division investigators made an attempt to meet
2 with GINDT while visiting the Reno area.

3 5. On or about October 23, 2019, the Division received a letter from an attorney
4 on behalf of GINDT denying that GINDT solicits borrowers for making mortgage loans as
5 provided by NRS 645E.100.

6 6. By email dated November 4, 2019, the Division investigator informed the
7 attorney that individuals may not lend money secured by a deed of trust on residential
8 property without proper licensure. The attorney requested statutory authority.

9 7. As requested, the Division investigator provided an email referencing NRS
10 645B.0127 and stating:

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

16 8. By letter dated November 19, 2019, the Division provided notice to
17 RESPONDENTS GINDT and 1802 NORTH CARSON, LLC ("1802") of the investigation
18 and requested a complete list of loans made and any basis a claim of exemption could be
19 made with a deadline of December 6, 2019.

20 9. By letter dated December 13, 2019, GINDT'S attorney provided declarations
21 provided by GINDT and others involved in loans made by GINDT and 1802.

22 10. GINDT states in his declaration dated December 13, 2019 that for a number
23 of years his company, 1802, purchased properties and sold them with seller financing.

24 11. GINDT states that an acquaintance from Greater Nevada Mortgage asked
25 him if he would loan \$25,000 to Ms. Montero and he did so through 1802. While on vacation
26 he was asked to increase the loan to \$30,000 and he agreed. GINDT stated that he hired
27 First Centennial Title to prepare the loan documents.

28 12. GINDT claims he never held himself out as a mortgage broker or mortgage
agent and said he would provide documents for three loans, "the Montero loan, the Honor
Those Who Serve LLC loan and the Maerz loan." Those documents were not provided.

1 13. In addition to GINDT'S declaration, the December 13 response included
2 declarations from Nicholas Maerz, William Golden, and Carri Newham (unsigned).

3 14. An undated declaration from Nicholas Maerz (a real estate broker and owner
4 of Nevada Commercial Real Estate Services, LLC) states that he has known GINDT for
5 five years and that he was involved in several purchases and sales by GINDT using 1802.

6 15. Mr. Maerz says he was contacted by Anthony Cresci of Honor Those Who
7 Serve, LLC who said he needed to borrow money for repairs to commercial property it
8 owned. Mr. Maerz contacted GINDT about loaning the money, which he did through 1802
9 in exchange for a deed of trust on the property.

10 16. Mr. Maerz also stated that he personally borrowed money from 1802, but no
11 documents for that loan were provided.

12 17. Declaration dated December 7, 2019 from William Golden (mortgage
13 consultant with Greater Nevada Mortgage, LLC) says he approached GINDT about loaning
14 money to Ms. Montero when she asked him if he "knew anyone willing to make this loan
15 on a short-term basis."

16 18. An unsigned declaration from Carri Newham from First Centennial Title
17 states that she prepared the loan documents for Ms. Montero's loan from GINDT'S company
18 1802.

19 19. The December 13 response was not complete as it did not include all the loan
20 documents the Division requested, so the Division sent a follow-up letter on December 23,
21 2019.

22 20. Receiving no response, the Division sent an additional request by email to
23 GINDT'S attorney dated January 26, 2020.

24 21. By letter dated February 12, 2020, GINDT'S attorney provided a list of loans
25 involving GINDT and his entities with documents as follows:

- 26 • December 2017, GINDT through RESPONDENT 1850 NORTH CARSON,
27 LLC made a commercial loan to SJR Holdings as a seller carryback in the
28 amount of \$700,000 with 6% interest (Loan #1).

- 1 • February 2018, GINDT through RESPONDENT PHEASANT FERGUSON,
2 LLC made a commercial loan to Apartment 801, LLC as a seller carryback in
3 the amount of \$275,000 with 5% interest (Loan #2).
- 4 • June 2019, GINDT through RESPONDENT CARE FREE HOSPITALITY,
5 LLC made a commercial loan to SJR Holdings, LLC as a seller carryback in
6 the amount of \$350,000 with 5% interest (Loan #3).
- 7 • August 2019, GINDT through 1802 made a residential loan to 100 Trees, LLC
8 (“100 Trees”) in the amount of \$77,000 (Loan #4).
 - 9 ○ October 2019, 1802 made a second loan to 100 Trees in the amount of
10 \$38,000 (Loan #5).
 - 11 ○ January 2020, 1802 made a third loan to 100 Trees in the amount of
12 \$40,000 (Loan #6).

13 22. May 2019, GINDT through 1802 made a residential mortgage loan to Ms.
14 Montero in the amount of \$30,000 with 10% interest and later foreclosed on the residential
15 property (Loan #7).

16 23. May 2019, although no documents were provided, GINDT admitted to making
17 a loan through 1802 to Honor Those Who Serve, LLC in the amount of \$57,500 for
18 commercial property that he later purchased (Loan #8).

19 24. Ms. Montero filed a formal complaint with the Division on April 13, 2020.

20 25. NRS 645B.0127 defines mortgage company (formerly referred to as mortgage
21 broker) as follows:

- 22 1. “Mortgage company” means a person who, directly or indirectly:
 - 23 (a) Holds himself or herself out for hire to serve as an agent for any
24 person in an attempt to obtain a loan which will be secured by a lien on real
25 property;
 - 26 (b) Holds himself or herself out for hire to serve as an agent for any
27 person who has money to lend, if the loan is or will be secured by a lien on
28 real property;
 - (c) Holds himself or herself out as being able to make loans secured by
liens on real property;
 - (d) Holds himself or herself out as being able to buy or sell notes secured
by liens on real property; or
 - (e) Offers for sale in this State any security which is exempt from
registration under state or federal law and purports to make investments in
promissory notes secured by liens on real property.

1 2. The term includes a wholesale lender.

2 26. Effective through December 31, 2019, NRS 645E.100 defined mortgage
3 banker as follows:

4 1. "Mortgage banker" means any of the following:

5 (a) A person who, directly or indirectly:

6 (1) Holds himself or herself out as being able to:

7 (I) Buy or sell notes secured by liens on real property; or

8 (II) Make loans secured by liens on real property using his or her
9 own money; and

10 (2) Does not engage in any other act or transaction described in the
11 definition of "mortgage broker," as set forth in NRS 645B.0127, unless the
12 person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

13 (b) A person who, directly or indirectly:

14 (1) Negotiates, originates or makes or offers to negotiate, originate or
15 make commercial mortgage loans as an agent for or on behalf of an
16 institutional investor; and

17 (2) Does not engage in any other act or transaction described in the
18 definition of "mortgage broker," as set forth in NRS 645B.0127, unless the
19 person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

20 2. The term includes a wholesale lender.

21 3. For the purposes of this section, a person does not make a loan secured
22 by a lien on real property using his or her own money if any portion of the
23 money that is used to make the loan is provided by another person who
24 acquires ownership of or a beneficial interest in the loan.

25 27. GINDT held himself out as a person who could make loans secured by liens on
26 real property based on the number of secured loans he performed at the request of
27 individuals who knew GINDT'S business activities.

28 28. RESPONDENTS have never held a mortgage company (fka mortgage broker)
or mortgage banker license from the Division.

 29. NRS 645B.015 provides for exemptions from NRS 645B as follows:

 Except as otherwise provided in NRS 645B.016, the Secure and Fair
Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq.,
and any regulations adopted pursuant thereto and other applicable law, the
provisions of this chapter do not apply to:

 1. Any person doing business under the laws of this State, any other state
or the United States relating to banks, savings banks, trust companies,
savings and loan associations, industrial loan companies, credit unions, thrift
companies or insurance companies, including, without limitation, a subsidiary
or a holding company of such a bank, company, association or union.

 2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless
the business conducted in this State is not subject to supervision by the
regulatory authority of the other jurisdiction, in which case licensing pursuant
to this chapter is required.

 3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan
is made directly from money in the plan by the plan's trustee.

1 4. An attorney at law rendering services in the performance of his or her
duties as an attorney at law.

2 5. A real estate broker rendering services in the performance of his or
her duties as a real estate broker.

3 6. Any person doing any act under an order of any court.

4 7. Any one natural person, or married couple, who provides money for
investment in commercial loans secured by a lien on real property, on his or
her own account, unless such a person makes a loan secured by a lien on real
property using his or her own money and assigns all or a part of his or her
5 interest in the loan to another person, other than his or her spouse or child,
within 3 years after the date on which the loan is made or the deed of trust is
6 recorded, whichever occurs later.

7 8. A natural person who only offers or negotiates terms of a residential
mortgage loan:

8 (a) With or on behalf of an immediate family member of the person;

9 (b) Secured by a dwelling that served as the person's residence; or

10 (c) If:

11 (1) The residential mortgage loan is for a manufactured home, as
defined in NRS 118B.015;

12 (2) The residential mortgage loan is financed by the seller; and

13 (3) The seller has not engaged in more than five such loans in this
State during the immediately preceding 12 consecutive months.

14 9. Agencies of the United States and of this State and its political
subdivisions, including the Public Employees' Retirement System.

15 10. A seller of real property who offers credit secured by a mortgage of
the property sold.

16 11. A nonprofit agency or organization:

17 (a) Which provides self-help housing for a borrower who has provided part
of the labor to construct the dwelling securing the borrower's loan;

18 (b) Which does not charge or collect origination fees in connection with the
origination of residential mortgage loans;

19 (c) Which only makes residential mortgage loans at an interest rate of 0
percent per annum;

20 (d) Whose volunteers, if any, do not receive compensation for their services
in the construction of a dwelling;

21 (e) Which does not profit from the sale of a dwelling to a borrower; and

22 (f) Which maintains tax-exempt status under section 501(c)(3) of the
Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

23 12. A housing counseling agency approved by the United States
Department of Housing and Urban Development.

24 13. Except as otherwise required by the Director of the Department of
Business and Industry pursuant to NRS 657A.430 or 657A.620, a participant
in the Regulatory Experimentation Program for Product Innovation
established and administered pursuant to chapter 657A of NRS.

25 30. NRS 645B.016 requires any person who claims an exemption from NRS 645B
26 to request a certificate of exemption from the Commissioner.

27 31. RESPONDENTS never held or requested an exemption from the provisions of
28 NRS 645B or NRS 645E.

1 NRS 645B.070(3).

2 IT IS FURTHER ORDERED that an administrative hearing shall be scheduled in
3 this matter only if RESPONDENTS timely request an administrative hearing in
4 accordance with the instructions set forth in the Section III and IV below. If no
5 administrative hearing is requested timely, RESPONDENTS shall be deemed to have
6 waived and relinquished the right to an administrative hearing in this matter and a FINAL
7 ORDER shall be issued in this matter.

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

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

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

16 IT IS SO ORDERED.

17 DIVISION OF MORTGAGE LENDING

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19 By: 

20 Cathy Sheehy, Commissioner
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1 **III. NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING**
2 **ON CEASE AND DESIST ORDER AND ASSESSMENT OF FINE AND**
3 **INVESTIGATIVE COSTS**

4
5 **NAC 645B.515 authorizes the Commissioner to issue a cease and desist**
6 **order, subject to the right of RESPONDENTS to request a hearing, as follows:**

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

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

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

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

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

19 **4. Not later than 30 calendar days after receiving an order pursuant**
20 **to this section, the person who receives the order may file a verified**
21 **petition with the Commissioner to request a hearing.** Upon receipt of
22 the verified petition, the Commissioner may, for good cause shown, suspend
23 the order pending the hearing. The Commissioner will hold the hearing on a
24 date not later than 30 calendar days after the date the petition is filed unless
25 the Commissioner and the person agree to another date. The order to cease
26 and desist is rescinded if the Commissioner fails to:

27 (a) Hold a hearing:

28 (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

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

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

24
25 **NRS 645B.750 Duty of Commissioner to provide written notice of**
26 **disciplinary action or denial of license; right to administrative**
27 **hearing; entry of final order; appeals.**

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

