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

In re:

Nevada Loan Source, Inc.,

Respondent.

NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING

The licensing and regulation of mortgage brokers and mortgage agents in the State of Nevada is governed by Chapter 645B of the Nevada Revised Statutes ("NRS") and Chapter 645B of the Nevada Administrative Code ("NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending ("the Division") has the general duty to exercise supervision and control over mortgage brokers and mortgage agents, as well as mortgage broker and mortgage agent activity. *See*, NRS 645B.060(1), NRS 645B.670 and NRS 645B.690. Pursuant to that authority, the Division makes Factual Allegations, Violations of Law, and Order, as follows:

FACTUAL ALLEGATIONS

1. Based upon information and belief, Respondent, Nevada Loan Source, Inc. ("Respondent") is a corporation organized and existing under the laws of the State of Nevada since approximately October 30, 1989. Currently, Respondent's status with the Nevada Secretary of State is "default."

2. Based upon information and belief, on approximately October 26, 1989, Respondent was registered with, and issued a mortgage broker license (No. 31) by, the Financial Institutions Division, Department of Business and Industry, State of Nevada,

pursuant to Chapter 645B of NRS.

3. On approximately July 1, 2004, the Division commenced licensing and supervising mortgage brokers and mortgage agents pursuant to Chapter 645B of NRS.

4. Based upon information and belief, Respondent conducted mortgage lending activity in the State of Nevada as a licensed mortgage broker from approximately October 26, 1989, to approximately July 1, 2009, when it failed to renew and closed. See, NRS 645B.050(1).

5. Currently, Respondent's status with the Division is "closed."

6. On approximately June 19, 2006, Colleen Marie Fitzgerald ("Fitzgerald") was issued a mortgage agent license (No. 38756) by the Division pursuant to Chapter 645B of NRS.

7. Based upon information and belief, Fitzgerald was affiliated with, or employed by, Respondent as a mortgage agent and conducted mortgage lending activity in the State of Nevada on its behalf from approximately December 5, 2006, until approximately June 20, 2009, when her mortgage agent license was cancelled for failure to renew. See, NRS 645B.430(1).

8. Currently, Fitzgerald's status with the Division is "license cancelled."

9. Based upon information and belief, at relevant times herein mentioned, complainants herein, MN and PTT ("Complainants") were the owners of certain real property located on Silver Stream Drive, Carson City, Nevada 89703 (the "Property").

10. On or about March 24, 2009, the Division received a written complaint ("Complaint") from Complainants alleging, among other things, that:

a. Fitzgerald promised Complainants a construction loan to be secured by a lien on the Property;

b. Complainants deposited with Fitzgerald a $2,500.00 check made payable to Fitzgerald as an upfront fee for her services, a $1,500.00 check made payable to Seattle

Funding Group, and paid Fitzgerald $400.00 for an appraisal; and

c. After Complainants declined the only loan that was offered to them (which they state was at a high interest rate and fees), Fitzgerald failed to remit the fees back to Complainants.

11. Pursuant to NRS 645B.060, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State and "is charged with conducting...such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner." *See*, NRS 645B.060(2)(c).

12. Pursuant to NRS 645B.610, the Division is also charged with investigating "...each violation alleged in (a) complaint..." received by the Division and "...shall determine from the investigation whether there is reasonable cause to believe that the person committed the alleged violation...." *See*, NRS 645B.610(1), (3).

13. Pursuant to NRS 645B.060, the Division is further charged with conducting "...such other investigations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents...." *See*, NRS 645B.060(2)(e).

14. After receiving the Complaint, the Division conducted an investigation of the allegations in question, which included sending Fitzgerald and her attorney at the time, David Allison, correspondence requesting a response to the Complaint and communicating with Mr. Allison telephonically regarding additional questions.

15. The relevant findings of the Division's investigation were that:

a. Complainants deposited with Fitzgerald a $2,500.00 check dated October 10, 2008, made payable to Fitzgerald for her services, a $1,500.00 check made payable to Seattle Funding Group for a loan application fee and a $400.00 check made payable to Dan

Magee for an appraisal;

b. Fitzgerald did not place the $2,500.00 check made payable to her, the $1,500.00 check made payable to Seattle Funding Group and/or the $400.00 check made payable to Dan Magee in escrow pending completion of a loan or a commitment for a loan; and

c. Complainants never signed a written agreement which (i) specified the estimated costs by item and the estimated aggregate cost to be paid to third persons (Fitzgerald's $2,500.00 fee, the $1,500.00 lender loan application fee and the $400.00 appraisal fee) and (ii) recited that money advanced for costs would not be refunded.

17. Pursuant to NRS 645B.165, advance payments to cover reasonably estimated costs paid to third persons are not required to be placed in escrow pending completion of a loan or a commitment for a loan "...if the person making (the advance payments) first signs a written agreement which specifies the estimated costs by item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded...." *See*, NRS 645B.165(1), (3).

18. Pursuant to NRS 645B.460, "(a) mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents. Such reasonable supervision must include, as appropriate...(t)he establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation...(t)he handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter...." *See*, NRS 645B.460(1)(b)(4).

19. Pursuant to NRS 645B.670, "(f)or each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if

the mortgage broker, whether or not acting as such...(d)oes not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; ...(h)as failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460...." *See*, NRS 645B.670(2)(c), (q).

VIOLATIONS OF LAW

After investigating this matter, it has been determined that:

a. Respondent failed to exercise reasonable supervision over the activities of his mortgage agent, Fitzgerald, by allowing Fitzgerald to accept advance fees without having obtained a written advance fee agreement which (i) specified the estimated costs by item and the estimated aggregate cost to be paid to third persons (Fitzgerald's $2,500.00 fee, the $1,500.00 lender loan application fee and the $400.00 appraisal fee) and (ii) recited that money advanced for costs would not be refunded, in violation of NRS 645B.460(1), NRS 645B.670(2)(q) and NRS 645B.165(1), (3); and

b. Based upon the foregoing violations of provisions of Chapter 645B of NRS, Respondent failed to conduct his business in accordance with law, in violation of NRS 645B.670(2)(c).

ORDER

NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS, pursuant to NRS 645B.750, that upon written application to the Division within **twenty (20) days** of the date of this Order, Respondent shall be entitled to a hearing with regards to the contents of this Order referenced below. At that hearing the Division will seek to:

1. Impose an administrative fine against Respondent in the amount of Two Thousand Five Hundred Dollars and No Cents ($2,500.00), payable to the Division on account of Respondent's multiple violations of Chapter 645B of NRS, the Division's investigative costs in

the amount of Four Hundred Eighty Dollars and No Cents ($480.00) as well as the Division's attorney's fees, if any, incurred herein, to be proven at the hearing; and

2. Require Respondent's payment, in full, to the Division of the administrative fine, investigative costs and fees, if any, within **thirty (30) days** of entry of the Final Order.

Should Respondent not request a hearing within **twenty (20) days** of the date of this Order, the Division will enter a Final Order in this matter against Respondent, as required by NRS 645B.750(2).

Dated this 13th day of November, 2009.

State of Nevada
Department of Business and Industry
Division of Mortgage Lending

By: Joseph L. Waltuch
Joseph L. Waltuch, Commissioner

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on November 20, 2009, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for NEVADA LOAN SOURCE INC, addressed as follows:

James Fitzgerald
Nevada Loan Source Inc.
4821 Purple Sage Court
Carson City, NV 89706

Certified Receipt Number: 7008 1830 0002 7959 5048

DATED this 20th day of November, 2009

By: _____
Employee of the Division