

OPEN MEETING ITEM

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MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

BRIAN C. McNEIL
EXECUTIVE DIRECTOR



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2008 SEP 23 P 2:22

ARIZONA CORPORATION COMMISSION

ORIGINAL

SECURITIES DIVISION
DOCKET CONTROL

MEMORANDUM

TO: Mike Gleason, Chairman
William A. Mundell
Jeff Hatch-Miller
Kristin K. Mayes
Gary Pierce

Arizona Corporation Commission
DOCKETED

FROM: Matthew J. Neubert *mjn*
Director of Securities

SEP 23 2008

DATE: September 12, 2008

DOCKETED BY *mn*

RE: Proposed Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties, Order of Other Affirmative Action and Consent to Same by: (a) Guillermo Ricardo de la Vara; (b) Mortgage Notes, Inc.; (c) MNI Properties, L.L.C.; and (d) Erlinda de la Vara, Docket No. S-20616A-08-0449

CC: Brian C. McNeil, Executive Director

On August 28, 2008, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing (TC&D) against Respondents Guillermo Ricardo de la Vara, Mortgage Notes, Inc., MNI Properties, L.L.C., and Erlinda de la Vara ("Respondents").

Please find attached a proposed Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent to Same ("Order") executed by all Respondents. The Order includes all allegations of the TC&D, and finds that from January 2001 to August 2008, Respondents sold unregistered securities in the form of investment contracts and/or notes to 26 Arizona investors.

The Order requires Respondents to pay \$5,742,967.79 in restitution and \$125,000 in administrative penalties. The Order finds that Respondents violated A.R.S. §§ 44-1841 & 44-1842 for selling unregistered securities within Arizona while not being registered as a dealer or salesman, or exempt from registration. The Order also finds that Respondents violated the anti-fraud provision of the Securities Act, A.R.S. § 44-1991.

The Division recommends this Order as appropriate, in the public interest and necessary for the protection of investors.

Originator: Mike Dailey

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

In the matter of:	)	DOCKET NO. S-20616A-08-0449
GUILLERMO RICARDO DE LA VARA	)	DECISION NO. _____
(a/k/a "WILLIAM DE LA VARA" and	)	ORDER TO CEASE AND DESIST, ORDER
"BILL DE LA VARA"), a married man	)	OF RESTITUTION, ORDER FOR
doing business as MORTGAGE NOTES, an	)	ADMINISTRATIVE PENALTIES AND
Arizona registered trade name and	)	CONSENT TO SAME BY RESPONDENTS
MORTGAGE NOTES, INC., a dissolved)	
Arizona corporation;	)	GUILLERMO RICARDO DE LA VARA,
MNI PROPERTIES, L.L.C., an Arizona	)	MORTGAGE NOTES, INC.,
limited liability company;	)	MNI PROPERTIES, L.L.C.
ERLINDA DE LA VARA (a/k/a	)	-AND-
"ERLINDA G. LOPEZ"), spouse of)	
GUILLERMO RICARDO DE LA VARA,	)	ERLINDA DE LA VARA
Respondents.)	

Respondents GUILLERMO RICARDO DE LA VARA (a/k/a "WILLIAM DE LA VARA" and "BILL DE LA VARA") doing business as MORTGAGE NOTES and as MORTGAGE NOTES, INC., MNI PROPERTIES, L.L.C. and ERLINDA DE LA VARA (a/k/a "ERLINDA G. LOPEZ") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease And Desist, Order of Restitution, Order for Administrative Penalties ("Order") and Consent to Same. Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

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I.

FINDINGS OF FACT

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1. Respondent GUILLERMO RICARDO DE LA VARA (a/k/a "WILLIAM DE LA VARA" and "BILL DE LA VARA") (hereafter, "DE LA VARA") is a married man who at all times relevant resided in Phoenix, Arizona. DE LA VARA does business as "MORTGAGE NOTES," an Arizona registered trade name owned by DE LA VARA, and as MORTGAGE NOTES, INC. described in paragraph 2 below.

2. Respondent MORTGAGE NOTES, INC. ("MNI") is a dissolved Arizona corporation with a principal place of business in Phoenix, Arizona. MNI was formed in Arizona on or about September 1990 and was administratively dissolved by the Corporations Division of the Commission on August 1, 2008 for its failure to file its 2008 annual report. From at least 2001 to the present, DE LA VARA transacted business through, and has been doing business as MNI as its co-owner, president, chief executive officer and director.

3. Respondent MNI PROPERTIES, L.L.C. ("MNIP") is an Arizona limited liability company with a principal place of business in Phoenix, Arizona. MNIP was formed by DE LA VARA on January 21, 2004. DE LA VARA is the co-owner and managing member of MNIP.

4. Respondent ERLINDA DE LA VARA (a/k/a "ERLINDA G. LOPEZ") has been at all times relevant the spouse of DE LA VARA. She is referred to hereafter as "RESPONDENT SPOUSE." RESPONDENT SPOUSE is joined in this action under A.R.S. § 44-2031(C) solely for the purpose of determining the liability of the marital community.

5. At all times relevant, DE LA VARA was acting for his own benefit and for the benefit or in furtherance of DE LA VARA and RESPONDENT SPOUSE's marital community.

6. MNI, MNIP and DE LA VARA are collectively referred to hereafter as "RESPONDENTS" as the context requires.

1 7. From January 2001 to the present, RESPONDENTS offered and sold securities
2 within and from Arizona in the form of investment contracts and/or notes. ("Lien Investments").
3 RESPONDENTS sold \$5,742,967.79 of the Lien Investments to 26 Arizona investors.

4 8. RESPONDENTS represented to investors that they are in the business of
5 purchasing seller-held real estate notes and deeds of trust (collectively "deed(s) of trust" as the
6 context requires).

7 9. RESPONDENTS often purchase a deed of trust at a discount, or for less money
8 than the loan balance owed under the deed of trust by the borrower/note maker.

9 10. Depending on their intrinsic profitability, RESPONDENTS sometimes purchase a
10 deed of trust at par (face value), or for the exact loan balance owed under the deed of trust.

11 11. RESPONDENTS also generate their own deeds of trust to secure bridge and other
12 loans to fund the purchase or improvement of real property.

13 12. The terms of the deeds of trust vary. For example: (a) their interest rates generally
14 range from 8% to 18% per year; (b) their loan terms generally range from 1 to 5 years; and (c)
15 they often include a balloon payment on the expiration of the loan term. The profit potential of
16 holding a deed of trust depends on, without limitation: (a) the creditworthiness of the
17 borrower/note maker; (b) the number, dollar amount and position of liens attached to the related
18 real estate; (c) the fair market value of the real estate; (d) whether the borrower/note maker stays
19 in their home, or sell their home and pay off their loan prior to maturity; and (e) whether
20 RESPONDENTS manage the Lien Investments as promised.

21 13. RESPONDENTS re-sold and/or assigned the deeds of trust to investors as the Lien
22 Investments. The purchase price of a Lien Investment ranged from \$5,000 to \$250,000.

23 14. RESPONDENTS represented to investors that the Lien Investments were risk-free
24 and fully secured by real estate that had a fair market value exceeding the balance of the
25 notes/loans secured by the deeds of trust.

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1 15. The terms of a Lien Investment often retained those set forth in the original deed of
2 trust acquired or generated by RESPONDENTS. RESPONDENTS sometimes sold an investor a
3 Lien Investment that consisted only of a portion of the payments due under a deed of trust.
4 RESPONDENTS occasionally sold a Lien Investment to an investor that included a lesser interest
5 rate than that set forth under the original deed of trust.

6 16. RESPONDENTS managed all aspects of the Lien Investments, and: (a) performed
7 any underwriting and/or risk evaluation services associated with a Lien Investment, "in house, with
8 no loan committees with which to contend;" (b) generated and timely recorded a deed of trust or
9 other documents to legally or adequately secure an investor's Lien Investment; (c) serviced a note
10 and deed of trust, and collect monthly payments and balloon and/or note payoffs from the
11 borrower/note makers; (d) disbursed monthly loan payments, and loan payoffs associated with a Lien
12 Investment to an investor; (e) prepared Lien Investment account statements, and forwarded such
13 statements to investors; (f) researched and/or confirmed the title of real estate that would purportedly
14 secure an investor's Lien Investment; (g) prepared and recorded a deed of release at the conclusion of
15 an investor's Lien Investment as required by law; and/or (h) handled foreclosure or borrower/note
16 maker eviction matters relating to a Lien Investment to repay the investor their principal investment
17 and promised profit.

18 17. Once an investor purchased a Lien Investment and signed any applicable real
19 estate documents, they had no duties to receive their promised Lien Investment profit and the
20 return of their principal investment. Lien Investment documents created, signed and recorded by
21 RESPONDENTS were acknowledged (notarized) by RESPONDENT SPOUSE under her
22 alternative name "ERLINDA G. LOPEZ."

23 18. Under the Lien Investments, RESPONDENTS shared profits with their investors,
24 for instance, by: (a) retaining a lump-sum origination fee from the principal Lien Investment funds
25 and/or borrower/note maker; (b) assigning only a portion of the payments due under a deed of trust to
26 an investor, and retaining the remaining interest and principal payments made by the borrower/note

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maker; or (c) by retaining interest income representing the difference in the interest rate called for under an original deed of trust and that ultimately assigned/sold to an investor as a Lien Investment.

19. At all times relevant, RESPONDENTS:

- A. Failed to disclose to certain investors that they were being sold Lien Investments related to real estate that RESPONDENTS did not own or have a legal or equitable interest.
- B. Misrepresented to certain investors that RESPONDENTS would collect monthly and loan-payoff payments from borrower/note makers when they, in fact, did not.
- C. Failed to disclose to investors that RESPONDENTS sometimes would fail to record deeds of trust to secure an investor's Lien Investment in the lien position promised by RESPONDENTS (*i.e.*, 1st). RESPONDENTS further failed to disclose to certain investors that RESPONDENTS then sold the same Lien Investment (*e.g.*, note and related 1st position deed of trust) to another investor. RESPONDENTS often failed to provide their investors with recorded documents demonstrating the purported security of their Lien Investments.
- D. Failed to disclose to investors that RESPONDENTS would in some cases forge an investor's signature on a real estate document, such as a release of deed of trust, in part, so RESPONDENTS could sell the same Lien Investment to another investor.
- E. Misrepresented and/or failed to disclose to certain investors the *number* of pre-existing liens attached to a piece of real estate. This misrepresentation and/or omission sometimes resulted in a piece of real estate being subject to 4 or more Lien Investments that were often under-secured.

1 F. Misrepresented to certain investors the *dollar amount* of disclosed,
2 existing/prior liens attached to a piece of real estate and/or the *fair market*
3 *value* of the real estate. These misrepresentations sometimes resulted in an
4 under-secured Lien Investment.

5 G. Failed to disclose to investors that RESPONDENTS would sometimes
6 falsify the legal description of real estate in a deed of trust that purportedly
7 secures an investor's Lien Investment, and then correctly typed the legal
8 description of the same real estate in documents associated with a
9 subsequent investor's purchase of the same Lien Investment.

10 20. In one instance, DE LA VARA and MNI acquired 6 properties with loans issued by
11 a mortgage banker, resulting in first position liens on all 6 properties in favor of the mortgage
12 banker. Thereafter, DE LA VARA and MNI sold second position Lien Investments on the 6
13 properties to an existing investor. DE LA VARA and MNI then purportedly sold first position
14 Lien Investments on those 6 properties to an Arizona couple (the "Jade Park investors") when, in
15 reality and by default, they actually purchased third position Lien Investments. With the downturn
16 in the Arizona real estate market and related sale costs, the depreciated, current market value of the
17 6 properties is less than, or approximately equal to the loan balance owed to first position lien
18 holding mortgage banker. Thus, the Jade Park investors' Investments are under-secured and
19 worthless.

20 21. In another case, DE LA VARA and MNI sold another Arizona couple 29 Lien
21 Investments totaling approximately \$950,000 in which these RESPONDENTS engaged in the
22 conduct described above. These investors' Lien Investments are under-secured and/or unsecured.

23 22. Contrary to RESPONDENTS' representations, the Lien Investments were not risk-
24 free and secure because, without limitation, they were subject to RESPONDENTS'
25 misrepresentations and non-disclosures noted above, unpredictable civil litigation, bankruptcy
26 proceedings and a material drop in the value of associated real estate

1 23. RESPONDENTS failed to disclose to investors that DE LA VARA and MNI filed
2 two bankruptcies directly related to, and adversely affecting the purportedly secure and profitable
3 nature of the Lien Investments, to wit:

4 A. MNI voluntarily filed a Chapter 11 bankruptcy on June 29, 2007 in the
5 U.S. Bankruptcy Court, District of Arizona, 2:07-bk-03071-JMM, which
6 has since been converted to a Chapter 7 bankruptcy (the "MNI
7 Bankruptcy"); and

8 B. DE LA VARA voluntarily filed a Chapter 7, no-asset bankruptcy on
9 January 15, 2008 in the U.S. Bankruptcy Court, District of Arizona,
10 2:08-bk-00381-SSC (the "DE LA VARA Bankruptcy").

11 The MNI and DE LA VARA Bankruptcies are pending.

12 24. On June 9, 2008, the judge in the DE LA VARA Bankruptcy: (a) denied the
13 discharge of his debts in that case under 11 U.S.C. § 727 relating to fraudulent transfers of property
14 pursuant to Adversary Complaint No. 2-08-AP-294; and (b) entered an adverse judgment against
15 him in the amount of \$353,913.57. The fraudulent transfers at issue in the DE LA VARA
16 Bankruptcy were made by DE LA VARA and MNI to MNIP and DE LA VARA family members.
17 There is a pending investor Adversary Complaint No. 08-00287 in the DE LA VARA Bankruptcy
18 that seeks an order that approximately \$1 million dollars worth of Lien Investments are non-
19 dischargeable under 11 U.S.C. § 523(a)(2), (4) & (6) due to DE LA VARA and MNI's fraud in
20 selling the Lien Investments.

21 25. In one instance, DE LA VARA failed to disclose the existence and nature of the DE
22 LA VARA and/or MNI Bankruptcies to an Arizona investor of who purchased a \$14,500 Lien
23 Investment sold by DE LA VARA and MNIP in August 2008.

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CONCLUSIONS OF LAW

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1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. RESPONDENTS offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

3. RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

4. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or salesman nor exempt from registration.

5. RESPONDENTS violated A.R.S. § 44-1991 by: (a) employing a device, scheme, or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, and (c) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit. RESPONDENTS' conduct included:

A. Misrepresenting to investors that the Lien Investments were risk-free and secure, when they were not secure, under-secured and/or entailed lower lien positions than represented by RESPONDENTS, and because they were subject to unpredictable civil litigation, bankruptcy proceedings and a material drop in the value of the associated real estate.

B. Misrepresenting to certain investors that RESPONDENTS owned or had a legal or equitable interest in real estate that purportedly secured an investor's Lien Investment when, in fact, they did not. This misrepresentation resulted in the investors' Lien Investment being unsecured.

C. Misrepresenting to certain investors that RESPONDENTS would collect monthly and loan payoff payments from borrower/note makers and forward such monies to the investors when they, in fact, did not.

- 1 D. Misrepresenting to certain investors that RESPONDENTS would timely record
2 deeds of trust and any related documents to secure an investor's Lien
3 Investment in the lien position promised by RESPONDENTS (i.e., 1st).
4 RESPONDENTS then failed to disclose to investors that they would resell the
5 same Lien Investment position to another investor. This misconduct resulted in
6 the first investor's Lien Investment being under-secured and/or unsecured.
- 7 E. Failing to disclose to investors that RESPONDENTS would in some cases
8 forge an investor's signature on a real estate document, such as a release of
9 deed of trust that extinguished the investor's security interest in their Lien
10 Investment. This non-disclosure allowed RESPONDENTS to then re-sell the
11 same Lien Investment to another investor.
- 12 F. Misrepresenting and/or failing to disclose to certain investors the *number* of
13 existing liens attached to a piece of real estate that purportedly would
14 purportedly secure an investor's Lien Investment. This misrepresentation often
15 resulted in a piece of real estate being subject to 4 or more Lien Investments.
16 This misrepresentation had the effect of leaving the investor's Lien Investment
17 under-secured and/or unsecured.
- 18 G. Misrepresenting and/or failing to disclose to certain investors the *dollar amount*
19 of disclosed, existing/prior lien(s) attached to a piece of real estate, and/or the
20 *fair market value* of the real estate, to induce an investor to invest in, for
21 instance, a second position Lien Investment. This misrepresentation had the
22 effect of leaving the Lien Investment under-secured and/or unsecured.
- 23 H. Failing to disclose to investors that RESPONDENTS would in some instances
24 falsify the legal description of real estate in documents associated with an
25 investor's Lien Investment, and then correctly write the legal description of the
26 same real estate in documents associated with a subsequent investor's purchase

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of the same Lien Investment. This non-disclosure resulted in the first investor's Lien Investment being unsecured.

I. Failing to disclose to investors that Lien Investment documents created, signed and recorded by RESPONDENTS, and acknowledged (notarized) by RESPONDENT SPOUSE under her alternative name "ERLINDA G. LOPEZ" resulted in the Lien Investments being invalid and unsecured, for instance, as to subsequent lien holders/creditors whose real estate documents were timely and properly acknowledged and recorded.

J. Failing to disclose to certain investors the nature and existence of the DE LA VARA and MNI Bankruptcies.

6. RESPONDENTS' conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-2032.

7. RESPONDENTS' conduct is grounds for an order of restitution pursuant to A.R.S. § 44-2032.

8. RESPONDENTS' conduct is grounds for administrative penalties under A.R.S. § 44-2036.

III.
ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and RESPONDENTS and RESPONDENT SPOUSE's consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS and RESPONDENT SPOUSE and any of their agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

1 IT IS FURTHER ORDERED that RESPONDENTS and RESPONDENT SPOUSE comply
2 with the attached Consent to Entry of Order.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS and the
4 marital community of DE LA VARA and RESPONDENT SPOUSE shall jointly and severally pay
5 restitution to the Commission in the amount of \$5,742,967.79. Any amount outstanding shall
6 accrue interest at the rate of 10% per annum from the date of this Order until paid in full. Payment
7 shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by
8 the Commission. RESPONDENTS will be given restitution credit for any legal repayments made
9 by RESPONDENTS to the investors shown on the records of the Commission. It shall be the sole
10 responsibility of RESPONDENTS to provide all information and documentation deemed
11 satisfactory to the Commission in which to verify that such payments have been made. The
12 Commission shall disburse the funds on a pro-rata basis to investors shown on the records of the
13 Commission. Any restitution funds that the Commission cannot disburse because an investor
14 refuses to accept such payment shall be disbursed on a pro-rata basis to the remaining investors
15 shown on the records of the Commission. Any funds that the Commission determines it is unable
16 to or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

17 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036 that RESPONDENTS and the
18 marital community of DE LA VARA and RESPONDENT SPOUSE shall jointly and severally pay
19 an administrative penalty in the amount of \$125,000. Payment shall be made to the "State of
20 Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum from the
21 date of this Order until paid in full. The payment obligations for these administrative penalties
22 shall be subordinate to any restitution obligations ordered herein and shall become immediately
23 due and payable only after restitution payments have been paid in full or upon Respondents'
24 default with respect to Respondents' restitution obligations.

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1 For purposes of this Order, a bankruptcy filing by RESPONDENTS or RESPONDENT
2 SPOUSE shall be an act of default. If any Respondent does not comply with this Order, any
3 outstanding balance may be deemed in default and shall be immediately due and payable.

4 IT IS FURTHER ORDERED, that if RESPONDENTS or RESPONDENT SPOUSE fail to
5 comply with this order, the Commission may bring further legal proceedings against that
6 Respondent, including application to the superior court for an order of contempt.

7 IT IS FURTHER ORDERED that this Order shall become effective immediately.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN COMMISSIONER

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COMMISSIONER COMMISSIONER COMMISSIONER

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IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
Executive Director of the Arizona Corporation
Commission, have hereunto set my hand and caused the
official seal of the Commission to be affixed at the
Capitol, in the City of Phoenix, this _____ day of
October, 2008.

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

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DISSENT

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DISSENT

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This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator, voice
phone number 602-542-3931, e-mail lhogan@azcc.gov.

CONSENT TO ENTRY OF ORDER

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2 1. Respondent GUILLERMO RICARDO DE LA VARA (a/k/a “WILLIAM DE LA
3 VARA” and “BILL DE LA VARA”) (“DE LA VARA”) doing business as MORTGAGE NOTES,
4 an Arizona registered trade name, and doing business through and as Respondent MORTGAGE
5 NOTES, INC. (“MNI”), a dissolved Arizona corporation, Respondent MNI PROPERTIES, L.L.C.
6 (“MNIP”), an Arizona limited liability company (collectively “RESPONDENTS” as the context
7 requires), and ERLINDA DE LA VARA (a/k/a “ERLINDA G. LOPEZ”) (“RESPONDENT
8 SPOUSE”) admit the jurisdiction of the Commission over the subject matter of this proceeding.
9 RESPONDENTS and RESPONDENT SPOUSE acknowledge that they have been fully advised of
10 their right to a hearing to present evidence and call witnesses and RESPONDENTS and
11 RESPONDENT SPOUSE knowingly and voluntarily waive any and all rights to a hearing before
12 the Commission and all other rights otherwise available under Article 11 of the Securities Act and
13 Title 14 of the Arizona Administrative Code. RESPONDENTS and RESPONDENT SPOUSE
14 acknowledge that this Order to Cease and Desist, Order of Restitution, Order for Administrative
15 Penalties (“Order”) constitutes a valid final order of the Commission.

16 2. RESPONDENTS and RESPONDENT SPOUSE knowingly and voluntarily waive
17 any right under Article 12 of the Securities Act to judicial review by any court by way of suit,
18 appeal, or extraordinary relief resulting from the entry of this Order.

19 3. RESPONDENTS and RESPONDENT SPOUSE acknowledge and agree that this
20 Order is entered into freely and voluntarily and that no promise was made or coercion used to
21 induce such entry.

22 4. RESPONDENTS and RESPONDENT SPOUSE understand and acknowledge that
23 RESPONDENTS and RESPONDENT SPOUSE have a right to seek counsel regarding this Order,
24 and that RESPONDENTS and RESPONDENT SPOUSE have had the opportunity to seek counsel
25 prior to signing this Order. RESPONDENTS and RESPONDENT SPOUSE acknowledge and
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1 agree that, despite the foregoing, RESPONDENTS and RESPONDENT SPOUSE freely and
2 voluntarily waive any and all right to consult or obtain counsel prior to signing this Order.

3 5. RESPONDENTS and RESPONDENT SPOUSE neither admit nor deny the
4 Findings of Fact and Conclusions of Law contained in this Order. RESPONDENTS and
5 RESPONDENT SPOUSE agree that RESPONDENTS and RESPONDENT SPOUSE shall not
6 contest the validity of the Findings of Fact and Conclusions of Law contained in this Order in any
7 present or future administrative proceeding before the Commission or any other state agency
8 concerning the denial or issuance of any license or registration required by the state to engage in
9 the practice of any business or profession.

10 6. By consenting to the entry of this Order, RESPONDENTS and RESPONDENT
11 SPOUSE agree not to take any action or to make, or permit to be made, any public statement
12 denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating
13 the impression that this Order is without factual basis. RESPONDENTS and RESPONDENT
14 SPOUSE will undertake steps necessary to assure that all of RESPONDENTS and RESPONDENT
15 SPOUSE's agents and employees understand and comply with this agreement.

16 7. While this Order settles this administrative matter between RESPONDENTS and
17 RESPONDENT SPOUSE and the Commission, RESPONDENTS and RESPONDENT SPOUSE
18 understand that this Order does not preclude the Commission from instituting other administrative
19 or civil proceedings based on violations that are not addressed by this Order.

20 8. RESPONDENTS and RESPONDENT SPOUSE understand that this Order does not
21 preclude the Commission from referring this matter to any governmental agency for
22 administrative, civil, or criminal proceedings that may be related to the matters addressed by this
23 Order.

24 9. RESPONDENTS and RESPONDENT SPOUSE understand that this Order does not
25 preclude any other agency or officer of the state of Arizona or its subdivisions from instituting
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1 administrative, civil, or criminal proceedings that may be related to matters addressed by this
2 Order.

3 10. RESPONDENTS agree that they will not apply to the state of Arizona for
4 registration as a securities dealer or salesman or for licensure as an investment adviser or
5 investment adviser representative at any time in the future.

6 11. RESPONDENTS agree that they will not exercise any control over any entity that
7 offers or sells securities or provides investment advisory services within or from Arizona at any
8 time in the future.

9 12. RESPONDENTS agree that they will not sell any securities in or from Arizona
10 without being properly registered in Arizona as a dealer or salesman, or exempt from such
11 registration; RESPONDENTS will not sell any securities in or from Arizona unless the securities
12 are registered in Arizona or exempt from registration; and RESPONDENTS will not transact
13 business in Arizona as an investment adviser or an investment adviser representative unless
14 properly licensed in Arizona or exempt from licensure.

15 13. RESPONDENTS and RESPONDENT SPOUSE agree that RESPONDENTS and
16 RESPONDENT SPOUSE will continue to cooperate with the Securities Division including, but
17 not limited to, providing complete and accurate testimony at any hearing in this matter and
18 cooperating with the state of Arizona in any related investigation or any other matters arising from
19 the activities described in this Order.

20 14. DE LA VARA and RESPONDENT SPOUSE acknowledge that any restitution or
21 penalties imposed by this Order are obligations of DE LA VARA as well as the marital community
22 of DE LA VARA and RESPONDENT SPOUSE.

23 15. RESPONDENTS and RESPONDENT SPOUSE consent to the entry of this Order
24 and agree to be fully bound by its terms and conditions.

25 16. RESPONDENTS and RESPONDENT SPOUSE acknowledge and understand that
26 if RESPONDENTS and RESPONDENT SPOUSE fail to comply with the provisions of the order

1 and this consent, the Commission may bring further legal proceedings against RESPONDENTS or
2 RESPONDENT SPOUSE, including application to the superior court for an order of contempt.

3 17. RESPONDENTS and RESPONDENT SPOUSE understand that default shall
4 render RESPONDENTS and RESPONDENT SPOUSE liable to the Commission for its costs of
5 collection and interest at the maximum legal rate.

6 18. RESPONDENTS and RESPONDENT SPOUSE agree and understand that if
7 RESPONDENTS and RESPONDENT SPOUSE fail to make any payment as required in the
8 Order, any outstanding balance shall be in default and shall be immediately due and payable
9 without notice or demand. RESPONDENTS and RESPONDENT SPOUSE agree and understand
10 that acceptance of any partial or late payment by the Commission is not a waiver of default by
11 Commission.

12 19. DE LA VARA represents that at all times relevant: (a) DE LA VARA transacted
13 business through, and did business as Respondent MNI as its co-owner, president, chief executive
14 officer and director; and (b) DE LA VARA transacted business through, and did business as
15 Respondent MNIP as its founder, co-owner and managing member. DE LA VARA has been
16 authorized by Respondents MNI and MNIP to enter into this Order for and on their behalf.

17
18 By: Guillermo Ricardo de la Vara
19 Guillermo Ricardo de la Vara (a/k/a "William de
20 la Vara" and "Bill de la Vara")

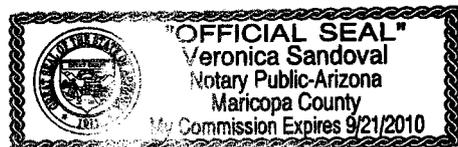
20 STATE OF ARIZONA)
21) ss
22 County of)

23 SUBSCRIBED AND SWORN TO BEFORE me this 11th day of September, 2008.

24 Veronica Sandoval
25 NOTARY PUBLIC

26 My commission expires:

9/21/2010



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MNI Properties, L.L.C.

By: Guillermo de la Vara

Guillermo de la Vara

Its: managing member

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO BEFORE me this 12th day of September, 2008.

Veronica Sandoval
NOTARY PUBLIC

My commission expires:
9/21/2010

