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**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

1179 Fairview Drive, Ste 201
Carson City, Nevada 89701
(775) 887-5582

In Re:

ALESSI TRUSTEE CORPORATION, A
Nevada Corporation,

Respondent.

**ORDER TO CEASE AND DESIST
ACTIVITIES**

ORDER TO CEASE AND DESIST ACTIVITIES

The State of Nevada, Department of Business and Industry, Financial Institutions Division (hereinafter "Division") hereby orders ALESSI TRUSTEE CORPORATION, (hereafter "Respondent") to cease and desist from any and all activities which are covered under Nevada Revised Statutes (NRS) Chapter 649.

JURISDICTION

1. The business of collecting claims for others or of soliciting the right to collect or receive payment from another of any claim in the State of Nevada is governed by chapter 649 of the Nevada Revised Statutes (NRS) and chapter 649 of the Nevada Administrative Code (NAC). The Division has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in collection services. NRS 649.026.

2. Pursuant to the authority vested by NRS Chapter 649, the Division hereby makes the following Findings of Fact, Conclusions of Law, and Order,

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1 **FINDINGS OF FACT**

2 3. Respondent ALESSI TRUSTEE CORPORATION is not a business registered
3 with the State of Nevada Secretary of State. The resident agent for the corporation is David
4 Alessi located at 9500 West Flamingo Road, Ste. 100, Las Vegas, Nevada 89147.

5 4. Mr. Alessi is president of Respondent Alessi Trustee Corporation.

6 5. According to the website for the Nevada State Bar Association, Mr. Alessi is not
7 an attorney in the State of Nevada.

8 6. Mr. Alessi is a partner in the law firm and limited liability company, Alessi &
9 Koenig, LLC, located at 9500 West Flamingo Road, Ste. 100, Las Vegas, Nevada 89147.

10 7. The two entities have separate Articles of Organization and separate
11 businesses.

12 8. The website for Alessi Trustee Corporation states that it is a "Division of the Law
13 Offices of Alessi & Koenig." However, the Articles of Incorporation for Respondent were filed
14 on December 31, 2002.

15 9. The Articles of Organization for Alessi & Koenig, LLC. were filed on February 4,
16 2005, over two (2) years later.

17 10. Respondent states in advertising that it does "assessment collections" and will
18 conduct the following services:

19 ATC will prepare and record the Notice of Delinquent Assessment
20 and forward copy to the homeowner both regular and certified
21 mail. The lien will not be removed until all delinquent assessments,
22 cost and fees have been paid. The homeowner will be billed for
23 the preparation and recordation of the lien.

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25 The Notice of Default starts the commencement of non-judicial
26 foreclosure. ATC will prepare and have the NOD recorded in the
27 appropriate county. ATC will send both certified and regular mail to
28 appropriate parties in accordance with the appropriate state law.
Once the default is filed, Alessi & Koenig LLP will review the file to
determine the future foreclosure process to eliminate potential risk
to the association.

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2 Upon approval from the association, ATC will prepare and send to
3 all appropriate parties a copy of the Notice of Trustee Sale.
4 Publish a copy in an adjusted newspaper and post all notices as
5 required by State law.

6 11. Respondent is engaged in the actions "associated with the foreclosure of a lien
7 pursuant to NRS 116.31162 to 116.31168." NRS 649.020(3)(a).

8 12. Pursuant to records of the Clark County Recorder's Office, Respondent has filed
9 over eighty-six (86) documents related to liens on real property as part of the foreclosure
10 process.

11 13. Respondent is not now and has never been licensed as a collection agency by
12 the Division.

13 14. Respondent claims to be a subsidiary of the law firm of Alessi & Koenig, LLC.

14 15. However, the collection and foreclosure actions of Alessi Trustee Corporation
15 are not "clients" claims in the usual course of the practice of "the profession" of Alessi &
16 Koenig, LLC. NRS 649.020(2)(g).

17 16. Respondent is not engaged in the practice of law.

18 17. Alessi & Koenig, LLC, is a separate legal entity and conducts its activities in
19 relation to the practice of law under the name of Alessi & Koenig, LLC and not Alessi Trustee
20 Corporation.

21 18. Respondent solicited business as a collection agency in the State of Nevada.

22 19. Respondent engaged in the business as a collection agent in the State of
23 Nevada without first obtaining a license to do so.

24 20. If any Finding of Fact is more properly classified a Conclusion of Law, then it
25 shall be deemed as such.

26 CONCLUSIONS OF LAW

27 21. NRS 649.075(1) reads as follows:

28 Except as otherwise provided in this section, a person shall not
conduct within this State a collection agency or engage within this

1 State in the business of collecting claims for others, or of soliciting
2 the right to collect or receive payment for another of any claim, or
3 advertise, or solicit, either in print, by letter, in person or otherwise,
4 the right to collect or receive payment for another of any claim, or
5 seek to make collection or obtain payment of any claim on behalf
6 of another without having first applied for and obtained a license
7 from the Commissioner.

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22. NRS 649.020 reads as follows:

NRS 649.020 "Collection agency" defined.

1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.

2. "Collection agency" does not include any of the following unless they are conducting collection agencies:

(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.

(b) Banks.

(c) Nonprofit cooperative associations.

(d) Unit-owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 or 116B of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.

(e) Abstract companies doing an escrow business.

(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.

(g) ***Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.***

3. "Collection agency":

(a) Includes a community manager while engaged in the management of a common-interest community or the management of an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure of a lien pursuant to NRS

1 116.31162 to 116.31168, inclusive, or 116B.635 to 116B.660,
2 inclusive; and

3 (b) Does not include any other community manager while
4 engaged in the management of a common-interest community or
5 the management of an association of a condominium hotel.

6 4. As used in this section:

7 (a) "Community manager" has the meaning ascribed to it in
8 NRS 116.023 or 116B.050.

9 (b) "Unit-owners' association" has the meaning ascribed to it in
10 NRS 116.011 or 116B.030.

11 *Id.* (Emphasis added).

12 23. Respondent is engaged in the business of a collection agency as defined by
13 NRS 649.020(3)(a). It has solicited for business to conduct foreclosure services on behalf of
14 common interest communities.

15 24. Respondent also claimed to have a licensed collection manager on staff.
16 However, neither the business nor its manager have been licensed by the State of Nevada.

17 25. NRS 649.020(4)(a) defines "Community manager" as defined in NRS 116.023,
18 which states, "Community manager" means a person who provides for or otherwise engages
19 in the management of a common-interest community or the management of an association of
20 a condominium hotel."

21 26. A common interest community is defined as "real estate with respect to which a
22 person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that
23 unit." NRS 116.021.

24 27. Respondent is a community manager who performs or offers to perform acts
25 associated with the foreclosure of a lien.

26 28. Because Respondent is engaged in the business practice which would require a
27 license pursuant to NRS Chapter 649 and Respondent does not possess a license as a
28 collection agent, Respondent is in violation of NRS 649.075(1), which reads as follows:

Except as otherwise provided in this section, a person shall not
conduct within this State a collection agency or engage within this
State in the business of collecting claims for others, or of soliciting
the right to collect or receive payment for another of any claim, or
advertise, or solicit, either in print, by letter, in person or otherwise,
the right to collect or receive payment for another of any claim, or

1 seek to make collection or obtain payment of any claim on behalf
2 of another without having first applied for and obtained a license
3 from the Commissioner.

4 29. The fact that Respondent is a subsidiary of the law firm and that the officers in
5 Respondent's corporation are attorneys does not exempt them from this requirement.

6 30. NRS 649.020(2)(g) excludes as collection agency "*Attorneys and counselors*
7 *at law licensed to practice in this State, so long as they are retained by their clients to*
8 *collect or to solicit or obtain payment of such clients' claims in the usual course of the*
9 *practice of their profession.*"

10 31. Mr. Alessi does not meet the initial requirement of NRS 649.020(2)(g) because
11 he is not a licensed attorney in the State of Nevada.

12 32. Consequently, Mr. Alessi can not be retained to practice the profession of law in
13 the State of Nevada because he is not licensed to do so.

14 33. Respondents are a separate corporate entity from the law firm. The fact that it
15 is a subsidiary does not remove its distinct legal status as a separate corporation.

16 34. Respondent is not acting in the capacity as an attorney collecting a claim on
17 behalf of a client, it is acting as a foreclosure agent on behalf of homeowner associations.

18 35. NRS 649.395 provides the Commissioner to take disciplinary action for any
19 violation of NRS Chapter 649.

20 NRS 649.390 Investigation of verified complaint concerning
21 unlicensed person; order to cease and desist; administrative fines;
22 suit to recover fine; cumulative penalties.

23 1. The Commissioner shall conduct an investigation if he
24 receives a verified complaint from any person that sets forth
25 reason to believe that an unlicensed person is engaging in an
26 activity for which a license is required pursuant to this chapter.

27 2. If the Commissioner determines that an unlicensed person
28 is engaging in an activity for which a license is required pursuant to
this chapter, the Commissioner shall issue and serve on the
person an order to cease and desist from engaging in the activity
until such time as the person obtains a license from the
Commissioner.

3. If a person upon whom an order to cease and desist is
served does not comply with the order within 30 days after service,
the Commissioner shall, after notice and opportunity for a hearing:

1 (a) Impose upon the person an administrative fine of \$10,000;
2 or

3 (b) Enter into a written consent agreement with the person
4 pursuant to which the person agrees to cease and desist from all
5 unlicensed activity in this State relating to the collection of debts,
6 and impose upon the person an administrative fine of not less than
7 \$5,000 and not more than \$10,000.

8 -- The imposition of an administrative fine pursuant to this
9 subsection is a final decision for the purposes of judicial review.

10 4. The Commissioner shall bring suit in the name and on
11 behalf of the State of Nevada against a person upon whom an
12 administrative fine is imposed pursuant to subsection 3 to recover
13 the amount of the administrative fine:

14 (a) If no petition for judicial review is filed pursuant to NRS
15 233B.130 and the fine remains unpaid for more than 90 days after
16 notice of the imposition of the fine; or

17 (b) If a petition for judicial review is filed pursuant to NRS
18 233B.130 and the fine remains unpaid for more than 90 days after
19 exhaustion of any right of appeal in the courts of this State
20 resulting in a final determination that upholds the imposition of the
21 fine.

22 5. A person's liability for an administrative fine is in addition to
23 any other penalty provided in this chapter.

24 36. Pursuant to NRS 649.440, the Commissioner can impose administrative fines
25 of not more than \$10,000.00 for any violation of this chapter.

26 In addition to any other remedy or penalty, the Commissioner may
27 impose an administrative fine of not more than \$10,000 upon a
28 person who:

1. Without a license or certificate, conducts any business or
activity for which a license or certificate is required pursuant to the
provisions of this chapter; or

2. Violates any provision of this chapter or any regulation
adopted pursuant thereto.

37. Respondent has violated NRS 649.075 by soliciting and collecting payments on
behalf of another.

38. Respondent has violated NRS 649.075 by engaging in the business of collecting
payments for another in the State of Nevada.

39. Pursuant to NRS 649.395, the Division hereby orders Respondent to cease and
desist from engaging in any activity covered under NRS Chapter 649.

