

BEFORE THE STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

IN THE MATTER OF:

FINANCIAL INSTITUTIONS DIVISION,

Claimant,

FINEX CAPITAL GROUP, LLC.
dba LOANEX

Respondent.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

On November 7, 2018, a hearing in the above-captioned matter was held before Gary J. Mathews, Esq., serving in his capacity as Administrative Law Judge in accordance with Chapter 604A of the Nevada Revised Statutes ("NRS"). John Grewell ("Grewell"), owner of Finex Capital Group, LLC. dba Loanex ("Loanex") was present and represented himself. Javier Cruz-Rodriguez ("Rodriguez"), General Manager, was also present as a witness for Loanex.

Appearing on behalf of the Financial Institutions Division of the Nevada Department of Business and Industry ("FID") was Vivienne Rakowsky, Deputy Attorney General. Mary Young, ("Young") FID Deputy Division Administrator and Jeremy Zito ("Zito"), FID Examiner were also present as witnesses for FID.

After hearing the allegations and the respective arguments of the parties, and having considered all the evidence introduced and admitted by both parties, the undersigned Administrative Law Judge finds and concludes as follows:

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I. PROCEDURAL HISTORY

This matter commenced on February 6, 2018, when the FID issued an “Administrative Complaint for Disciplinary Action” along with an “Order to Cease and Desist Violations of NRS 604A and NAC 604A Activities” against Loanex.

On March 14, 2018, Loanex notified FID that they disagreed with the Administrative Complaint for Disciplinary Action and requested a hearing.¹ The hearing took place on November 7, 2018. Through stipulation by both parties, FID’s documentary Exhibits 1 through 9 were admitted into evidence along with Respondent’s Exhibits A and B.

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II. FINDINGS OF FACT

In 2005 Loanex was granted a license pursuant to NRS Chapter 604A, which applies to deferred deposit loans, high-interest loans, title loans and check-cashing services. Loanex issues single payment title loans and single payment deferred deposit loans. John Grewell and Paul Altieri are the owners of Loanex, which operates their lending activities from two different locations: 8565 West Sahara Avenue, Suite 112, Las Vegas, Nevada; and 5514 Camino Al Norte, Suite A3, North Las Vegas, Nevada.

NRS Chapter 604A requires that all licensees undergo an annual examination (“examination” or “audit”) in order to guarantee compliance with the statutory requirements of NRS Chapter 604A. At the conclusion of each examination the licensee receives one of three ratings: “Satisfactory,” “Needs Improvement,” or “Unsatisfactory.” If a “Needs Improvement” rating or “Unsatisfactory” rating is received, FID sets forth remedial measures to correct any problems that were identified. Over the past 10 annual examinations, Loanex has received a “Satisfactory” rating 5 times, “Needs Improvement” rating 3 times, and an “Unsatisfactory” rating 2 times.

¹ FID Exhibit 1 page 0001.

1 FID commenced Loanex's examination on December 7, 2017. The examination
2 concluded on January 18, 2018.² As a result of the audit, FID assigned Loanex an
3 "Unsatisfactory" rating, noting several violations of Nevada law.³

4 Specifically: 1) Loanex failed to timely renew their NRS 604A license and
5 continued to conduct business while unlicensed, a violation of NRS 604A.640; 2) Loanex
6 cancelled their required surety bond on February 21, 2017, and continued to operate for
7 over 10 months without a bond, a violation of NRS 604A.610; 3) Loanex neglected to
8 pay their certified public accountant fee as required pursuant to NRS 658.055; 4) Loanex
9 neglected to pay their annual examination fee as required pursuant to NRS 604A.740;
10 and 5) Loanex failed to file their 2017 annual report as required by NRS 604A.750.

11 On January 16, 2018 at the conclusion of the audit, FID and Loanex participated
12 in an exit interview.⁴ During the interview Loanex was formally notified of the above
13 stated violations.⁵

14 At the hearing in this matter, Mary Young, Deputy Division Administrator for the
15 Financial Institutions Division, testified that annual examinations are performed on each
16 NRS 604A licensee. The examinations are pre-announced and conducted on site. Each
17 licensee is provided a list of documents which are required during the audit. Proof of a
18 surety bond and a valid NRS 604A license are two of the required documents.
19

20 Young further testified that each licensee is required to have a good working
21 knowledge of Chapter NRS 604A, and can always rely upon FID for help.
22

23
24 **A. Expiration, renewal of license.**

25 Every NRS 604A license expires each year on the date it was originally issued.
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28 ² FID exhibit 1 pages 0024-0053.

³ FID exhibit 1 page 0035.

⁴ FID Exhibit 1 page 0028.

⁵ FID Exhibit 1 pages 0028, 0043.

1 Yearly reminder notices are sent to each licensee prior to the expiration date. FID sent
2 Loanex a reminder notice on October 2, 2017, informing them that their license would
3 expire on December 14, 2017. In addition, each notice provides renewal instructions.
4 The notice states in relevant part, "To renew your license for the coming year the renewal
5 application must be completed and returned to the Carson City office along with any
6 required documents and fees prior to December 14, 2017."⁶ The notice specifically
7 states, "2. A licensee who fails to renew his license within the time required by this
8 section is not licensed pursuant to the provisions of this chapter."⁷

9
10 Young indicated that Loanex attempted to renew their license on January 3, 2018,
11 but the application was incomplete. A properly completed application was resubmitted
12 on February 12, 2018. Loanex operated without a valid NRS 604A license between
13 December 14, 2017 and February 12, 2018.

14 **B. Surety Bond**

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16 Young testified that each licensee must maintain a valid surety bond for each NRS
17 604A license issued pursuant to NRS 604A.610. On or about February of 2017, Loanex
18 failed to renew their bond. Loanex continued to operate for the next 10 months without
19 a valid bond.

20 When questioned about the bond Rodriguez stated, "[T]hat he and John Grewell,
21 owner, are working diligently and in contact with an insurance broker to get the bond in
22 place and should have one rather quickly."⁸ Loanex did not provide a valid surety bond
23 until February of 2018.

24 **C. Fees and Assessments**

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26 Young further testified that in 2016 Loanex failed to pay both the required Certified
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28 ⁶ FID Exhibit 3.

⁷ FID Exhibit 3.

⁸ FID Exhibit 1 pages 0030, 0045.

1 Public Accountant ("CPA") assessment fee, and the annual examination fee.⁹ The CPA
2 assessment fee is due no later than the second quarter of each year and the examination
3 fee is always due in May. Loanex never attempted to pay either bill or arrange payment.
4 Several months later FID filed a claim against the licensee's bond on August 7, 2017.¹⁰
5 The fees were paid by the bonding company on September 11, 2017.¹¹
6

7 **D. Annual Report**

8 Each licensee is required to provide FID an annual report. The report is due April
9 15 of each year and must include a financial statement, banking information, and a profit
10 and loss analysis. The purpose of the annual report is to determine whether a company
11 is financially stable and should continue operating. Annual reports are vital to ensure
12 consumer protection.
13

14 The audit also revealed that Loanex failed to file a 2017 annual report. Young
15 explained that "Versa," a State system, keeps track of all reports.¹² If a report is late a
16 notice is generated and sent to the licensee. Loanex failed to provide FID with the annual
17 report for 2017. Reminder notices were sent to Loanex in September and December,
18 but Loanex did not submit the annual report until January of 2018.¹³
19

20 **E. Examination**

21 Jeremy Zito, ("Zito") FID Examiner, testified that he met with Javier Cruz-
22 Rodriguez, General Manager of Loanex, on December 7, 2017 at Loanex's main
23 location. Rodriguez was given a list of documents that were required at the audit. The
24 audit started December 7, 2017, and ended with the exit interview on January 16, 2018.
25 During the exit interview, Zito notified Rodriguez of the alleged violations, and informed
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27 ⁹ FID Exhibit 1 pages 0033, 0048.

¹⁰ FID Exhibit 9 page 4.

¹¹ FID Exhibit 9 page 5.

¹² FID Exhibit 1 page 0066.

¹³ FID Exhibit 1 page 0068.

1 him that Loanex was unlicensed and had to immediately cease all operations.

2 To memorialize their conversation, Zito also sent Rodriguez an email listing the
3 violations. Zito specifically wrote, "As we discussed in the exit meeting, you have until
4 4pm tomorrow to email any responses you may wish to include in the final report. As a
5 reminder, with an expired license, you are prohibited from offering any services that
6 would fall under the 604A license; any activity without a license is considered unlicensed
7 activity."¹⁴

8
9 Rodriguez replied, "In response to the examination results, we are working
10 diligently and in contact with an insurance broker to get the bond in place and should
11 have one in place rather quickly. Once the bond is in place all the late fees due with the
12 annual report along with the annual report will be turned in. Finally we will pay all
13 additional cost to get the 604A license renewed with the state. This should ensure we
14 are operating with the proper license in place. We really appreciate your understanding
15 and will ensure this matter is rectified immediately. Thank you for emailing me the
16 information requested."¹⁵

17
18 Based on the severity of violations which were discovered at the examination,
19 Young personally served Loanex an "Order to Cease and Desist Violations of NRS 604A
20 and NAC 604A Activities" ("C&D Order") on February 6, 2018. Loanex was instructed to
21 discontinue all loan activity until the violations could be corrected.¹⁶ A week later, FID
22 returned to Loanex and discovered that Loanex had continued processing loans despite
23 being unlicensed and served the C&D Order.¹⁷

24
25 At the hearing John Grewell, owner of Loanex, testified that during the audit he
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28 ¹⁴ FID Exhibit 4 page 1.

¹⁵ FID Exhibit 4 Page 2.

¹⁶ FID Exhibit 1 pages 0005-0013.

¹⁷ FID Exhibit 1 pages 0031, 0046.

1 was out of town handling a family emergency and unable to deal with administrative
2 issues. Grewell returned to Nevada and filed the renewal paperwork on January 2,
3 2018. He further testified that after reading the C&D Order he did not realize he was
4 violating any laws while continuing to process loans.

5 Any finding of fact more appropriately considered a conclusion of law, and vice
6 versa, shall be so deemed.
7

8 **III. CONCLUSIONS OF LAW**

9 **A. Violation of NRS 604A.640**

10 FID charges Loanex with violating NRS 604A.640, which establishes the
11 requirements for license renewal. Specifically, NRS 604A.640 provides:

12 **NRS 604A.640 Expiration, renewal and reinstatement of 13 license; fees.**

- 14 1. A license issued pursuant to the provisions of this
15 chapter expires annually on the anniversary of the issuance
16 of the license. A licensee must renew the license on or before
17 the date on which the license expires by paying:
 - 18 (a) A renewal fee of not more than \$500; and
 - 19 (b) An additional fee of not more than \$100 for each
20 branch location at which the licensee is authorized to
21 operate under the license.
- 22 2. A licensee who fails to renew his or her license within
the time required by this section is not licensed pursuant to
the provisions of this chapter.
- 23 3. The Commissioner may reinstate an expired license
upon receipt of the renewal fee and the fee for
reinstatement.
- 24 4. The Commissioner shall adopt regulations establishing
the amount of the fee required pursuant to this section.

25 FID contends that Loanex violated NRS 604A.640 by failing to pay the required
26 renewal fee causing Loanex to operate unlicensed. Loanex has been in operation since
27 2005 and have renewed their 604A license at least 10 times. The license renewal fee is
due at the same time each year. Clearly Loanex is familiar with the renewal process.

28 FID notified Loanex on two separate occasions that their NRS 604A license expires

1 on December 14, 2017.¹⁸ The renewal notice specifically stated that there was no grace
2 period.¹⁹ On December 14th Loanex's license expired. Loanex did not submit a renewal
3 application or the required fees until February 12, 2018, two months later. Loanex was
4 notified during the audit that they were unlicensed and precluded from any further lending
5 activity. Despite being unlicensed Loanex knowingly operated for approximately two
6 months without a valid 604A license, processing loans from both business locations.²⁰
7

8 NRS 604A.640(2) states that a licensee must renew their license on or before the
9 date of expiration or the lender will become unlicensed. On January 3, 2018 Loanex
10 submitted a renewal application, but it was incomplete. Loanex failed to properly renew
11 their license until February 21, 2018.

12 Grewell testified that during the month of December he was in Ohio for a family
13 emergency. Grewell claimed he did not have the means to conduct business while he
14 was in Ohio nor was it his intention to let Loanex's license expire.
15

16 The fact that Mr. Grewell may not have intended to commit a violation of Nevada
17 law is not relevant to the statutory duty of a licensee to complete a yearly renewal
18 application, and pay the necessary fees prior to the expiration date. Furthermore, his
19 argument that he did not intend to violate Nevada law appears disingenuous since
20 Loanex was ordered verbally and in writing by FID to cease and desist all loan activity
21 but Loanex continued to operate anyway.
22

23 Loanex failed to timely renew their NRS 604A license while continuing to process
24 loans even after FID ordered them not to. Loanex knowingly and willfully conducted
25 unlicensed lending activities in violation of NRS 604A.640.

26 Therefore, pursuant to NRS 604A.910, Loanex shall pay an administrative fine of
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28 ¹⁸ FID Exhibit 3.

¹⁹ FID Exhibit 1 page 0062.

²⁰ FID Exhibit 1 pages 0031, 0046.

1 \$25,000.00 for its violation of NRS 604A.640. Loanex shall pay this amount in full within
2 120 days from the date of this order.

3 Pursuant to NRS 604A.900, Loanex will void any loans in which the debt **has not**
4 **been satisfied** that originated during the unlicensed period, and will not be entitled to
5 collect, receive or retain any principal, interest or other charges or fees with respect to
6 those loans.
7

8 In Addition, Loanex will not be entitled to retain any interest, charges or fees with
9 respect to any loans in which the debt **has been satisfied** that originated during the
10 unlicensed period. Loanex is ordered to conduct a full accounting with regards to loans
11 that originated during the unlicensed period. Loanex shall conduct the process under
12 the supervision and direction of FID and shall complete the return of all monies on or
13 before 120 days from the date of this Order.
14

15 **B. Violation of NRS 604A.610**

16 FID charges Loanex with violating NRS 604A.610, which defines the requirements
17 for maintaining a surety bond. Specifically, NRS 604A.610 (1) provides:

18 **NRS 604A.610 Surety bond.**

19 1. Except as otherwise provided in NRS 604A.615, each
20 applicant for a license pursuant to the provisions of this
21 chapter must be accompanied by a surety bond payable to
22 the State of Nevada in the amount of \$50,000 plus an
23 additional \$5,000 for each branch location at which the
24 applicant proposes to do business under the license.
25 Therefore, each licensee shall maintain the surety bond so
26 that the amount of the surety bond is \$50,000 plus an
27 additional \$5,000 for each branch location at which the
28 licensee does business under the license. The surety bond
required by this section is for the use and benefit of any
customer receiving the services of the licensee at any location
at which the licensee does business under the license.

27 FID contends that Loanex violated NRS 604A.610 by failing to properly maintain a
28 proper surety bond as required by statute. The purpose of a surety bond is to require

1 the lender to financially guarantee that the consumer has recourse in the event of the
2 lender's future non-performance. A \$50,000 bond is required plus \$5,000 for each
3 additional location. Since Loanex has one main location and one satellite location the
4 amount of the bond is \$55,000, and must be made payable to the State of Nevada.

5
6 Loanex renews its bond in February of each year. During the audit Loanex was
7 required to present a valid bond. Loanex presented a \$10,000 bond payable to the City
8 of North Las Vegas.²¹ No other bond was presented. Loanex is required to maintain a
9 valid surety bond for the proper amount as a NRS 604A licensee. Loanex conducted
10 loan activity without a valid bond for almost a year.

11 Therefore, pursuant to NRS 604A.820(2)(b), Loanex shall pay an administrative
12 fine of \$2,000.00 for its violation of NRS 604A.610. Loanex shall pay this amount in full
13 within 90 days from the date of this order.
14

15 **C. Violation of NAC 604A.080**

16 FID charges Loanex with violating NAC 604A.080, which sets forth the grounds
17 for revocation or suspension of a license, in addition to the grounds set forth in NRS
18 604A.820. Specifically, NAC 604A.080(10) provides:

19 **NAC 604A.080 Grounds for revocation or suspension of**
20 **license.**

21 10. Fails to pay any fees or assessments imposed on him
22 pursuant to this chapter or chapter 604A of NRS, or NRS
23 658.055 or NRS 658.098.

24 FID contends that Loanex violated NRS 604A.080 by failing to properly pay the
25 required certified public account fee as required by statute. Specifically, NRS 658.055
26 provides:

27 **NRS 658.055 Deputy Commissioners; other employees;**
28 **independent audits and examinations; assessments;**
Account for Auditing Financial Institutions.

²¹ FID Exhibit 1 page 0067.

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2 2. The Commissioner shall employ a certified public accountant
3 to review and conduct independent audits and examinations of
4 financial institutions. The Commissioner shall levy an
5 assessment upon each licensed financial institution to cover all
6 of the costs related to the employment of the certified public
7 accountant and the performance of the audits and
8 examinations.

9 Nevada law requires FID to employ a CPA to review and conduct independent
10 audits and examinations of financial institutions.²² The fee is generated after a CPA
11 reviews the annual report. Each licensee is billed and must pay the fee within 30 days
12 after the licensee receives the bill. The CPA fee is consistently billed and is due the
13 second quarter of each year.

14 On May 15, 2017, FID sent Loanex a second request notifying them that FID never
15 received Loanex's CPA assessment fee. The letter specifically stated, "Our records
16 indicate this office has not received your current fiscal year CPA assessment fee of
17 \$30.00, which was due on or before May 8, 2017. Since the payment was not received,
18 a 10% penalty has been incurred. The total amount now due is \$33.00. Failure to pay
19 the required assessment can result in the imposition of an administrative fine or license
20 suspension."²³

21 Despite receiving notices, Loanex never paid the required CPA assessment fee. In
22 order to collect the fee, FID had to file a claim against their surety bond. The fee was
23 paid by the bonding company on September 11, 2017.²⁴

24 Therefore, pursuant to NRS 604A.820(2)(b), Loanex shall pay an administrative
25 fine of \$1,000.00 for its violation of NAC 604A.080(10). Loanex shall pay this amount in
26 full within 90 days from the date of this order.

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28 ²² NRS 658.055.

²³ FID Exhibit 5.

²⁴ FID Exhibit 9 page 5.

1 **D. Violation of NRS 604A.750**

2 NRS 604A.750 defines the requirements for submitting annual reports.

3 Specifically, NRS 604A.750(1) provides:

4 **NRS 604A.750 Annual report by licensee; composite**
5 **reports.**

6 1. Annually, on or before April 15, each licensee shall file
7 with the Commissioner a report of operations of the licensed
8 business for the proceeding calendar year.

9 FID contends that Loanex violated NRS 604A.750 by failing to properly submit an
10 annual report. Annual reports are due on or before April 15 of each year. Loanex
11 contends that they mailed the report to FID before the required deadline. Loanex was
12 unable to provide any proof of that mailing.

13 Young testified that if annual reports are not received by the required date, FID
14 will send an advisement letter to each licensee. On September 12, 2017 FID sent an
15 advisement letter to Loanex informing them their report was late.²⁵ Loanex never
16 responded. Loanex did not submit an annual report until January of 2018.

17 Therefore, pursuant to NRS 604A.820(2)(b), Loanex shall pay an administrative
18 fine of \$1,000.00 for its violation of NRS 604A.750. Loanex shall pay this amount in full
19 within 90 days from the date of this order.
20

21 **E. Violation of NRS 604A.740**

22 NRS 604A.740 defines the yearly examination fees:

23 Specifically, NRS 604A.740 (1) provides:

24 **NRS 604A.740 Fees for regulatory activities; penalties for**
25 **failure to pay fees.**

26 1. The Commissioner shall charge and collect from each
27 licensee a fee of not more than \$80 per hour for any
28 supervision, audit, examination, investigation, or hearing
conducted pursuant to this chapter or any regulations

²⁵ FID Exhibit 1 page 0068.

1 adopted pursuant thereto.

2 FID contends that Loanex violated NRS 604A.740 by failing to properly pay the
3 required examination fee as required by statute. On or about December of 2016, FID
4 performed its annual examination of Loanex. FID billed Loanex and required that the
5 fee be paid by May 5, 2017. Each licensee is responsible for paying its examination fee
6 30 days after the date billed. Loanex did not pay the required bill or make any attempt
7 to pay. Upon non-payment FID filed a claim against Loanex's surety bond. The fee was
8 paid by the bonding company on September 11, 2017.²⁶

9
10 Therefore, pursuant to NRS 604.820(2)(b), Loanex shall pay an administrative fine
11 of \$1,000.00 for its violation of NRS 604A.740. Loanex shall pay this amount in full within
12 90 days from the date of this order.

13 **ORDER**²⁷

14 IT IS ORDERED that:

15
16 Pursuant to NRS 604A.810, Loanex shall cease and desist from engaging in any
17 practice or activity that constitutes a violation of NRS Chapter 604A and NAC Chapter
18 604A.

19 Pursuant to NRS 604A.910, Loanex shall pay an administrative fine of \$25,000.00
20 for its violation of NRS 604A.640. Loanex shall pay this amount in full within 120 days
21 from the date of this Order.

22 Pursuant to NRS 604A.900, Loanex will void any loans in which the debt **has not**
23 **been satisfied** that originated during the unlicensed period, and will not be entitled to
24 collect, receive or retain any principal, interest or other charges or fees with respect to
25 those loans.
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28 ²⁶ FID Exhibit 9 page 6.

²⁷ This is a final decision issued in accordance with NRS 233B.125.

1 In Addition, Loanex will not be entitled to retain any interest, charges or fees with
2 respect to any loans in which the debt **has been satisfied** that originated during the
3 unlicensed period. Loanex is ordered to conduct a full accounting with regards to loans
4 that originated during the unlicensed period. Loanex shall conduct the process under
5 the supervision and direction of FID and shall complete the return of all monies on or
6 before 120 days from the date of this Order.
7

8 Pursuant to NRS 604A.820(2)(b), Loanex shall pay an administrative fine of
9 \$5000.00 for violations NRS 604A.610, NRS 604A.740, NRS 604A.750 and NAC
10 604A.080(10). Loanex shall pay this amount in full within 90 days from the date of this
11 Order.
12

13 Pursuant to NRS 604A.820(2)(c), Loanex shall pay \$2,000.00 within 90 days from
14 the date of this Order for the costs of this proceeding, including investigative costs and
15 attorney's fees of the Commissioner.
16

17 Dated this 12th day of December, 2018.
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19 
20 _____
21 Gary J. Mathews, Esq.
22 Administrative Law Judge
23 State of Nevada
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CERTIFICATE OF MAILING

I, Gary J. Mathews, do hereby certify that 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 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER to the following:

John Grewell
Finex Capital Group, LLC
Dbas: Loanex
5514 Camino Al Norte, Suite A3
North Las Vegas, Nevada 89031

Certified Mail: 70142870000185029794

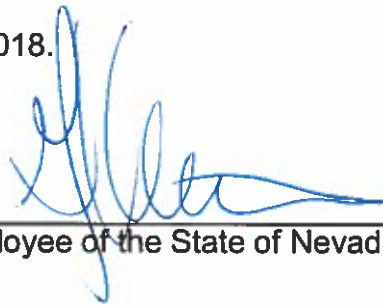
John Grewell
Finex Capital Group, LLC
Dbas: Loanex
8565 W. Sahara Ave., Suite 112
Las Vegas, Nevada 89117

Certified Mail: 70142870000185029817

Vivienne Rakowsky, Esq.
Office of the Attorney General
Division of Business and Taxation
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

Certified Mail: 70142870000185029800

Dated this 12th day of December, 2018.



An Employee of the State of Nevada