

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF BANKING**

IN THE MATTER OF:

JUAN C. HERNANDEZ)	2010-MBR-CD7
4143 S. Archer)	
Chicago, IL 60632)	

ORDER TO CEASE AND DESIST & ASSESSING FINE

The Illinois Department of Financial and Professional Regulation, Division of Banking (“Department”) hereby issues to Juan C. Hernandez, as sole proprietor (“Hernandez”) this ORDER TO CEASE AND DESIST & ASSESSING FINE (“Order”). This Order is authorized by and issued pursuant to the provisions of Sections 1-3(d-1) & (e) and 4-1 (h-1) of the Residential Mortgage License Act of 1987 (“RLMA”) [205 ILCS 635].

FINDINGS OF FACT

The Department makes the following Findings of Fact:

1. That Section 1-3(a) of the Residential Mortgage Licensing Act of 1987 (“RMLA”) [205 ILCS 635/1-3(a)] requires any person, partnership, association, corporation or other entity to obtain an Illinois residential mortgage license to engage in the business of brokering, funding, originating, servicing, or purchasing of residential mortgage loans;
2. That the RMLA was amended by P.A. 96-0112, effective July 31, 2009 to enact changes for mortgage loan originators required by the federal Secure and Fair Enforcement Act for Mortgage Licensing Act of 2008 (“SAFE Act”);
3. That the U.S. Department of Housing and Urban Development (“HUD”) published on December 15, 2009 “SAFE Mortgage Licensing Act: HUD Responsibilities Under the SAFE Act; Proposed Rule” in which HUD expressed the view that third-party loan modification specialists are within the licensing requirements of the SAFE Act, subject to public comment and final rule adoption, but states are empowered to act within their contemporary interpretations of state licensing laws implementing SAFE Act provisions and are permitted to exceed the minimum requirements of the SAFE Act;
4. That the Department has continued to receive an escalating number of complaints from consumers and others of unlicensed companies and individuals taking up-front and/or excessive fees, providing limited or no services for these fees, failing to refund unearned fees, and placing consumers at further risk of losing their

homes through foreclosure by failing to timely obtain loan modifications or communicate status with consumers;

5. That the Department has determined that the RMLA, as amended by the SAFE Act provisions of P.A. 96-0112, authorizes the licensing and regulation of residential loan modification services by entities and individuals and as consistent with the purpose of protecting consumers under the RMLA;
6. That the Department has posted two public notifications on its website www.idfpr.com consisting of a "Statement Regarding Loan Modification Services" and a "Statement Regarding Attorneys Performing Mortgage Loan Modifications;"
7. That the Department identified Hernandez through a referral of consumer complaints from the Brighton Park Neighborhood Council that Hernandez was providing loan modification services; an on-site examination was conducted on October 8, 2010 confirming through Hernandez that Hernandez was performing loan modifications as an unlicensed individual or sole proprietor outside of his sponsorship as a loan originator through a licensed residential mortgage company;
8. That no person, partnership, association, corporation, or other entity except a licensee under RMLA or an entity exempt from licensing pursuant to Section 1-4, subsection (d) of RMLA shall do any business under any name or title, or circulate or use any advertising or make any representation or give any information to any person, which indicates or reasonably implies activity within the scope of RMLA; and
9. That the Department has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur as to Hernandez providing loan modification services as an unlicensed entity and that Hernandez has committed a business offense.

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Department makes the following Conclusions of Law:

Juan C. Hernandez has violated RMLA Sections 1-3(a), (b), (d-1), & (e), 4-1(h-1), and 7-1 & 7-1A of the Act by performing loan modification services without holding an Illinois residential mortgage license and by providing said services without proper use of a mortgage loan originator's license.

NOW THEREFORE IT IS HEREBY ORDERED:

Juan C. Hernandez shall immediately cease and desist from performing loan modification services and shall be assessed and pay a fine due and payable upon issuance of this Order in the amount of \$25,000 to the Department.

ORDERED THIS 28th DAY OF October, 2010

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
BRENT E. ADAMS, SECRETARY
DIVISION OF BANKING



JORGE A. SOLIS, DIRECTOR

You are hereby notified that this Order is an administrative decision. Pursuant to 205 ILCS 635/4-12 and 38 Ill. Adm. Code 1050.1510 *et seq.* any party may file a request for a hearing on an administrative decision. The request for a hearing and \$500 hearing fee shall be filed within 10 days after the receipt of an administrative decision. The request for hearing must include an explicit admission, denial or appropriate response to each allegation or issue contained in the administrative decision pursuant to 38 Ill. Adm. Code 1050.1570. A hearing shall be held on the administrative decision by the Department of Financial and Professional Regulation, Division of Banking. Absent a request for a hearing, this Order shall constitute a final administrative Order subject to the Administrative Review Law [735 ILCS 5/3-101 *et seq.*].