

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:

HOMEOWNERS ASSISTANCE ASSOCIATION, INC)

3843 W. 95th St.)

Evergreen Park, Illinois 60805)

No. 2013-MBR-CD-13

**ORDER TO CEASE AND DESIST FROM UNLAWFUL
RESIDENTIAL MORTGAGE ACTIVITIES AND ASSESSING FINE**

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having conducted an investigation of HOMEOWNERS ASSISTANCE ASSOCIATION, INC (“HAA”), 3843 W. 95th St., Chicago, Evergreen Park, Illinois 60805, and found violations of the Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635], the Secretary hereby issues this ORDER TO CEASE AND DESIST FROM UNLAWFUL RESIDENTIAL MORTGAGE ACTIVITY AND ASSESSING FINE, and states:

STATUTORY PROVISIONS

1. Section 1-3(a) of the Act provides that no person, partnership, association, corporation, or other entity shall engage in the business of brokering, funding, originating, servicing or purchasing of residential mortgage loans without first obtaining a license from the Secretary of the Department (“Secretary”).
2. Section 1-3(b) of the Act provides that no person, partnership, association, corporation, or other entity except a licensee under the Act or an entity exempt from licensure shall do any business under any name title, or circulate or use any advertising or make any representation nor give any information to any person, which indicates or reasonably implies activity within the scope of the Act.
3. Section 1-3(d-1) of the Act provides the Secretary the authority to issue orders against any person if the Secretary has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary, or for the purposes of administering the provisions of this Act and any rule adopted in accordance with this Act.
4. Section 1-3(e) of the Act provides that any person, partnership, association, corporation or other entity who violates any provision of this Section commits a business offense and shall be fined an amount not to exceed \$25,000.

5. Section 1-4(p) of the Act defines “Loan Broker” or “Broker” as a person, partnership, association, corporation or limited liability company, not lawfully exempt from the Act, who performs the activities described in subsections (c), (o), and (yy) of the Act.
6. Section 1-4(yy) of the Act defines “loan modification” to mean for compensation or gain, either directly or indirectly offering or negotiating on behalf of a borrower or homeowner to adjust the terms of a residential mortgage loan in a manner not provided for in the original or previously modified loan.
7. Section 2-4(aa) of the Act lists the Averments licensees must aver to including that they will not charge or collect upfront payments from borrowers for engaging in loan modifications.
8. The Mortgage Rescue Fraud Act (“MRFA”) [765 ILCS 940] requires any person who, directly or indirectly, for compensation from a distressed owner, makes any solicitation, representation, or offer to perform loan modification activities to provide distressed owners statutorily defined contract terms and notice rights and refrain from taking an interest in the distressed owner’s home or securing advance payments prior to performing the contracted for service.

FACTUAL FINDINGS

9. On December 10, 2011 the Department received information that HAA was offering loan modification services to consumers and charging them upfront fees.
10. The Department’s investigation found that HAA is not licensed by the Department to act as a residential mortgage licensee.
11. The Department’s investigation found that HAA advertised its loan modification services through telemarketing and other advertisements.
12. The Department’s investigation found that HAA offered loan modification services for a consumer who paid an upfront fee.

LEGAL CONCLUSIONS

COUNT I

13. HAA, without a license, through its agents, solicited, advertised and offered loan modification services. HAA is in violation of Sections 1-3(a) & (b) of the Act.

COUNT II

14. HAA, without a license, through its agents, accepted an upfront payment for loan modification services. HAA is in violation of Section 2-4(aa) of the Act and Section 50(a)(1) of the MRFA.

NOW IT IS HEREBY ORDERED THAT,

1. HAA, an unlicensed entity and by and through its principals and agents, shall **CEASE AND DESIST** from soliciting or offering to modify residential mortgage loans, and engaging in any other licensable activities under the Act pursuant to Section 1-3(d-1) of the Act.
2. HAA shall pay a **FINE** in the amount of \$25,000 as authorized under Section 1-3(e) of the Act. The fine is payable by certified check or money order within thirty (30) days of the effective date of this Order to the:

**Department of Financial and Professional Regulation
Division of Banking
ATTN: FISCAL DIVISION
320 W. Washington, 5th Floor
Springfield, Illinois, 62786**

ORDERED THIS 27TH DAY OF DECEMBER, 2013

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
MANUEL FLORES, ACTING SECRETARY

DIVISION OF BANKING

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 by certified check or money order shall be filed with the Department at 320 West Washington Street, Springfield, IL 62786, ATTN: Loan Originator Section 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.*].