

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

IN THE MATTER OF:

CARLOS RAYAS

IL License No. 031.0006603; NMLS No. 225507
 2476 Reflections Drive
 Aurora, IL 60502

No. 2013-MLO-01-b

**AMENDED ORDER REVOKING
 MORTGAGE LOAN ORIGINATOR LICENSE & ASSESSING FINE**

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, (“Department”), having conducted an investigation of CARLOS RAYAS (“RAYAS”) under Order of Emergency Suspension No. 2013-MBR-01, and found violations by RAYAS of the Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635] and the Mortgage Rescue Fraud Act (“MRFA”) [765 ILCS 940] and issued Order Revoking Mortgage Loan Originator License & Assessing Fine No. 2013-MLO-01 (“Order”), and now having additional factual findings, hereby republishes the Order and issues to RAYAS this AMENDED ORDER REVOKING MORTGAGE LOAN ORIGINATOR LICENSE & ASSESSING FINE.

STATUTORY PROVISIONS

1. Section 1-4 (jj) defines the “mortgage loan originator” as an individual who for compensation or gain or in the expectation of compensation or gain (i) takes a residential mortgage loan application, or (ii) offers or negotiates terms of a residential mortgage loan. Included in the definition are individuals who participate in residential mortgage loan modification activities. A mortgage loan originator engaged in loan modification activities shall report those activities to the Department in the manner provided by the Department.
2. Section 1-4(yy) 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.
3. Section 4-5 of the Act states, in part, the following acts shall constitute grounds for disciplinary action which include in subsection (a) violating any provision of this Act, any rule or regulation promulgated by the Secretary or any other law, rule or regulation of the State of Illinois or the United States, and in subsection (i)(2) engaging in fraud, misrepresentation, deceit, or negligence in any mortgage financing transaction. Subsection (h) provides the Secretary the authority to enter an order imposing certain penalties, including imposition of a fine not to exceed \$25,000 for each count of separate offense, or not to exceed \$75,000 for each separate count of offense under subsection (i)(2).

4. Section 7-11 of the Act authorizes the Department to revoke and/or fine, or otherwise discipline, the license of a Mortgage Loan Originator if the Secretary finds that the Mortgage Loan Originator has violated this Act or any other applicable law or regulation. A maximum fine is authorized of \$1,000 for each day for each violation of this Act or other applicable law or regulation that is committed, and may be double for repeat violations, and tripled for engaging in an act prohibited by item (1) of Section 7-13 of the Act.
5. Section 7-13 of the Act prohibits certain acts and practices by mortgage loan originators including in subsection (1) directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person; in subsection (2) engage in any unfair or deceptive practice toward any person; in subsection (3) obtain property by fraud or misrepresentation; in subsection (6), in part, aid and abet any person in the conduct of business under this Act without a valid license as required under this Act; in subsection (7) fail to make disclosures as required by this Act and any other applicable State and federal law, including regulations thereunder; in subsection (8) fail to comply with this Act and any other State or federal law, including regulations thereunder, applicable to any business authorized or conducted under this Act; in subsection (9) make, in any manner, any false or deceptive statement or representation of a material fact, required on any document or application subject to this Act; in subsection (12) collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this Act, including advance fees for loan modification; and in subsection (15) engage in conduct that constitutes dishonest dealings.
6. The MRFA requires any person who, directly or indirectly, for compensation from the owner, makes any solicitation, representation, or offer to perform, or who performs any service that the person represents will stop or postpone a foreclosure sale or save the owner's home from foreclosure, to provide owners statutorily defined contract terms and notice rights and refrain from taking an interest in the owner's home or securing advance payments prior to performing the contracted for service.

FACTUAL FINDINGS

7. RAYAS is a mortgage loan originator holding License No. 031.0006603 and NMLS identification number 225507 in accordance with the Act, and is an Account Executive with the Washington National Trust.
8. The Washington National Trust is not authorized by the Department to act as a residential mortgage licensee or mortgage loan originator and has been the subject of separate Department cease & desist orders.

9. On December 4, 2012, the Department received an inquiry through its Anti-Predatory Lending Program ("APLD") about the recording of a promissory note by Borrower 1 prepared by and to the benefit of the Washington National Trust in the amount of \$159,804. The promissory note purported by its language to be an offer of performance for the express purpose to pay, discharge, and extinguish all alleged obligations in full to CitiMortgage (mortgagee for Borrower 1's home).
10. The Department determined the promissory note to be suspicious and opened a further review of public records and identified a Lis Pendens (Foreclosure) and Quit Claim Deed notarized by RAYAS signing over Borrower 1's home to the Washington National Trust. The Department proceeded with a further review and investigation, including, but not limited to, interviewing Borrower 1 and collecting additional documentation, including for the period April 8-10, 2012 that follows.
11. On or about April 8, 2012, RAYAS, on behalf of the Washington National Trust, offered to provide Borrower 1 with loan modification services and facilitate modification of Borrower 1's residential mortgage loan serviced by CitiMortgage in exchange for a fee of \$5,125.
12. On or about April 8, 2012, Borrower 1 tendered to RAYAS a cashier's check in the amount of \$5,125.00 as payment to the Washington National Trust for loan modification services.
13. On or about April 8, 2012, RAYAS directed Borrower 1 to draft a "Hardship Letter" and sign a form authorizing the Washington National Trust to receive all information related to Borrower 1's residential mortgage loan serviced by CitiMortgage.
14. On or about April 8, 2012, RAYAS provided Borrower 1 with an instructional packet including directions to sign a quitclaim deed transferring Borrower 1's residential property to the Washington National Trust.
15. On or about April 10, 2012, RAYAS presented to Borrower 1 a document entitled Specific Power of Attorney empowering the Washington National Trust to act as Borrower 1's "true and lawful attorney in fact" for all purposes and in order to facilitate communication with CitiMortgage and obtain a loan modification on Borrower 1's behalf.
16. On October 12, 2012, RAYAS notarized Borrower 1's signature on a Quit Claim Deed transferring Borrower 1's residential property to the Washington National Trust. Between July 11, 2012 and October 12, 2012, RAYAS notarized fourteen additional Quit Claim deeds for other borrowers transferring their residential properties to the Washington National Trust. RAYAS also notarized to the benefit of the Washington National Trust a Certified Promissory Note and a Grant Deed on September 27, 2012 and October 11, 2012, respectively, and a Certified Note on November 19, 2012.
17. During the course of the Department's investigation, RAYAS failed to report his loan modification activities to the Department by the deadline of December 21, 2012 as required by the Department and pursuant to the Act.
18. On January 2, 2013, the Department issued an Order of Emergency Suspension against RAYAS' License subject to continuing investigation. The Department has concluded this investigation and affirmed the facts of the Emergency Suspension that RAYAS, individually and/or through the

Washington National Trust, offered loan modification and mortgage rescue services to Borrower 1, received advance fees for said services, and failed to secure a loan modification or other mortgage relief for Borrower 1.

19. On or about May 20, 2013, the Department received a written complaint from consumer M.M. ("Borrower 2") stating, among other things, that RAYAS had come to the Borrower 2's home offering loan modification services to keep Borrower 2 from losing the home. The offered services included that Washington National Trust would purchase Borrower 2's home for either re-sale or to rent the property back to Borrower 2. Borrower 2 stated that RAYAS asked Borrower 2 for \$5,000 upfront to commence the offered services and that \$10,000 was the total fee to be charged to Borrower 2 to complete the services.
20. Based upon RAYAS's assurances, Borrower 2 contracted for and paid the initial \$5,000 fee for the offered services. Borrower 2 stated that thereafter RAYAS failed to provide any legitimate or promised relief resulting in Borrower 2 losing the home.

LEGAL CONCLUSIONS

21. By aiding and abetting the Washington National Trust in its offering residential loan modifications without a mortgage loan originator license, RAYAS is in violation of Section 7-13(6) of the Act.
22. By communicating to a distressed property owners, Borrowers 1 & 2, the mortgage rescue program to be provided was lawful in the State of Illinois and by charging and collecting an advance payment for modification services, RAYAS is in violation of Sections 4-5(i)(2) and 7-13 (1), (2), (7), (8), (9), (12), and (15) of the Act and Section 50(a)(1) of the MRFA.
23. By inducing Borrowers 1 & 2 to quitclaim and/or otherwise relinquish Borrowers 1 & 2's interest in their homes to the Washington National Trust in order to facilitate a loan modification, RAYAS was involved in the obtaining of property by fraud or misrepresentation in violation of Section 7-13 (3) of the Act.

NOW IT IS HEREBY ORDERED THAT,

1. The Department **REVOKES** RAYAS' License No. 031.0006603 pursuant to Sections 4-5 and 7-11 of the Act.
2. The Department assesses a **FINE** against RAYAS in the amount of \$25,000 pursuant to Sections 4-5 and 7-11 of the Act for violations of Sections 7-13 (2), (3), (6), (7), (8), (9), (12), and (15) of the Act and Section 50(a)(1) of the MRFA.
3. The Department assesses a **FINE** against RAYAS in the amount of \$75,000 pursuant to Sections 4-5 and 7-11 of the Act for violations of Sections 4-5(i)(2) and 7-13 (1) of the Act.


4. The fine in the Total Amount of \$100,000 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: Loan Originator Section
320 W. Washington, 5th Floor
Springfield, Illinois, 62786.**

ORDERED THIS 2nd DAY OF July, 2013

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

DIVISION OF BANKING



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 \$250 hearing fee by certified check or money order shall be filed with the Department at 320 West Washington Street, 5th Floor, 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.*].