

**STATE OF ILLINOIS**

**DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

**DIVISION OF BANKING**

IN THE MATTER OF: )  
 ) No. 2013-MLO-CD-19  
**CASEY CERNI** )  
**A.K.A. CASIMAR CERNIAUKAS** )  
11322 S. Homan Avenue )  
Chicago, Illinois 60655 )

**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 investigated the activities of CASEY CERNI A.K.A. CASIMAR CERNIAUKAS (“CERNI”), 11322 S. Homan Avenue, Chicago, Illinois 60655, in connection with his residential mortgage activities with unlicensed company Homeowners Assistance Association, Inc (“HAA”), 3843 W. 95<sup>th</sup> 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 states in relevant part: 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 in accordance with the licensing procedure provided in this Article I and such regulations as may be promulgated by the 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 that the Secretary may 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(hh) of the act defines a loan originator in relevant part: “Loan originator” means any natural person who, for compensation or in the expectation of compensation, either directly or indirectly makes, offers to make, solicits, places, or negotiates a residential mortgage loan.
6. Section 1-4(jj) of the Act defines a 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.
7. 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.
8. Section 7-1 of the Act states that it is unlawful for any natural person to act or assume to act as a loan originator, as defined in subsection (hh) of Section 1-4, without being registered in the State of Illinois.
9. Section 7-1A of the Act states that it is unlawful to work as a mortgage loan originator, as defined in subsection (jj) of Section 1-4 of this Act, without obtaining a license from the Director, unless the individual is exempt under subsection (c) of this Section.
10. Section 7-13 of the Act prohibits certain acts and practices by mortgage loan originators (“MLO”) including conducting any business covered by this Act without holding a valid license. MLO’s are prohibited from collecting or charging advance fees for loan modifications. MLOs are prohibited from violating State law.
11. 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**

12. On December 10, 2011 the Department received information that HAA was offering loan modification services to consumers and charging them upfront fees.
13. The Department’s investigation found that CERNI was never registered or licensed by the Department to act as a loan originator or mortgage loan originator.
14. The Department’s investigation found that CERNI was involved with HAA which was not licensed by the Department to act as a residential mortgage licensee.

15. The Department's investigation found that CERNI offered loan modification services for a consumer who paid an upfront fee.

## LEGAL CONCLUSIONS

### COUNT I

16. CERNI, without a license, solicited, advertised and offered loan modification services. CERNI is in violation of Sections 1-3(a) & (b) and 7-13(6) of the Act.

### COUNT II

17. CERNI accepted upfront payments for loan modification services. CERNI is in violation of Sections 7-13 (1), (8) & (12) of the Act and Section 50(a)(1) of the MRFA.

### NOW IT IS HEREBY ORDERED THAT,

1. CERNI 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. CERNI 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: Loan Originator Section  
320 W. Washington, 5<sup>th</sup> Floor  
Springfield, Illinois, 62786**

ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2013

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

DIVISION OF BANKING

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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, 5<sup>th</sup> 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.*].

State of Illinois (   
 ( ss:   
 County of Cook (

The undersigned, being duly sworn on oath, states that on \_\_\_\_\_, I mailed with sufficient postage affixed, a copy of the foregoing **ORDER TO CEASE AND DESIST FROM UNLAWFUL RESIDENTIAL MORTGAGE ACTIVITIES AND ASSESSING FINE** by regular and certified mail, return receipt requested at 100 W. Randolph Street, Chicago, Illinois 60601, to the address of Respondent registered with the Department and listed below:

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AFFIANT

Subscribed and sworn to before me,

this \_\_\_\_ day of \_\_\_\_\_, 2013

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NOTARY PUBLIC

Send to:

CASEY CERNI  
A.K.A. CASIMAR CERNIAUKAS  
11322 S. Homan Avenue  
Chicago, Illinois 60655