STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:	)	
	)	No. 2014-MLO-CD-
ROXANA P. ARANIBAR	)	
9101 W. 30th Street	)	
Brookfield, IL 60513	)	

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 ROXANA P. ARANIBAR ("ARANIBAR"), 9101 W. 30th Street, Brookfield, IL 60513, in connection with her residential mortgage activities with MRC Consultant Corp. ("MRC"), 2919 W. 59th Street, Chicago, Illinois 60629, and found violations of the Residential Mortgage License Act of 1987 ("Act") [205 ILCS 635], and the Mortgage Rescue Fraud Act ("MRFA") [765 ILCS 940], the Secretary hereby issues this ORDER TO CEASE AND DESIST FROM UNLAWFUL RESIDENTIAL MORTGAGE ACTIVITIES 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(jj) of the Act defines a mortgage loan originator ("MLO") 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.

6. 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.

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. Section 4-5(h) of the Act 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 offenses, provided that a fine may be imposed not to exceed $75,000 for each separate count of offense of paragraph (2) of subsection (i), against any person in violation of the grounds set forth in subsection (i).

9. Section 4-5 of the Act in subsections (a) and (i) provide the following acts shall constitute grounds for disciplinary action: (a)(1) 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, (i)(2) engaging in fraud, misrepresentation, deceit, or negligence in any mortgage financing transaction.

10. Section 5-6 of the Act states no licensee may make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the principal and interest on the loan, real estate taxes, homeowner's insurance, assessments, and mortgage insurance premiums.

11. 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.

12. Section 7-11 of the Act authorizes the Department to revoke and/or fine, or otherwise discipline, the license of a MLO if the Secretary finds that the MLO 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, \$3,000 for each day for each violation for engaging in 7-13(1) and \$2,000 for repeat violations.

13. Section 7-13 of the Act prohibits certain acts and practices by mortgage loan originators including employing a scheme to defraud or mislead borrowers. MLOs are prohibited from conducting any business covered by this Act without holding a valid license. MLOs are prohibited from violating any rules, regulations, and State law. MLOs are prohibited from collecting or charging advance fees for loan modifications. MLOs must give reasonable consideration to a borrower's ability to repay the debt.

14. The MRFA requires any person who, directly or indirectly, for compensation from the owner, makes any solicitation, representation, or offer to perform loan modification activities 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. Licensees of the Act are exempt from the MRFA if the transaction resulting in the origination of a new mortgage loan extinguishes the existing loan.

FACTUAL FINDINGS

15. ARANIBAR is not an Illinois licensed mortgage loan originator ("MLO") and has never applied for such license and is not authorized to conduct loan originating activities in Illinois.

16. ARANIBAR held an Illinois Provisional Loan Originator Certificate of Registration No. 030.0014809, issued on July 1, 2004 and expired July 1, 2005, and Illinois Loan Solicitor Certificate of Registration No. 032.0003597, issued on December 14, 2007 and expired July 1, 2009.

17. ARANIBAR knew or should have known that an Illinois MLO license is required in order for a person to conduct activities regulated by the Act.

18. ARANIBAR served as agent for MRC, 2919 W. 59th Street, Chicago, Illinois 60629, an entity not licensed by the Department that engaged in loan modification brokering activities in the State of Illinois.

19. On October 8, 2013, the Department discovered that ARANIBAR and MRC were engaged in two mortgage-related schemes to harm homebuyers and residential mortgage borrowers.

SCHEME I: MORTGAGE FRAUD

20. ARANIBAR and MRC conspired with licensed mortgage loan originator Jusuf Hodzic a scheme by which ARANIBAR would solicit referrals from real estate licensees and others in order to lure homebuyers or struggling residential mortgage borrowers into using her consulting services in order to secure referral, upfront, and other fees for ARANIBAR, and commissions for Hodzic.

21. Hodzic was sponsored by Acceptance Capital Mortgage Corporation ("ACMC"; IL License No. MB. 6760844).

22. To effectuate and in furtherance of the scheme ARANIBAR, on behalf of Hodzic, employed the use of the following tactics upon ten homebuyers (hereinafter "Homebuyer(s)"):

    a. ARANIBAR prepared mortgage loan applications for the purchase of residential real estate for Homebuyers.

    b. ARANIBAR required that the Homebuyers divulge their social security numbers and other personal information in order to complete the loan applications.

    c. To qualify Homebuyers, who would otherwise not qualify for a loan, ARANIBAR created or caused to be created the following fraudulent loan documents:
        1. Loan applications;
        2. Employment verification forms; and
        3. Pay Stubs.

    d. Hodzic would accept the completed loan files from ARANIBAR and forwarded the same to ACMC to secure funding.

    e. Hodzic would then promise to pay ARANIBAR a referral fee once the loans were funded by ACMC.

23. ARANIBAR charged Homebuyers 1 and 7 a total of $12,465 for her illegal mortgage consulting services.

24. ARANIBAR referred and submitted eight residential mortgage loan files to Hodzic for Homebuyers 2, 4, 5, 6, 7, 8, 9 and 10, who were seeking to purchase homes.

25. Hodzic, in exchange for ARANIBAR'S illegal referrals, agreed to pay her a $250.00 referral fee for every loan closed and funded.

26. ARANIBAR created false documentation for Homebuyers 2, 6, 7, 8 and 10 to qualify them for conventional loans or Federal Housing Administration "FHA" insured loans. The inclusion of these false documents demonstrated that ARANIBAR, who dealt directly with the Homebuyers, knew or should have known they did not have the ability to repay these loans.

27. ARANIBAR repeatedly listed false employment for Homebuyers on their loan applications. For Homebuyers 7 and 8, ARANIBAR listed the same Chicago restaurant as an employer even though neither Homebuyer worked there. For Homebuyer 2 ARANIBAR falsely listed a Chicago beauty supply company as an employer.

28. ARANIBAR charged a $280 fee to Homebuyer 7 for fake pay stubs and Homebuyer 8 a $800 fee for fake rent receipts. Homebuyer 7 and Homebuyer 8 both refused to pay ARANIBAR for these services.

29. Hodzic was both a MLO and Branch Manager of the ACMC office where the loans were submitted and processed for funding.

30. Hodzic upon receiving the loans from ARANIBAR signed-off on them as if he himself had originated the loans.

SCHEME II: UNLICENSED LOAN MODIFICATION

31. The second scheme was orchestrated by ARANIBAR and MRC and it targeted distressed property owners seeking mortgage loan modifications, as follows:

    a. ARANIBAR sold loan modification services without the necessary Illinois license.
    b. ARANIBAR charged upfront fees to perform loan modification services.

32. Homebuyers 1, 2 and 3 informed the Department they were referred to ARANIBAR for loan modifications services. Homebuyers 1, 2, 3 purchased loan modification services from ARANIBAR to secure lower mortgage payments and maintain their homes.

33. ARANIBAR falsely represented herself to Homebuyers as being authorized to perform loan modifications.

34. ARANIBAR charged upfront fees for loan modification services. Homebuyer 1 paid $1,000, Homebuyer 2 paid $3,000, and Homebuyer 3 paid $1,000 to ARANIBAR for these loan modification services.

35. ARANIBAR instructed Homebuyer 3 to stop making loan mortgage payments to the lender to qualify for a loan modification. Homebuyer 3, relying on ARANIBARS's instructions, stopped making payments on her mortgage loan. Homebuyer 3 had her home foreclosed on for failure to remain current on her mortgage payments.

36. ARANIBAR failed to secure loan modifications for Homebuyers 1, 2, and 3. Homebuyers 1 and 2 requested a refund of their fees from ARANIBAR. ARANIBAR refused to refund their fees. Instead of refunding the fee to Homebuyer 2, ARANIBAR offered to help Homebuyer 2 purchase a new residential property.

LEGAL CONCLUSIONS

COUNT I MORTGAGE FRAUD

37. ARANIBAR produced fraudulent documents for five borrowers to finance their purchase of residential real estate. ARANIBAR is in violation of Sections 4-5(a)(1)&(i)(2) and 7-13(1) of the Act.

COUNT II UNLICENSED ACTIVITY

38. ARANIBAR, without a license, offered or provided MLO services including loan modification and origination services to ten (10) Homebuyers. ARANIBAR is in violation of Sections 1-3, 4-5(a)(1), and 7-13(6) of the Act.

COUNT III UPFRONT FEES

39. ARANIBAR charged and accepted upfront payments for loan modification services and engaged in 2 prohibited acts with 3 Homebuyers. ARANIBAR is in violation of Sections 2-4(aa), 4-5(a)(1), 7-13(12) and Section 7-13(8) of the Act citing violations of MRFA.

COUNT IV VERIFICATION OF BORROWERS' ABILITY TO REPAY

40. ARANIBAR originated loans knowing the 5 Homebuyers for which she had created fraudulent documents, did not have the ability to repay the loans. ARANIBAR is in violation of Sections 5-6 and 7-13 (19) of the Act.

NOW IT IS HEREBY ORDERED THAT,

1. ARANIBAR shall **CEASE AND DESIST** from offering loan modification and origination services to Homebuyers, and engaging in any other licensable or prohibited activities pursuant to Section 1-3(d-1) of the Act.

2. ARANIBAR shall pay a **FINE** pursuant to Sections 1-3(e), 4-5, and 7-11 of the Act in the total amount of **$236,000,** as calculated:

COUNT I: $90,000	($75,000 and $15,000 for violation of Act Section 7-13(1))
COUNT II: $60,000	($25,000 for violation of Act Section 1-3 and 4-5(a)(1) and $10,000 for violations of Act Section 7-13(6))
COUNT III: $56,000	($25,000 per citation Act Section 2-4(aa) and 4-5(a)(1) and $6,000 for violations of Act Section 7-13(8) &(12))
COUNT VI: $30,000	($25,000 per citation of Act Section 5-6 and $5,000 for violations of Act Section 7-13(19))

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, 5th Floor
Springfield, Illinois, 62786

ORDERED THIS 8th DAY OF May, 2014

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

DIVISION OF BANKING

[redacted]

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.*]