

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:

CARLOS RAYAS)	
License No. MB.031.0006603)	No. 2013-MBR-01
NMLS Id. 225507)	
2476 Reflections Drive)	
Aurora, IL 606502)	

ORDER OF EMERGENCY SUSPENSION

NOW COMES the DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the “Division”), conducting an investigation of Licensee CARLOS RAYAS (“RAYAS”), and having found violations of the Residential Mortgage License Act of 1987 (the “Act”) [205 ILCS 635], the rules promulgated under the Act (“Rules”) [38 Ill. Adm. Code 1050], and the Mortgage Rescue Fraud Act (“MRFA”) [765 ILCS 940] hereby issues this **ORDER OF EMERGENCY SUSPENSION** pursuant to Sections and 7-11 of the Act, and states:

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.
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: 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, fraud, misrepresentation, deceit, or

- negligence in any mortgage financing transaction; failure to maintain, preserve and keep available for examination, all books, accounts, or other documents required by the provisions of the Act and rules of the Secretary.
4. Section 7-11 of the Act provides the Division the authority to issue to any mortgage loan originator believed to be engaged in activities that may constitute a violation of the Act or any other applicable law, rule or regulation an order to cease and desist, or, upon a showing that an emergency exists, may suspend the mortgage loan originator's license for a period not exceeding 180 calendar days, pending investigation.
 5. Section 7-13 of the Act prohibits certain acts and practices by mortgage loan originators which includes: employing a scheme, device or artifice to defraud or mislead any person; engage in any unfair or deceptive practice; obtain property by fraud or misrepresentation; aid and abet any person in the conduct of business under the Act without a valid license as required under the Act; and collecting or charging advance fees for loan modification.
 6. Section 1050.2165 of the Rules requires applicants to make certain averments to the Division, of which failure to fulfill the obligations of an averment shall subject the licensee to penalty, including the requirement that licensees not charge or collect advance payments from borrowers or homeowners for engaging in loan modification and will not structure activities or contracts to evade provisions of this Act.
 7. The Mortgage Rescue Fraud Act ("MRFA") [765 ILCS 940] 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 owners 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.

ALLEGATIONS

8. RAYAS is a registered mortgage loan originator in accordance with the Act, and is an Account Executive with Washington National Trust.
9. Washington National Trust is not authorized by the Division to act as a residential mortgage licensee or mortgagee loan originator.
10. On or about April 8, 2012 RAYAS, on behalf of Washington National Trust, offered to provide Borrower 1 with modification services and facilitate modification of Borrower 1's residential mortgage loan serviced by CitiMortgage

- in exchange for a fee of \$5,125.00.
11. 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 Washington National Trust for loan modification services.
 12. On or about April 8, 2012 RAYAS directed Borrower 1 to draft a "Hardship Letter" and sign a form authorizing Washington National Trust to receive all information related to Borrower 1's residential mortgage loan serviced by CitiMortgage.
 13. On or about April 8, 2012 RAYAS directed Borrower 1 to sign a quitclaim deed, which RAYAS notarized, transferring Borrower 1's residential property to Washington National Trust.
 14. On or about April 10, 2012 RAYAS presented to Borrower 1 a document entitled Specific Power of Attorney empowering 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.
 15. Upon information and belief, the Department found that RAYAS and Washington National Trust failed to secure said loan modification for Borrower 1.
 16. Upon information and belief, RAYAS is engaged in a wide-ranging scheme to defraud borrowers through deceptive and unlawful mortgage rescue services: RAYAS' conduct poses an ongoing and immediate threat to Illinois consumers.

LEGAL CONCLUSIONS

BASED UPON THE ABOVE ALLEGATIONS, THE DEPARTMENT FINDS GOOD CAUSE SHOWN AND CONCLUDES:

17. By failing to report modification activity RAYAS is in apparent violation of Section 1-4(jj) of the Act.
18. By charging and collecting an advance payment of \$5,125.00 RAYAS is in violation of Sections 4-5 and 7-13 of the Act, and the Mortgage Rescue Fraud Act [765 ILCS 940, et seq], respectively.
19. By inducing Borrower 1 to quitclaim his home to Washington National Trust in order to facilitate a loan modification, RAYAS misrepresented the loan modification process and intentionally deceived Borrower 1 into a scheme to defraud in violation of Section 7-13 of the Act, Section 1050.2165 of the Rules, and the Mortgage Rescue Fraud Act [765 ILCS 940, et seq], respectively.

20. By conducting loan modification activity of behalf of Washington National Trust, an entity that does not have a valid license pursuant to the Act, RAYAS' conduct rises to the level of aiding and abetting an unlicensed entity in apparent violation of Section 4-5 and 7-13 of the Act.

21. By failing to secure a new mortgage for Borrower 1, RAYAS is not exempt from the provisions of the Mortgage Rescue Fraud Act ("MRFA") [765 ILCS 940, et seq.], as such RAYAS is in violation of the MRFA.

NOW IT IS HEREBY ORDERED THAT, the certificate of registration of CARLOS RAYAS is suspended for 180 days pending a full investigation. RAYAS shall: 1) immediately cease and desist taking any applications for mortgage loans; 2) immediately cease and desist from selling, marketing, or conducting any loan modification or mortgage rescue services through Washington National Trust or any other entity; 3) transmit to the Department a verified copy of a complete loan log showing all transactions, including all mortgage rescue and loan modification transactions undertaken on behalf of Washington National Trust or any other entity for the period of January 1, 2011 to the present; 4) immediately cease and desist from accepting Power of Attorney authorization for any mortgage borrower with whom RAYAS contracted with to perform mortgage rescue or loan modification services; 5) immediately rescind Power of Attorney status on behalf of any mortgage borrower with whom RAYAS contracted with to perform mortgage rescue or loan modification services through Washington National Trust or any other entity; and 6) immediately cease and desist requesting, accepting, and/or executing any quitclaim deeds that transfers ownership of property to Washington National Trust or any other entity.

If you wish to appeal this emergency suspension, you may do so pursuant to Section 1050.1510 et seq.

**Department of Financial and Professional Regulation
Division of Banking
122 S. Michigan Ave, Suite 1900
Chicago, Illinois 60603**

ORDERED THIS 2nd DAY OF JANUARY, 2013

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

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 by certified check or money order shall be filed with the Department at 320 West Washington Street, 5th Floor, Springfield, IL 62786 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 OF EMERGENCY SUSPENSION** by regular and certified mail, return receipt requested, at 122 S. Michigan Avenue, Suite 1900, Chicago, Illinois 60603, to the name and address listed below:

AFFIANT

Subscribed and sworn to before me,
this ____ day of _____, 2013

NOTARY PUBLIC

Send to:

SERIAL #