

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:

MONICA HERNANDEZ )  
d/b/a WASHINGTON ) 2013-MBR-43  
NATIONAL TRUST )  
31 W. Downer Place, Suite 408 )  
Aurora, IL 60502 )

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

NOW COMES the DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the "Department"), conducting an investigation of MONICA HERNANDEZ, doing business as the WASHINGTON NATIONAL TRUST (collectively hereinafter "HERNANDEZ"), 31 W. Downer Place, Suite 408, Aurora, Illinois 60502 and having found violations of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635] and the Mortgage Rescue Fraud Act ("MRFA") [765 ILCS 940] hereby issues this ORDER TO CEASE AND DESIST FROM UNLAWFUL RESIDENTIAL MORTGAGE ACTIVITY pursuant to Section 1-3(d-1) of the Act, 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 (jj) of the Act 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.
  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 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 offense, 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).
  8. Section 4-5(i) of the Act states the activity constituting grounds for a fine pursuant to Section 4-5(h) of the Act, including: (1) engaging in activities regulated by the Act without a current, active license; (2) failure to comply with or violation of any provision of the Act; and (3) fraud, misrepresentation, deceit or negligence in any mortgage financing transaction.
  9. Section 7-1A of the Act states, in part, it is unlawful for any individual to act or assume to act as a mortgage loan originator, as defined in subsection (jj) of Section 1-4 of the Act, without obtaining a license from the Department.
  10. 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.
  11. The MRFA defines “distressed property” to mean residential real property consisting of one to 6 family dwelling units that is in foreclosure or at risk of loss

due to nonpayment of taxes, or whose owner is more than 30 days delinquent on any loan that is secured by the property.

### FACTUAL FINDINGS

12. Upon information and belief HERNANDEZ has a last known address of 501 Chestnut Drive, Oswego, Illinois 60543, where she resides with her fiancé Melvin Torrelle Bell.
13. On October 5, 2012 an Order of Prohibition was entered against HERNANDEZ by the Illinois Secretary of State for fraud in the sale of securities.
14. HERNANDEZ is a licensed real estate broker in the State of Illinois.
15. HERNANDEZ has never filed an application to conduct residential mortgage loan activity with the Department.
16. HERNANDEZ is not authorized by the Department to act as a residential mortgage licensee or mortgage loan originator.
17. HERNANDEZ is doing business as and on behalf of the WASHINGTON NATIONAL TRUST
18. On September 12, 2012 the Circuit Court of Kane County, Sixteenth Judicial Circuit, issued an order barring the WASHINGTON NATIONAL TRUST from any “further filings and/or recordings without leave of court.” Similarly, on October 18, 2012 the Circuit Court of Kane County, Sixteenth Judicial Circuit, issued an order striking documents prepared by the WASHINGTON NATIONAL TRUST as voi[d] ab initio.
19. HERNANDEZ is listed as an Administrative Trust Processor for the WASHINGTON NATIONAL TRUST, 31 W. Downer Place, Suite 408, Aurora, Illinois 60502, is an unlicensed entity operating in the State of Illinois that is subject to order number 2012-DB-61 issued by the Department for violation of the Illinois Corporate Fiduciary Act [205 ILCS 620/1-1 *et seq*] on December 13, 2012 for use of the word “Trust” in its corporate name without the approval of the Department. The WASHINGTON NATIONAL TRUST continues to hold itself out as a certificated trust company even though it has not received Department approval.
20. During the period beginning July 1, 2012 and ending December 31, 2012 HERNANDEZ solely, and by and through her agents, and acting as a principal of the WASHINGTON NATIONAL TRUST, advertised a mortgage rescue scheme. In executing the scheme, the Washington National Trust promised distressed

borrowers they would stop their foreclosure proceedings. The Washington National Trust further promised to buy the distressed borrowers' property from the lender(s), and allow the distressed borrowers to enter into a new mortgage with the Washington National Trust at a reduced payment if the following conditions were met:

- A. Payment of an underwriting fee;
- B. Signing of a quitclaim deed transferring ownership rights of the subject property to the WASHINGTON NATIONAL TRUST;
- C. Signing a confidentiality agreement;
- D. Signing a power of attorney;
- E. Signing of a borrower's authorization or 3<sup>rd</sup> party authorization; and
- F. Drafting a hardship letter.

21. During the period beginning July 1, 2012 and ending December 31, 2012, HERNANDEZ solely, and by and through her agents, utilized the services of a State of Illinois licensed mortgage loan originator, listed as an Account Executive for the WASHINGTON NATIONAL TRUST, to solicit, advertise and encourage property owners to pay for mortgage rescue services offered by the WASHINGTON NATIONAL TRUST.
22. During the period beginning July 1, 2012 and ending December 31, 2012, HERNANDEZ solely, and by and through her agents, offered to pay a \$500 referral fee to any person who referred a property owner to the WASHINGTON NATIONAL TRUST for paying for mortgage rescue services.
23. During the period beginning July 1, 2012 and ending December 31, 2012, HERNANDEZ solely, and by and through her agents, offered to provide to each of 11 property owners, 10 of whom were owners of distressed property (collectively "distressed property owners"), with a loan modification and halt or terminated foreclosure proceedings in exchange for an upfront payment, described by HERNANDEZ as an "underwriting donation", to be paid directly to the WASHINGTON NATIONAL TRUST.
24. During the period beginning July 1, 2012 and ending December 31, 2012 HERNANDEZ solely, and by and through her agents, received, in aggregate, \$56,500 as "underwriting donations" from distressed property owners.

<b>UNDERWRITING FEES PAID</b>	
Property Owner 1	\$ 5,125.00
Property Owner 2	\$ 5,125.00
Property Owner 3	\$ 2,875.00
Property Owner 4	\$ 7,625.00
Property Owner 5	\$ 5,125.00
Property Owner 6	\$ 5,125.00
Property Owner 7	\$ 5,125.00
Property Owner 8	\$ 5,125.00
Property Owner 9	\$ 5,000.00
Property Owner 10	\$ 5,125.00
Property Owner 11	\$ 5,125.00
<b>Total</b>	<b>\$ 56,500.00</b>

25. During the period beginning July 1, 2012 and ending December 31, 2012 HERNANDEZ solely, and through her agents, directed each of the distressed property owners to draft a "Hardship Letter" and sign a form authorizing Melvin Torrelle Bell or the WASHINGTON NATIONAL TRUST to receive all information related to their residential mortgage loans serviced by CitiMortgage, Chase Bank, Bank of America, and other lenders.
26. During the period beginning July 1, 2012 and ending December 31, 2012 HERNANDEZ solely, and by and through her agents, directed each of the distressed property owners to sign quitclaim deeds, transferring their property interests to the WASHINGTON NATIONAL TRUST as a condition of participation of receiving mortgage rescue services. Nine of the distressed property owners complied and quitclaim deeds were filed with a county recorder's office naming the WASHINGTON NATIONAL TRUST as the grantee.
27. The estimated value of the property interests HERNANDEZ caused to be transferred to the WASHINGTON NATIONAL TRUST during the period beginning July 1, 2012 and ending December 31, 2012 amounts to \$894,398 in the aggregate.

<b>Estimated Value of Property Transferred</b>	
Property Owner 1	\$ 106,229.00
Property Owner 3	\$ 101,053.00
Property Owner 4	\$ 111,245.00
Property Owner 6	\$ 120,701.00
Property Owner 7	\$ 83,100.00
Property Owner 8	\$ 85,156.00
Property Owner 9	\$ 115,451.00
Property Owner 10	\$ 101,949.00
Property Owner 11	\$ 69,514.00
<b>Total</b>	<b>\$ 894,398.00</b>

28. During the period beginning July 1, 2012 and ending December 31, 2012 HERNANDEZ solely, and by and through her agents, presented to each of the distressed property owners a document entitled "Specific Power of Attorney" authorizing Melvin Torrelle Bell to act as his or her "true and lawful attorney in fact" for all purposes and in order to facilitate communication with lenders and to obtain a loan modification or rescission on behalf of the distressed property owners.
29. During the period beginning July 1, 2012 and ending December 31, 2012 HERNANDEZ solely, and by and through her agents, did not provide the services promised to each of the distressed property owners.
30. Upon information and belief, HERNANDEZ solely, and by and through her agents, engaged in a wide-ranging scheme to defraud more than 50 property owners in the State of Illinois through a deceptive and unlawful mortgage rescue scheme, and HERNANDEZ' conduct poses an ongoing and immediate threat to Illinois consumers.

#### LEGAL CONCLUSIONS

#### BASED UPON THE ABOVE ALLEGATIONS, THE DEPARTMENT FINDS:

31. By offering residential mortgage loan modifications without a mortgage loan originator license or a certificate of registration, HERNANDEZ is in violation of Section 1-3(b), Section 4-5(i)(12) and (17), and Section 7-1A of the Act, and the Mortgage Rescue Fraud Act [765 ILCS 940, et seq.], respectively.
32. By advertising the mortgage rescue scheme in the State of Illinois and by collecting an advance payment to modify or terminate foreclosure proceedings HERNANDEZ is in violation of Section 4-5(i)(2) of the Act and the Mortgage Rescue Fraud Act [765 ILCS 940, et seq.].
33. By inducing 10 distressed property owners to quitclaim the interest in their homes to the WASHINGTON NATIONAL TRUST in order to facilitate a loan modification or terminate foreclosure proceedings, HERNANDEZ misrepresented the loan modification process and intentionally deceived distressed property owners into a scheme to defraud in violation of Section 4-5(i)(2) of the Act and the Mortgage Rescue Fraud Act [765 ILCS 940, et seq.], respectively.

**NOW IT IS HEREBY ORDERED THAT, MONICA HERNANDEZ** doing business as the WASHINGTON NATIONAL TRUST (collectively hereinafter "HERNANDEZ"):

- A. (1) Immediately cease and desist taking any applications for mortgage

loans or modification services;

(2) Immediately cease and desist from selling, marketing, or conducting any loan modification or mortgage rescue services through the WASHINGTON NATIONAL TRUST or any other entity;

(3) Immediately cease and desist from exercising any Power of Attorney on behalf of any mortgage borrower with whom HERNANDEZ contracted with to perform mortgage rescue or loan modification services through the WASHINGTON NATIONAL TRUST or any other entity;

(4) Immediately cease and desist requesting, accepting, and/or executing any quitclaim deeds that transfers ownership of property to HERNANDEZ, the WASHINGTON NATIONAL TRUST, or any other entity; and

(5) Immediately cease and desist from collecting any payments whatsoever in connection with or on the behalf of the WASHINGTON NATIONAL TRUST.

B. (1) Pay a FINE authorized by Section 1-3(e) of the Act in the amount of \$25,000 for conducting activity for which a license is required by the Act in violation of Section 1-3(b) of the Act;

(2) Pay a Fine authorized by Section 4-5(h) of the Act in amount of \$275,000 (\$25,000 for each of 11 violations) for engaging in activities regulated by the Act without a current or active license in violation of Section 4-5(i)(12) and (17) of the Act;

(3) Pay a FINE authorized by Section 4-5(h) of the Act in the amount of \$825,000 (\$75,000 for each of 11 violations) for fraudulent misrepresentation of the mortgage loan modification process in order to induce the distressed property owners to pay upfront modification fees and quit claim title to HERNANDEZ in violation of Section 4-5(i)(2) of the Act:

(4) Pay a FINE authorized by Section 4-5(h) of the Act in the amount of \$275,000 (\$25,000 for each of 11 violations) for acting as a mortgage loan originator without a license in violation of Section 7-1A of the Act;

(5) That all fines now due and owed by HERNANDEZ amount to \$1,400,000 total and is payable to the Department by certified check or money order within thirty (30) days of the effective date of this Order; and

(6) Immediately refund any and all fees collected from consumers and are due within thirty (30) days of the effective date of this Order.

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

Department of Financial and Professional Regulation  
Division of Banking  
320 W. Washington Street, 5<sup>th</sup> Floor  
Springfield, Illinois 62786

ORDERED THIS 11 DAY OF FEBRUARY, 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, 5<sup>th</sup> 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 2-11-2013, I mailed with sufficient postage affixed, a copy of the foregoing **ORDER TO CEASE AND DESIST FROM UNLAWFUL RESIDENTIAL MORTGAGE ORIGATION ACTIVITY** 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,

ther 11 day of February, 2013

  
\_\_\_\_\_  
NOTARY PUBLIC



Send to:  
MONICA HERNANDEZ )  
d/b/a WASHINGTON NATIONAL )  
TRUST )  
31 W. Downer Place, Suite 408 )  
Aurora, IL 60502 )

SERIAL