

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

Case No. C-08-005

IN THE MATTER OF:

ROBERT CORNEL NICORICI

ORDER NO. C-08-005-09-CD01

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ARKANSAS SECURITIES DEPT.

**CEASE AND DESIST ORDER**

On January 6, 2009, the Staff of the Arkansas Securities Department (“Staff”) filed its Request for Cease and Desist Order (“Request”) stating that it had received information and has in its possession certain evidence which indicates that Robert Cornel Nicorici has violated provisions of the Fair Mortgage Lending Act (“Act”), codified at Ark. Code Ann. §§ 23-39-501 through 23-39-518. The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request, and based upon the representations made therein, finds:

**FINDINGS OF FACT**

1. The Staff’s Request asserts the following representations of fact:
  - a. Robert Cornell Nicorici (“Nicorici”) was licensed as a mortgage loan officer with the Arkansas Securities Department (“Department”) from December 12, 2006, until August 30, 2007, as an employee of Clarion Mortgage Capital, Inc. (“Clarion Mortgage”). Nicorici’s last known address is 2900 East Lincoln Avenue, Apartment 253, Anaheim, California.
  - b. Clarion Mortgage is licensed with the Department as a mortgage broker as required by Ark. Code Ann. § 23-39-503. Clarion

Mortgage is located in Greenwood Village, Colorado. Clarion Mortgage's license expires on December 31, 2009.

- c. On December 6, 2006, Nicorici submitted an application to the Department seeking a license as a loan officer for Clarion Mortgage pursuant to Ark Code Ann. § 23-39-503(b). On December 12, 2006, the Commissioner issued a loan officer license to Nicorici as an employee of Clarion Mortgage, with an expiration date of December 31, 2007.
- d. On August 30, 2007, Clarion Mortgage notified the Department that the loan officer license for Nicorici should be terminated effective August 24, 2007, as Nicorici was no longer an employee of Clarion Mortgage. The Department terminated Nicorici's loan officer license effective August 24, 2007. Nicorici has not been issued a license by the Department since termination of his license by Clarion Mortgage and there is no application pending.
- e. Assurity Financial Services, LLC ("Assurity") is a firm engaged in the mortgage loan business with its headquarters located in Englewood, Colorado. Assurity is not and has not at any time in the past been licensed to broker mortgage loans in Arkansas. Assurity has furnished the Department with confirmation that Nicorici was an employee of Assurity on January 18, 2008, and was terminated by Assurity as of January 28, 2008.
- f. The evidence reflects that on or about January 18, 2008, Nicorici attempted to broker a mortgage loan on behalf of a Hot Springs,

Arkansas resident (“AR1”). Specifically, Nicorici transmitted by wire a mortgage loan application to U.S. Bank on behalf of AR1. The mortgage loan application accurately represented that Nicorici was a loan officer for Assurity. The mortgage loan application sought financing in the amount of \$562,000 to be secured by real property located at 213 Gregory Drive in Hot Springs, Arkansas. Nicorici is listed as the interviewer for Assurity Financial on AR1’s mortgage loan application dated January 18, 2008.

- g. The Staff has received information which reflects that at or near the time that the mortgage loan application referenced in the preceding paragraph was submitted to U.S. Bank, Nicorici submitted copies of two documents that appear to be licenses issued by the Commissioner.
- h. The first document appears to be a loan officer license issued to “Robert Cornel Nicorici as an employee of Assurity Financial” by the Commissioner on December 12, 2007, with an expiration date of December 31, 2008. The document contains the signature and seal of Michael B. Johnson, who served as Commissioner from December 17, 2001, through December 7, 2007. However, the records of the Department reflect that Nicorici has not at any time applied for or been granted a license by the Commissioner to act as a loan officer for Assurity. The document, along with Exhibit C, reflects that in January 2008, Nicorici engaged in unlicensed mortgage loan brokering activities in Arkansas, and that in the

course of such activities furnished documents to U.S. Bank that were not authentic and falsely represented that he was authorized to broker mortgage loans in Arkansas.

- i. The second document transmitted to U.S. Bank by Nicorici appears to be a license issued to “Assuritiy (sic) Financial, LLC” by the Commissioner on July 1, 2007, with an expiration date of June 30, 2008. The document purports to authorize Assurity to conduct the business of a mortgage broker in Arkansas. The document contains the signature and seal of former Commissioner Michael B. Johnson. However, the records of the Department reflect that Assurity has not at any time applied for or been granted a license by the Commissioner to act as a mortgage broker in Arkansas.

#### **CONCLUSIONS OF LAW**

2. This matter is properly brought before the Commissioner in accordance with Ark. Code Ann. § 23-39-514(a).
3. It is unlawful for any person other than an exempt person to act or attempt to act, directly or indirectly, or to hold himself or herself out as a mortgage broker, mortgage banker, mortgage loan officer, or mortgage servicer with a person located in Arkansas without first having obtained a license from the Arkansas Securities Commissioner. Ark. Code Ann. § 23-39-503(b) & (f). Nicorici was not licensed as a loan officer at the time the application was taken and submitted to a lender, accordingly Nicorici has violated Ark. Code Ann. § 23-39-503(b) &

- (f) by taking an application and submitting it to a mortgage lender in order to broker a loan.
4. It is unlawful for any person in connection with the solicitation, brokering or making of any mortgage loan, to engage in any transaction, practice or course of business that is misleading or deceptive or constitutes fraud upon a person. Ark. Code. Ann. § 23-39-513(7). Nicorici's act of presenting altered Arkansas licenses to a mortgage lender constitutes fraud upon a person in violation of Ark. Code Ann. § 23-39-513(7).
  5. Whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory to the Commissioner, that any person has engaged in or is about to engage in any act or practice in violation of the Act, the Commissioner may summarily order the person to cease and desist from the act or practice. Ark. Code Ann. § 23-39-514(d)(1). Based on the Findings of Fact and Conclusions of Law, this Order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-39-514.

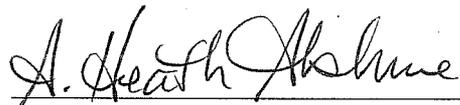
### **ORDER**

IT IS HEREBY ORDERED that Robert Cornel Nicorici CEASE and DESIST, effective immediately, from all mortgage loan brokering activities in Arkansas until such time as Robert Cornel Nicorici is properly licensed.

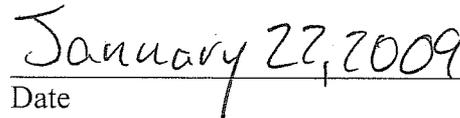
Robert Cornel Nicorici may request a hearing before the Commissioner in accordance with Ark. Code Ann. § 23-39-514. Any request for a hearing must be made in writing and delivered to the Commissioner within thirty (30) days from the date on which notice of this Order is sent by the Commissioner to Robert Cornel Nicorici's address by first class mail, postage prepaid. If Robert Cornel Nicorici does not request a

hearing and the Commissioner does not order a hearing, the order will remain in effect until it is modified or vacated by the Commissioner.

IT IS SO ORDERED:



A. Heath Abshire  
Arkansas Securities Commissioner



Date