

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

ASD Case Number: C-08-005

FILED

08 JUN - 6 PM 2: 42

ARKANSAS SECURITIES DEPT.

IN THE MATTER OF:

ROBERT CORNELL NICORICI

REQUEST FOR CEASE AND DESIST ORDER

Comes now the Staff of the Arkansas Securities Department (“Staff”), by and through its attorney, Karyn Tierney, and for its Request for Cease and Desist Order, states:

ADMINISTRATIVE AUTHORITY

1. This matter is brought in connection with violations of sections of the Fair Mortgage Lending Act, Ark. Code Ann. §§ 23-39-501 through 23-39-518, and is therefore properly before the Arkansas Securities Commissioner (“Commissioner”) in accordance with Ark. Code Ann. § 23-39-514.

RESPONDENT

2. 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.

FINDINGS OF FACT

3. 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.
4. 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. See attached "Exhibit A".
5. 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.
6. Assurity Financial Services, LLC ("Assurity") is a firm engaged in the mortgage loan business with 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. See attached "Exhibit B".

7. 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. See attached "Exhibit C". 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.
8. 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.
9. 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. See attached "Exhibit D". 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.

10. 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. See attached "Exhibit E". 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

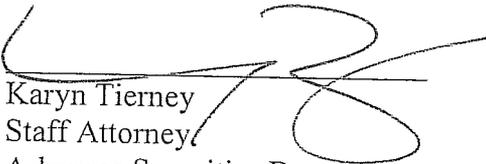
11. It is unlawful for any person other than an exempt person to act or attempt to act, directly or indirectly, or to hold himself or herself out as a mortgage broker, mortgage banker, mortgage loan officer, or mortgage servicer with a person located in Arkansas without first having obtained a license from the Arkansas Securities Commissioner. Ark. Code Ann. § 23-39-503(b) and Ark. Code Ann. § 23-39-503(f).

12. It is unlawful for any person in connection with solicitation, brokering or making 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).
13. Upon finding that any action of a person is in violation of the Arkansas Fair Mortgage Lending Act, the Commissioner may summarily order the person to cease and desist from the prohibited action. Ark. Code Ann. § 23-39-514(d)(1).

ORDER

WHEREFORE, the Staff respectfully requests that the Commissioner summarily issue a cease and desist order against Robert Cornell Nicorici, ordering Robert Cornell Nicorici to cease and desist from the acts and practices set forth above or any other acts or practices involving acting as an unlicensed loan officer in the State of Arkansas until Nicorici is properly licensed under the Fair Mortgage Lending Act.

Respectfully submitted,


Karyn Tierney
Staff Attorney
Arkansas Securities Department

Submitted on January 6th, 2009

STATE OF ARKANSAS
SECURITIES DEPARTMENT
LOAN OFFICER LICENSE
NUMBER 36261

THIS IS TO CERTIFY THAT

ROBERT CORNEL NICORICI

AS AN EMPLOYEE OF

CLARION MORTGAGE CAPITAL, INC.

HAS BEEN GIVEN PERMISSION BY THE STATE OF ARKANSAS TO CONDUCT THE BUSINESS OF A LOAN OFFICER AS PROVIDED BY ACT 554 OF THE 2003 GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, AS AMENDED.

THE LICENSEE HEREUNDER SHALL AT ALL TIMES BE SUBJECT TO THE PROVISIONS OF SAID ACT, AND SUBJECT TO THE TERMS, CONDITIONS AND ALL DETAILS SET FORTH IN THE APPLICATION AND DATA FILED IN THIS OFFICE.

THIS CERTIFICATE EXPIRES: December 31, 2007

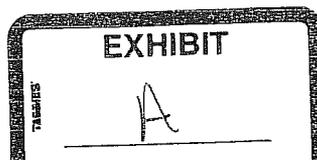
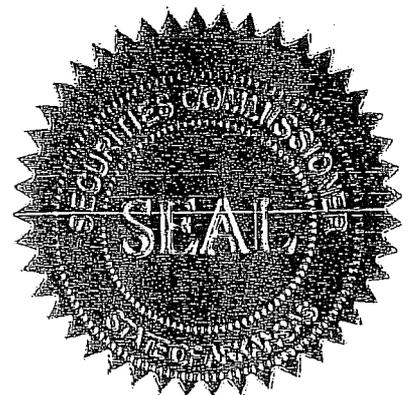
~~WITNESS MY HAND AND SEAL AT THE CITY OF LITTLE ROCK, ARKANSAS.~~

EFFECTIVE THE 12th DAY OF DECEMBER, 2006.

BY:



MICHAEL B. JOHNSON
ARKANSAS SECURITIES COMMISSIONER





January 30, 2008

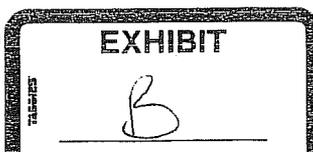
Robert Nicorici
5041 Eureka Ave.
Yorba Linda, CA 92886

**RE: Termination Notice and Notice of Violation of Outside Loan Officer
Relationship and Agreement**

Dear Mr. Nicorici:

On January 28, 2008, Assurity Financial Services, LLC became aware that you had falsified a license in the name of Assurity Financial Services, LLC in the state of Arkansas. Assurity Financial Services, LLC is not currently licensed in Arkansas. After comprehensive investigation in this matter and upon the receipt of proof of the falsified license it was the decision of Assurity Financial Services, LLC to terminate employment with you at this time. On January 28, 2008 a phone call was made both to the home phone number [REDACTED] and your cell phone number [REDACTED] that Assurity Financial Services, LLC has on record, by Tim Chase, the Outside Sales Business Development Manager along with General Counsel. The home phone number was disconnected and the cell phone number voicemail box was full. In an attempt to get in touch with you an email was sent on January 28, 2008 at 4:59 pm to your personal email account [REDACTED] and your company issued email account [REDACTED] notifying you of your termination.

In addition, as you well know, you signed and agreed to the Outside Loan Officer Relationship and Agreement on December 5, 2007. A copy is enclosed to remind you of your obligations under this agreement. Also included in your human resources paper work was the Assurity Financial Services, LLC Conflict of Interest Policy that was signed and dated by you on December 5, 2007; Assurity Financial Services, LLC Zero Tolerance Loan Fraud Policy which was signed and dated on December 5, 2007; the Assurity Financial Services, LLC Outside Sales Compliance with Federal and State Law Policy, which prohibits employment by any other mortgage company while employed with Assurity Financial Services, LLC, signed and dated December 5, 2007; and the Notice that Mortgage Fraud is Investigated by the FBI, signed and dated December 5, 2007.



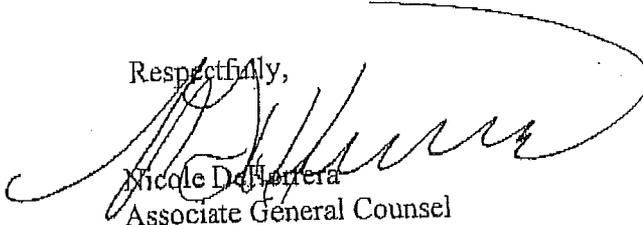


Assurity Financial Services, LLC has come into information confirming your employment with Iconium Capital which is described as a "full service mortgage company." Your name and phone number are listed as the contact for the company.

Your actions in falsifying a license on behalf of the company and being employed with a full service mortgage company while being employed with Assurity Financial Services, LLC is a violation of the signed and dated agreements listed above, not to mention a crime. Assurity Financial Services, LLC hereby provides you notice that the company will pursue any and all legal action we may have against you. In addition, we will assist any other government agency or company in pursuing any legal course of action they may have against you in regards to these matters.

If you have any additional questions please contact me at (720) 488-9200 X 10157. Thank you

Respectfully,


Nicole DeHerrera
Associate General Counsel
Assurity Financial Services, LLC.
(720) 488-9200, phone
(720) 449-0052, fax
Nicole.deherrera@assurityfinancial.com

Enclosures:

All documents listed above

cc:

Todd Lytle
Sr. Account Executive
Wholesale Broker Sales
U.S. Bank Consumer Finance
16 Ninth Avenue N.
Hopkins, MN 55343

Ms. Karen Tierney, Esq.
Arkansas Securities Department
201 E. Markham, Suite 300
Little Rock, AR 72201



APPLICATION SUBMISSION FORM

Submission Date: **4/18/08**

Please fax only this form and the Loan Application to: **1-800-676-8431**

Account Executive: [Redacted] AX Code: **RTL** A.X. Phone #: **303-899-4430**

Company Name: **Asbury Financial Services LLC** Broker Code: **LQX**

Loan Officer: **Robert Nicolai** Processor: **Diana**

Phone: [Redacted] Fax: [Redacted]
Email: [Redacted] X-mail: [Redacted]

BORROWER INFORMATION: (Please print names as listed on 1099)
Borrower: [Redacted]
Co-Borrower: [Redacted]

PURPOSE: Refinance Home Improvement Other
Please indicate the purpose of the loan. (Please check all that apply.)
 Purchase Money Home Improvement Other
 Refinance Home Improvement Other
Please indicate the purpose of the loan. (Please check all that apply.)
 Cash Out

PRODUCT / TERM:
 Real Estate Equity Loan
 1 Year ARM (Prime only)
 2 Year ARM (Prime only)
 3 Year ARM
 5 Year ARM (Prime only)
 3 Year to ARM (Prime only)
 5 Year to ARM (Prime only)

LOAN / LINE AMOUNT: \$ **506,000** (Please enter the amount in dollars and cents)
PROPERTY VALUE: \$ **562,500** CLTV: **90** %
LIEN POSITION: 1st 2nd 3rd 4th 5th

U.S. BANK COMBO Yes, please combine:
Lender/Loan Amt: [Redacted] Product/Term: **YES**
1st: [Redacted] 2nd: [Redacted]

SUBJECT PROPERTY: County: [Redacted]
Street Address: [Redacted] City: [Redacted] State: [Redacted] Zip: [Redacted]

HAZARD INSURANCE: \$ **100** mo.
REAL ESTATE TAXES: \$ **100** mo.
HOUSING ASSESSMENT: \$ **0** mo.

DOCUMENTATION:
 Full Documentation
 Stated Income (NIV)
 Bank Statements (30 days prior only)
PROPERTY TYPE:
 Single Family/UD
 Duplex
 3 or 4 Family (30 days prior only)
 Row Home
 Condo
 2-Floor
 Townhouse
 Manufactured (RV for 30 and 40-yr)
 Mobile
 Rural Property
 Vacation / 2nd Home

OCCUPANCY:
 Owner Occupied
 Vacation / 2nd Home

COMMENTS:
2 SETS OF 1003
SI BARE COPY
CLEAR COPY
BUY UP / BUY DOWN: (2 day)
Yield Spread Premium (YSP) Disbursed Points (Buy Down)

Additional 10 day to purchase for each year (i.e. 111 day would only have for year by 20 day or 11.5%)
 Pre-Pay Buyout (see rate sheet for current information) (NIV)
 Pre-Pay Buyout (see rate sheet for current information) (NIV)

Address: [Redacted]
City: [Redacted] State: [Redacted] Zip: [Redacted]

Phone: [Redacted] Fax: [Redacted]

City: [Redacted] State: [Redacted] Zip: [Redacted]

City: [Redacted] State: [Redacted] Zip: [Redacted]

City: [Redacted] State: [Redacted] Zip: [Redacted]

Please read 1-800-676-8431 for more information. If you do not receive a Decision Notice within 30 days of the Decision Notice, you may contact the Decision Notice at 1-800-676-8431.
We will not accept any other information that is not a Decision Notice.
4



Asbury Financial

Business Name: ASBURY FINANCIAL Business Type: FINANCIAL SERVICES Business Phone (incl. area code): 703-441-1100
 Name & Address of Employer: ASBURY FINANCIAL Name & Address of Employer: ASBURY FINANCIAL Business Phone (incl. area code): 703-441-1100
 Business Type: Self Employed Part-time Full-time Other: None Business Phone (incl. area code): 703-441-1100
 Name & Address of Employer: ASBURY FINANCIAL Name & Address of Employer: ASBURY FINANCIAL Business Phone (incl. area code): 703-441-1100
 Business Type: Self Employed Part-time Full-time Other: None Business Phone (incl. area code): 703-441-1100

Business Name	Business Type	Business Phone (incl. area code)	Position/Title	Type of Business	Business Phone (incl. area code)	Monthly Income
ASBURY FINANCIAL	FINANCIAL SERVICES	703-441-1100	Branch Manager	Full-time	703-441-1100	\$3,283.00

Business Name	Business Type	Business Phone (incl. area code)	Position/Title	Type of Business	Business Phone (incl. area code)	Monthly Income
ASBURY FINANCIAL	FINANCIAL SERVICES	703-441-1100	Branch Manager	Full-time	703-441-1100	\$3,283.00

Self-Employed (if not reported on Form 1040-SE, include documentation such as 1099s, 1042-S, and other statements.)
 Business Name: ASBURY FINANCIAL Address: 10000 W. BIRCHWOOD DRIVE, SUITE 1000, FARMERS BRANCH, GA 30204
 Business Type: Self-Employed Part-time Full-time Other: None
 Business Phone (incl. area code): 703-441-1100

Business Name	Business Type	Business Phone (incl. area code)	Position/Title	Type of Business	Business Phone (incl. area code)	Monthly Income
ASBURY FINANCIAL	FINANCIAL SERVICES	703-441-1100	Branch Manager	Full-time	703-441-1100	\$3,283.00

STATE OF ARKANSAS
SECURITIES DEPARTMENT
LOAN OFFICER LICENSE
NUMBER 36261

THIS IS TO CERTIFY THAT

ROBERT CORNEL NICORICI

AS AN EMPLOYEE OF
ASSURITY FINANCIAL

HAS BEEN GIVEN PERMISSION BY THE STATE OF ARKANSAS TO CONDUCT
THE BUSINESS OF A LOAN OFFICER AS PROVIDED BY ACT 554 OF THE 2003
GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, AS AMENDED.

THE LICENSEE HEREUNDER SHALL AT ALL TIMES BE SUBJECT TO THE
PROVISIONS OF SAID ACT, AND SUBJECT TO THE TERMS, CONDITIONS AND
ALL DETAILS SET FORTH IN THE APPLICATION AND DATA FILED IN THIS
OFFICE.

THIS CERTIFICATE EXPIRES: December 31, 2008

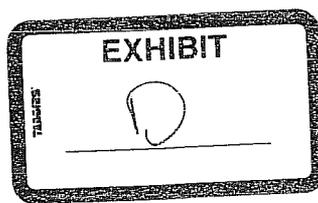
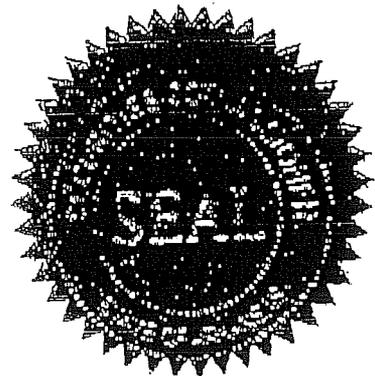
WITNESS MY HAND AND SEAL AT THE CITY OF LITTLE ROCK, ARKANSAS.

EFFECTIVE THE 12th DAY OF DECEMBER, 2007

BY:



MICHAEL B. JOHNSON
ARKANSAS SECURITIES COMMISSIONER



STATE OF ARKANSAS
SECURITIES DEPARTMENT
MORTGAGE BROKER
LICENSE NUMBER 24606

THIS IS TO CERTIFY THAT
ASSURITIY FINANCIAL, LLC
8026 S. QUBEC STREET, SUITE 350
ENGLEWOOD , CO 80111

HAS BEEN GIVEN PERMISSION BY THE STATE OF ARKANSAS TO CONDUCT
THE BUSINESS OF A MORTGAGE BROKER AS PROVIDED BY ACT 554 OF THE
2003 GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, AS AMENDED.

THE LICENSEE HEREUNDER SHALL AT ALL TIMES BE SUBJECT TO THE
PROVISIONS OF SAID ACT, AND SUBJECT TO THE TERMS, CONDITIONS AND
ALL DETAILS SET FORTH IN THE APPLICATION AND DATA FILED IN THIS
OFFICE.

THIS CERTIFICATE EXPIRES: June 30, 2008

WITNESS MY HAND AND SEAL AT THE CITY OF LITTLE ROCK, ARKANSAS,

THIS 1st DAY OF JULY, 2007

BY:



MICHAEL B. JOHNSON
ARKANSAS SECURITIES COMMISSIONER

