

BEFORE THE ARKANSAS SECURITIES COMMISSIONER
CASE NO C-09-033

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IN THE MATTER OF:

ARKANSAS SECURITIES DEPT.

21st CENTURY LEGAL SERVICES, INC.,
SANDY AYALA a/k/a SANDI AYALA, AND
MICHAEL HERRIED

ORDER NO. C-09-033-09-CD01

CEASE AND DESIST ORDER

On June 23, 2009, the Staff of the Arkansas Securities Department (“Staff”) filed a Request for a Cease and Desist Order, as amended by an Amended Request for Cease and Desist Order filed on June 24, 2009 (collectively, the “Request”), stating that it has information and certain evidence in its possession that indicates 21st Century Legal Services, Inc., Sandy Ayala also known as Sandi Ayala, and Michael Herried have violated provisions of the Arkansas Fair Mortgage Lending Act (“FMLA”), Ark. Code Ann. §§ 23-39-501 through 23-39-518. The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request, and based upon representations made therein, finds that:

FINDINGS OF FACT

1. The Staff’s Request asserts the following representations of fact:
 - a. 21st Century Legal Services, Inc. (“21st Century”) is a California corporation, located in Rancho Cucamonga, California. 21st Century has never been licensed by the Arkansas Securities Department (“Department”) as a mortgage broker.
 - b. Sandy Ayala, also known as Sandi Ayala (“Ayala”), is a “mortgage specialist” for 21st Century. Ayala is believed to be a resident of California. Ayala has never been licensed by the Department as a mortgage loan officer.

- c. Michael Herried (“Herried”) is a “mortgage specialist” for 21st Century. Herried is believed to be a resident of California. Herried has never been licensed by the Department as a mortgage loan officer.
- d. In April 2009, AR1 contacted 21st Century by telephone concerning a renegotiation of the terms of AR1’s residential mortgage loan. AR1’s residence is located in Searcy, Arkansas. AR1 spoke to a representative of 21st Century by the name of Sandy. AR1 and Sandy discussed the amount of AR1’s existing mortgage loan as well as AR1’s current monthly mortgage payments. Sandy told AR1 that President Obama’s initiative allowed homeowners, like AR1, to claim a hardship in order to get a reduction in the interest rate AR1 was paying for AR1’s existing mortgage loan. Sandy also stated that 21st Century was partnered with AR1’s existing mortgage holder, so 21st Century could get AR1 a lower interest rate and monthly payment. Sometime after the telephone conversation between AR1 and Sandy, 21st Century contacted a notary public in Arkansas. This Arkansas notary public was sent a packet of forms by 21st Century to present to AR1 for completion and signature. Included in this packet of forms was a set of instructions for the notary public to follow, a letter from Sandi Ayala, a “mortgage specialist” with 21st Century, to AR1, a form titled Loan Modification Application, and a form titled Residential Loan Modification Agreement. The information required from AR1 to complete the forms provided by 21st Century is all of the standard personal financial information required from a borrower, like AR1, by a mortgage broker or lender during the mortgage loan application process. The letter is attached to the Staff’s Request as Exhibit 1. The letter

stated that AR1's proposed loan modification would be "a 30 year fixed [at] 4% interest rate with a monthly payment of \$477.15." This letter also stated AR1 would need to pay a fee of \$1,694.30 to 21st Century for this modified mortgage loan. The letter stated further that AR1 could pay for the fee with "a post dated check dated 5/1/09 for \$564.77, a post dated check dated 6/1/09 for \$564.77 and a post dated check dated 7/1/09 for \$564.76." In addition, the letter stated that "your first payment will be negotiated to begin September 2009 – payable to your current lender for the amount of \$477.15." Finally, this letter told AR1 to "enclose the mortgage coupon, 3 months most recent bank statement, 1-month most recent pay stubs." AR1 completed and delivered the paperwork provided by 21st Century along with the three post dated checks to the Arkansas notary public. The Arkansas notary public forwarded AR1's completed paperwork and checks to 21st Century.

- e. In April 2009, AR2 contacted 21st Century by telephone concerning a renegotiation of the terms of AR2's residential mortgage loan. AR2's residence is located in Searcy, Arkansas. AR2 spoke to a representative of 21st Century by the name of Sandy. AR2 and Sandy discussed the amount of AR2's existing mortgage loan as well as AR2's current monthly mortgage payments. Sandy told AR2 that AR2 needed to claim a hardship in order to get a reduction in the interest rate AR2 was currently paying for AR2's existing mortgage loan. Sometime after the telephone conversation between AR2 and Sandy, 21st Century contacted a notary public in Arkansas. This Arkansas notary public was sent a packet of forms by 21st Century to present to AR2 for completion and signature.

Included in this packet of forms was a letter from Sandy Ayala, a “mortgage specialist” with 21st Century, to AR2, a form titled Loan Modification Application, and a form titled Residential Loan Modification Agreement. The information required from AR2 to complete the forms provided by 21st Century is all of the standard personal financial information required from a borrower, like AR2, by a mortgage broker or lender during the mortgage loan application process. The letter is attached to the Staff’s Request as Exhibit 2. The letter stated that AR2’s proposed loan modification would be “a 30 year fixed [at] 4% interest rate with a monthly payment of \$691.86.” This letter also said AR2 would need to pay a fee of \$2,078.72 to 21st Century for this modified mortgage loan. The letter stated further that AR2 could pay for the fee with “a post dated check dated 6/1/09 for \$692.91, a post dated check dated 7/1/09 for \$692.91 and a post dated check dated 8/1/09 for \$692.90.” In addition, the letter stated that “your first payment will be negotiated to begin August 2009 – payable to your current lender for the amount of \$691.86.” Finally, this letter told AR2 to “enclose the mortgage coupon, 3 months most recent bank statement, 1-month most recent pay stubs.” AR2 completed and delivered the paperwork provided by 21st Century along with the three post dated checks to the Arkansas notary public. The Arkansas notary public forwarded AR2’s completed paperwork and checks to 21st Century.

- f. In April 2009, AR3 contacted 21st Century by telephone concerning a renegotiation of the terms of AR3’s residential mortgage loan. AR3’s residence is located in Sherwood, Arkansas. AR3 spoke to a representative of 21st Century by the name of Michael. AR3 and Michael discussed the amount of AR3’s existing

mortgage loan as well as AR3's current monthly mortgage payments. Michael told AR3 that AR3 could claim a hardship in order to get a reduction in the interest rate AR3 was paying for AR3's existing mortgage loan. Sometime after the telephone conversation between AR3 and Michael, 21st Century contacted a notary public in Arkansas. This Arkansas notary public was sent a packet of forms by 21st Century to present to AR3 for completion and signature. Included in this packet of forms was a letter from Michael Herried, a "mortgage specialist" with 21st Century, to AR3, a form titled Loan Modification Application, and a form titled Residential Loan Modification Agreement. The information required from AR3 to complete the forms provided by 21st Century is all of the standard personal financial information required from a borrower, like AR3, by a mortgage broker or lender during the mortgage loan application process. The letter is attached to the Staff's Request as Exhibit 3. The letter stated that AR3's proposed loan modification would be "a 30 year fixed [at] 4% interest rate with a monthly payment of \$1,297.37." This letter also stated AR3 would need to pay a fee of \$3,289.74 to 21st Century for this modified mortgage loan. The letter stated further that AR3 could pay for the fee with "a post dated check dated 5/1/09 for \$1,096.58, a post dated check dated 6/1/09 for \$1,096.58 and a post dated check dated 7/1/09 for \$1,096.58." In addition, the letter stated that "your first payment will be negotiated to begin August 2009 – payable to your current lender for the amount of \$1,297.37." Finally, this letter told AR3 to "enclose the mortgage coupon, 3 months most recent bank statement, 1-month most recent pay stubs." AR3 completed and delivered the paperwork provided by 21st Century along with

the three post dated checks to the Arkansas notary public. The Arkansas notary public forwarded AR3's completed paperwork and checks to 21st Century.

- g. 21st Century has never been licensed by the Department as a mortgage broker. Nonetheless, 21st Century solicited and accepted mortgage loan modification applications from AR1, AR2, and AR3 without first being licensed under the FMLA with the Department.
- h. Ayala and Herried have never been licensed by the Department as mortgage loan officers. Nevertheless, Ayala and Herried solicited and accepted mortgage loan modification applications from AR1, AR2, and AR3 without first being licensed under the FMLA with the Department.

CONCLUSIONS OF LAW

2. It is unlawful for any person to act or attempt to act, directly or indirectly, as a mortgage broker or loan officer with any person located in Arkansas without first obtaining a license from the Commissioner under the FMLA. Ark. Code Ann. § 23-39-503(b).

3. 21st Century violated Ark. Code Ann. § 23-39-503(b) when it acted as a mortgage broker with AR1, AR2, and AR3 without first being licensed under the FMLA.

4. Ayala violated Ark. Code Ann. § 23-39-503(b) when she acted a loan officer with AR1 and AR2 without first being licensed under the FMLA.

5. Herried violated Ark. Code Ann. § 23-39-503(b) when he acted as a loan officer with AR3 without first being licensed under the FMLA.

6. It is unlawful for any person to employ, to compensate, or to appoint as its agent any person to act as a loan officer unless the loan officer is licensed as a loan officer under the FMLA. Ark. Code Ann. § 23-39-503(c).

7. 21st Century violated Ark. Code Ann. § 23-39-503(c) when it allowed its employees Ayala and Herried to act as loan officers with AR1, AR2, and AR3 without first being licensed as loan officers by the Department under the FMLA.

8. Upon finding that any action of a person is in violation of the FMLA, the Commissioner may summarily order the person to cease and desist from the prohibited action. Ark. Code Ann. § 23-39-514(d)(1). Considering the seriousness of the violations, the recurrent nature of the violations, the opportunity to commit future violations, the degree of harm to the borrowers resulting from the violations, the remedial function to be serviced by this Cease and Desist Order, and based on the Findings of Fact and Conclusions of Law, this Cease and Order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-39-514.

ORDER

9. 21st Century Legal Services, Inc., Sandy Ayala also known as Sandi Ayala, and Michael Herried shall immediately cease and desist from all mortgage loan activity in Arkansas until such time as each as obtained the proper license under the FMLA.

10. The Staff of the Arkansas Securities Department shall continue its investigation into the activities of 21st Century Legal Services, Inc., Sandy Ayala also known as Sandi Ayala, and Michael Herried to determine if they have engaged in any activities which are prohibited under the FMLA, including but not limited to, any activities which may be misleading, deceptive, or which constitute a fraud upon any person.

11. A hearing on this Cease and Desist Order shall be held if requested by 21st Century Legal Services, Inc., Sandy Ayala also known as Sandi Ayala, and/or Michael Herried in writing within thirty days of the date of the entry of this Cease and Desist Order, or if

otherwise ordered by the Commissioner. Such request should be addressed to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner
201 East Markham, Suite 300
Little Rock, Arkansas 72201

If no hearing is requested and none is ordered by the Commissioner, this Cease and Desist Order will remain in effect until it is modified or vacated by the Commissioner. Ark. Code Ann. § 23-39-514(d).



A. Heath Abshire
Arkansas Securities Commissioner

June 24, 2009
Date