

DOCKETED

NEW APPLICATION



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DEC 31 2013

DOCKETED BY [Signature]

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

2013 DEC 31 AM 11 52

- 2 COMMISSIONERS
- 3 BOB STUMP, Chairman
- 4 GARY PIERCE
- 5 BRENDA BURNS
- 6 BOB BURNS
- 7 SUSAN BITTER SMITH

6	In the matter of:	}	DOCKET NO. S-20903A-13-0473
7	MONIKA CATLIN, an unmarried woman,	}	NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND ORDER FOR OTHER AFFIRMATIVE ACTION
8	MONIKA CATLIN, as Trustee of MLC	}	
9	LIVING TRUST DATED 3-17-1999,	}	
10	DAMOPA INVESTMENTS, LLC, an	}	
11	Arizona limited liability company, MONIKA	}	
	CATLIN, LLC, an Arizona limited liability company;	}	
	Respondents.	}	

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents MONIKA CATLIN, MONIKA CATLIN AS TRUSTEE OF THE MLC LIVING TRUST DATED 3-17-99, DAMOPA INVESTMENTS, LLC, and MONIKA CATLIN, LLC have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division further alleges MONIKA CATLIN is a person controlling DAMOPA INVESTMENTS, LLC and MONIKA CATLIN, LLC within the meaning of A.R.S. § 44-1999, so that she is jointly and severally liable under A.R.S. § 44-1999 to the same extent as DAMOPA INVESTMENTS, LLC and MONIKA CATLIN, LLC for violations of the Securities Act.

I.
JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution, and the Securities Act.

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II.

RESPONDENTS

2. MONIKA CATLIN ("Catlin") has been at all relevant times a resident of the state of Arizona. Catlin has not been registered by the Commission as a securities salesman or dealer.

3. MONIKA CATLIN has been at all relevant times the Trustee of the MLC LIVING TRUST DATED 3-17-99 ("MLC Trust"). MLC Trust has not been registered by the Commission as a securities salesman or dealer.

4. DAMOPA INVESTMENTS, LLC ("Damopa"), has been at all relevant times a limited liability company organized under the laws of the state of Arizona in February 2002. Damopa has not been registered by the Commission as a securities salesman or dealer.

5. MONIKA CATLIN, LLC ("MC, LLC"), has been at all relevant times a limited liability company organized under the laws of the state of Arizona in April 1999. MC, LLC has not been registered by the Commission as a securities salesman or dealer.

6. At all relevant times, Catlin has been the manager of DAMOPA INVESTMENTS, LLC and MONIKA CATLIN, LLC, either directly or through her trust in which she is Trustee, MLC Trust.

7. Catlin, Catlin as Trustee of MLC Trust, Damopa, and MC, LLC may be collectively referred to in this Notice as "Respondents."

III.

FACTS

8. At all relevant times, Damopa and MC, LLC have been manager-managed limited liability companies.

9. At all relevant times, Catlin has been a signatory of Damopa, and MC, LLC's bank accounts.

10. For all notes and deeds of trust referenced herein, Catlin was a signatory for the issuer.

1 11. Catlin is and has been a licensed real estate agent in Arizona since 1973.

2 12. From approximately December 2006 through August 2009 Catlin individually, or as
3 Trustee of the MLC Trust offered and sold notes in and from Arizona totaling at least \$452,270.15.

4 13. From approximately June 2007 through February 2008, Damopa offered and sold
5 notes in and from Arizona totaling at least \$370,000.

6 14. In approximately October 2007, MC, LLC offered and sold notes in and from
7 Arizona totaling at least \$45,000.

8 15. At all times relevant, Catlin issued, offered and sold the investments discussed
9 below in and from Arizona in her individual capacity, as Trustee of the MLC Trust and/or on behalf
10 of Respondents.

11 16. During the relevant time period, Catlin offered and sold the investments discussed
12 below for purposes of purchasing real estate, offering investors notes purportedly secured by deeds
13 of trust.

14 17. All investors purchased the notes during the relevant time period with the
15 expectation of a profitable investment.

16 Investor 1

17 18. In December 2006, Catlin issued a note secured by a deed of trust to Investor 1 for
18 \$125,000 ("Investor 1"). The note required Catlin to pay Investor 1 monthly interest only
19 payments at 9% per annum for approximately two years, with the principal payment due at the end
20 of the loan term.

21 19. Catlin represented to Investor 1 that the investment would be secured by certain real
22 property, that Investor 1's security interest would be in first lien position, and recorded a deed of
23 trust in favor of Investor 1.

24 20. At the time Catlin recorded the deed of trust in favor of Investor 1 in December
25 2006, the property securitizing the investment was already encumbered, and Investor 1 did not have
26 a first lien position.

1 deed of trust, which substantially exceeded \$275,000 in total, and Investor 4 did not have a second
2 lien position.

3 51. Investor 4 has only been repaid approximately \$17,000 on his investments.

4 Investor 5

5 52. In June 2007, Damopa offered and sold a note investment to an investor for \$70,000
6 ("Investor 5").

7 53. The note required Damopa to pay Investor 5 monthly interest only payments at 10%
8 per annum for approximately two years, with the principal payment due at the end of the loan term.

9 54. Damopa, through Catlin, represented to Investor 5 that Investor 5's investment
10 would be secured by certain real property, that Investor 5's security interest would be in first lien
11 position.

12 55. Although Damopa designated a property to secure Investor 5's June 2007 note, and
13 ultimately recorded a deed of trust, the deed of trust was not recorded until August 2009, and
14 Investor 1 was unsecured for approximately two years.

15 56. At the time Investor 5 invested in June 2007 and the deed of trust was recorded in
16 August 2009, the property securitizing the investment was already encumbered, and Investor 5 did
17 not have a first lien position.

18 Investor 6

19 57. In February 2007, Catlin offered and sold a note investment to an investor for
20 \$160,000 ("Investor 6").

21 58. The February 2007 note required Catlin to pay Investor 6 monthly interest only
22 payments at 17% per annum for approximately eight months, with the principal payment due at the
23 end of the loan term.

24 59. Catlin represented to Investor 6 that Investor 6's February 2007 investment would
25 be secured by certain real property, that Investor 6's security interest would be in first lien position.
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V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

4. In or about August 2009, Respondent Catlin, as Trustee of the MLC Trust, offered or sold securities within or from Arizona while not registered as a dealer or salesman pursuant to Article 9 of the Securities Act.

5. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

6. In connection with the offer or sale of securities within or from Arizona, Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:

a) Representing to investors that the deeds of trust securitizing their notes would have certain priority, but failing to provide the investor with the priority that was represented;

b) For Investors 1, 3, 4, 5 and 6, representing that the investments would be secured by a deed of trust at the time the note was executed, but failing to timely record the deeds of trust, leaving the investors unsecured for a period of time, and for Investors 3 and 4, substantially encumbering the property prior to recording the investors' deeds of trust; and

c) For Investor 6, representing that the investments would be secured by a deed of trust at the time the note was executed, but failing to record the deed of trust at all, leaving the investor completely unsecured.

7. This conduct violates A.R.S. § 44-1991.

XII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act pursuant to A.R.S. § 44-2032;
2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
4. Order any other relief that the Commission deems appropriate.

XIII.

HEARING OPPORTUNITY

Each respondent may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for Hearing.

1 Persons with a disability may request a reasonable accommodation such as a sign language
2 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
3 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
4 Requests should be made as early as possible to allow time to arrange the accommodation.
5 Additional information about the administrative action procedure may be found at
6 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

7 **XIV.**

8 **ANSWER REQUIREMENT**

9 Pursuant to A.A.C. R14-4-305, if a Respondent requests a hearing, the requesting
10 respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket
11 Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within
12 30 calendar days after the date of service of this Notice. Filing instructions may be obtained from
13 Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
14 <http://www.azcc.gov/divisions/hearings/docket.asp>.

15 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
16 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
17 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
18 addressed to Stacy Luedtke.

19 The Answer shall contain an admission or denial of each allegation in this Notice and the
20 original signature of the answering respondent or respondent's attorney. A statement of a lack of
21 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not
22 denied shall be considered admitted.

23 When the answering respondent intends in good faith to deny only a part or a qualification
24 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
25 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.
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