

1	In re the Matter of:) Case No.: 10-003
)
2	State of New Hampshire Banking)
)
3	Department,)
)
4	Petitioner,) Order to Show Cause and
5	and) Cease and Desist
)
6	123 Fix My Loan, LLC (d/b/a)
)
7	www.123fixmyloan.com and d/b/a)
)
8	www.123fml.com), Mark D. Parker, Keith)
)
9	D. Callahan, and Marc Richard)
)
10	Castrechini,)
)
11	Respondents)
12)

13 **NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST ("ORDER")**

14 1. This Order commences an adjudicative proceeding under the provisions
15 of RSA Chapter 399-D (including RSA 399-D:13,I, RSA 399-D:23,I and II, RSA
16 399-D:24, IV and V and RSA 399-D:25,IV) and RSA Chapter 541-A.

17 2. The Commissioner may impose administrative penalties of up to
18 \$2,500.00 for each violation. RSA 399-D:24,IV and V.

19 **RESPONDENTS**

20 3. 123 Fix My Loan, LLC (d/b/a www.123fixmyloan.com and d/b/a
21 www.123fml.com) ("Respondent 123 Fix My Loan") is a limited liability
22 company duly incorporated in the State of Massachusetts on September 25,
23 2007, with a principal office location in Sharon, Massachusetts. Respondent
24 123 Fix My Loan is not registered with the New Hampshire Secretary of
25 State's Office. Respondent 123 Fix My Loan is a "Person." RSA 399-D:1,VII.

1 4. The New Hampshire Banking Department's ("Department") records do not
2 indicate that Respondent 123 Fix My Loan has ever held a New Hampshire Debt
3 Adjuster license.

4 5. Mark D. Parker ("Respondent Parker") is listed by the Massachusetts
5 Secretary of State's office as a Manager of Respondent 123 Fix My Loan.
6 Respondent Parker is a Control Person (RSA 399-D:2,II-a), a Direct Owner
7 (RSA 399-D:2,V-b), a Principal (RSA 399-D:2,VII-a), and a Person (RSA 399-
8 D:2,VII).

9 6. The New Hampshire Banking Department's ("Department") records do not
10 indicate that Respondent Parker has ever held a New Hampshire Debt Adjuster
11 license.

12 7. Keith D. Callahan ("Respondent Callahan") is listed by the
13 Massachusetts Secretary of State's office as a Manager of Respondent 123 Fix
14 My Loan. Respondent Callahan is a Control Person (RSA 399-D:2,II-a), a
15 Direct Owner (RSA 399-D:2,V-b), a Principal (RSA 399-D:2,VII-a), and a
16 Person (RSA 399-D:2,VII).

17 8. The New Hampshire Banking Department's ("Department") records do not
18 indicate that Respondent Callahan has ever held a New Hampshire Debt
19 Adjuster license.

20 9. Marc Richard Castrechini ("Respondent Castrechini") is listed by the
21 Massachusetts Secretary of State's office as a Manager of Respondent 123 Fix
22 My Loan from December 4, 2008 to June 18, 2010. Respondent Castrechini is a
23 Control Person (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a
24 Principal (RSA 399-D:2,VII-a), and a Person (RSA 399-D:2,VII).

25 10. The New Hampshire Banking Department's ("Department") records do not

1 indicate that Respondent Castrechini has ever held a New Hampshire Debt
2 Adjuster license.

3 11. The above-named Respondents are hereinafter collectively known as
4 "Respondents".

5 **RIGHT TO REQUEST A HEARING**

6 12. Respondents have a right to request a hearing on this Order. A hearing
7 shall be held not later than ten (10) days after the Commissioner receives
8 the Respondent's written request for a hearing. Respondents may request a
9 hearing and waive the ten (10) day hearing requirement. The hearing shall
10 comply with RSA Chapter 541-A. RSA 399-D:13,I and RSA 399-D:23, I and II.

11 13. If any person fails to request a hearing within thirty (30) days of
12 receiving this Order, then such person shall be deemed in default, and the
13 Order shall, on the thirty-first (31st) day, become permanent, all
14 allegations may be deemed true, and shall remain in full force and effect
15 until modified or vacated by the Commissioner for good cause shown. RSA
16 399-D:13,I and RSA 399-D:23,II.

17 14. A default may result in administrative fines as described in Paragraph
18 2 above.

19 **STATEMENT OF ALLEGATIONS**

20 15. On September 29, 2008, the Department received a hotline call from a
21 New Hampshire consumer indicating that Respondents were offering debt
22 adjustment activity to New Hampshire consumers. An investigation concluded
23 that Respondents were operating a website (www.123fixmyloan.com), which
24 offered debt adjustment services to New Hampshire consumers without the
25 proper licensure requirements.

1 16. On September 29, 2008, the Department sent a letter via U.S. Mail
2 Return Receipt Requested to Respondents suggesting that Respondents apply
3 for licensure with the Department. The correspondence was received by
4 Respondents on October 2, 2008.

5 17. On October 24, 2008, the Department received a response from
6 Respondents' legal counsel, Attorney Donald C. Kupperstein, which indicated
7 that Respondents had curtailed their activity in New Hampshire and were in
8 the process of reviewing the licensure procedures.

9 18. On May 4, 2009, the Department sent a letter via U.S. Mail Return
10 Receipt Requested to Respondents' legal counsel requesting all New Hampshire
11 transactions to include all consumer names, contracts and fees charged to
12 these consumers. The correspondence was received by Respondents on May 8,
13 2009.

14 19. On May 11, 2009, the Department received a response from Attorney
15 Donald C Kupperstein which indicated that he no longer represented the
16 Respondents.

17 20. On October 6, 2009, the Department sent a letter via U.S. Mail Return
18 Receipt Requested to Respondents requesting all New Hampshire transactions
19 to include all consumer names, contracts and fees charged to these
20 consumers. The correspondence was received by the Respondents on October 9,
21 2009.

22 21. On November 2, 2009, the Department received a response from
23 Respondents indicating that the Respondents had one active client in New
24 Hampshire. The consumer's name, address, contract date and contract amount
25 were provided by the Respondents.

1 22. On January 19, 2010, the Department conducted an onsite visitation at
2 Respondent's principal office located in Sharon, Massachusetts. The
3 Department reviewed Respondents' client list and files and were able to
4 determine that Respondents had conducted business with 24 New Hampshire
5 residents in 2008 and 2009.

6 **New Hampshire Consumer Activity:**

7 23. On April 21, 2008, Respondents had contracted with a New Hampshire
8 consumer ("Consumer A") to negotiate and settle consumer debt on behalf of
9 Consumer A. The contract provided that Consumer A would pay two installment
10 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
11 A on April 21, 2008. Respondents charged an advance fee, in violation of
12 RSA 399-D:14,I.

13 24. Respondents collected \$799.00 in fees from Consumer A, without the
14 written consent of Consumer A's creditors, in violation of RSA 399-D:14,II.

15 25. On April 25, 2008, Respondents had contracted with a New Hampshire
16 consumer ("Consumer B") to negotiate and settle consumer debt on behalf of
17 Consumer B. The contract provided that Consumer B would pay \$1,399.00 in
18 fees to Respondents. Respondents charged an advance fee, in violation of
19 RSA 399-D:14,I.

20 26. Respondents collected \$1,399.00 in fees from Consumer B, without the
21 written consent of Consumer B's creditors, in violation of RSA 399-D:14,II.

22 27. On July 9, 2008, Respondents had contracted with a New Hampshire
23 consumer ("Consumer C") to negotiate and settle consumer debt on behalf of
24 Consumer C. The contract provided that Consumer C would pay \$1,000.00 each
25 for two properties that Consumer C had facing foreclosure. Respondents

1 charged an advance fee, in violation of RSA 399-D:14,I.

2 28. Respondents collected \$2,000.00 in fees from Consumer C, without the
3 written consent of Consumer C's creditors, in violation of RSA 399-D:14,II.

4 29. On July 3, 2008, Respondents had contracted with a New Hampshire
5 consumer ("Consumer D") to negotiate and settle consumer debt on behalf of
6 Consumer D. The contract provided that Consumer D would pay two installment
7 payments of \$300.00 and \$900.00. The first payment of \$300.00 was made by
8 Consumer D on July 18, 2008. Respondents charged an advance fee, in
9 violation of RSA 399-D:14,I.

10 30. Respondents collected \$1,200.00 in fees from Consumer D, without the
11 written consent of Consumer D's creditors, in violation of RSA 399-D:14,II.

12 31. On July 8, 2008, Respondents had contracted with a New Hampshire
13 consumer ("Consumer E") to negotiate and settle consumer debt on behalf of
14 Consumer E. The contract provided that Consumer E would pay two installment
15 payments of \$499.00 and \$900.00. The first payment of \$499.00 was made by
16 Consumer E on July 8, 2008. Respondents charged an advance fee, in
17 violation of RSA 399-D:14,I.

18 32. Respondents collected \$1,399.00 in fees from Consumer E, without the
19 written consent of Consumer E's creditors, in violation of RSA 399-D:14,II.

20 33. In August 2008, Respondents had contracted with a New Hampshire
21 consumer ("Consumer F") to negotiate and settle consumer debt on behalf of
22 Consumer F. The contract provided that Consumer F would pay \$2,200.00 for
23 the Respondents' services. Respondents charged an advance fee, in violation
24 of RSA 399-D:14,I.

25 34. Respondents collected \$2,200.00 in fees from Consumer F, without the

1 written consent of Consumer F's creditors, in violation of RSA 399-D:14,II.

2 35. On August 20, 2008, Respondents had contracted with a New Hampshire
3 consumer ("Consumer G") to negotiate and settle consumer debt on behalf of
4 Consumer G. The contract provided that Consumer G would pay \$1,399.00 for
5 the Respondents' services. Respondents charged an advance fee, in violation
6 of RSA 399-D:14,I.

7 36. Respondents collected \$1,399.00 in fees from Consumer G, without the
8 written consent of Consumer G's creditors, in violation of RSA 399-D:14,II.

9 37. On September 26, 2008, Respondents had contracted with a New Hampshire
10 consumer ("Consumer H") to negotiate and settle consumer debt on behalf of
11 Consumer H. The contract provided that Consumer H would pay two installment
12 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
13 H on September 19, 2008. Respondents charged an advance fee, in violation
14 of RSA 399-D:14,I.

15 38. Respondents collected \$1,598.00 in fees from Consumer H, without the
16 written consent of Consumer H's creditors, in violation of RSA 399-D:14,II.

17 39. On August 18, 2008, Respondents had contracted with a New Hampshire
18 consumer ("Consumer I") to negotiate and settle consumer debt on behalf of
19 Consumer I. The contract provided that Consumer I would pay two installment
20 payments of \$600.00 and \$1,000.00. The first payment of \$600.00 was made by
21 Consumer I on August 18, 2008. Respondents charged an advance fee, in
22 violation of RSA 399-D:14,I.

23 40. Respondents collected \$1,600.00 in fees from Consumer I, without the
24 written consent of Consumer I's creditors, in violation of RSA 399-D:14,II.

25 41. On September 21, 2008, Respondents had contracted with a New Hampshire

1 consumer ("Consumer J") to negotiate and settle consumer debt on behalf of
2 Consumer J. The contract provided that Consumer J would pay two installment
3 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
4 J on September 17, 2008. Respondents charged an advance fee, in violation
5 of RSA 399-D:14,I.

6 42. Respondents collected \$1,598.00 in fees from Consumer J, without the
7 written consent of Consumer J's creditors, in violation of RSA 399-D:14,II.

8 43. On August 24, 2008, Respondents had contracted with a New Hampshire
9 consumer ("Consumer K") to negotiate and settle consumer debt on behalf of
10 Consumer K. The contract provided that Consumer K would pay two installment
11 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
12 K on August 18, 2008. Respondents charged an advance fee, in violation of
13 RSA 399-D:14,I.

14 44. Respondents collected \$1,598.00 in fees from Consumer K, without the
15 written consent of Consumer K's creditors, in violation of RSA 399-D:14,II.

16 45. On September 5, 2008, Respondents had contracted with a New Hampshire
17 consumer ("Consumer L") to negotiate and settle consumer debt on behalf of
18 Consumer L. The contract provided that Consumer L would pay two installment
19 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
20 L on September 5, 2008. Respondents charged an advance fee, in violation of
21 RSA 399-D:14,I.

22 46. Respondents collected \$1,598.00 in fees from Consumer L, without the
23 written consent of Consumer L's creditors, in violation of RSA 399-D:14,II.

24 47. On October 3, 2008, Respondents had contracted with a New Hampshire
25 consumer ("Consumer M") to negotiate and settle consumer debt on behalf of

1 Consumer M. The contract provided that Consumer M would pay \$1,999.00 for
2 the Respondents' services. Respondents charged an advance fee, in violation
3 of RSA 399-D:14,I.

4 48. Respondents collected \$1,999.00 in fees from Consumer M, without the
5 written consent of Consumer M's creditors, in violation of RSA 399-D:14,II.

6 49. In August 2008, Respondents had contracted with a New Hampshire
7 consumer ("Consumer N") to negotiate and settle consumer debt on behalf of
8 Consumer N. The contract provided that Consumer N would pay two installment
9 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
10 N on August 6, 2008. Respondents charged an advance fee, in violation of
11 RSA 399-D:14,I.

12 50. Respondents collected \$1,598.00 in fees from Consumer N, without the
13 written consent of Consumer N's creditors, in violation of RSA 399-D:14,II.

14 51. On September 29, 2008, Respondents had contracted with a New Hampshire
15 consumer ("Consumer O") to negotiate and settle consumer debt on behalf of
16 Consumer O. The contract provided that Consumer O would pay \$1,399.00 for
17 the Respondents' services. Respondents charged an advance fee, in violation
18 of RSA 399-D:14,I.

19 52. Respondents collected \$1,399.00 in fees from Consumer O, without the
20 written consent of Consumer O's creditors, in violation of RSA 399-D:14,II.

21 53. On October 8, 2008, Respondents had contracted with a New Hampshire
22 consumer ("Consumer P") to negotiate and settle consumer debt on behalf of
23 Consumer P. The contract provided that Consumer P would pay two installment
24 payments of \$799.00 and \$1600.00. The first payment of \$799.00 was made by
25 Consumer P on October 3, 2008. Respondents charged an advance fee, in

1 violation of RSA 399-D:14,I.

2 54. Respondents collected \$2,399.00 in fees from Consumer P, without the
3 written consent of Consumer P's creditors, in violation of RSA 399-D:14,II.

4 55. On September 29, 2008, Respondents had contracted with a New Hampshire
5 consumer ("Consumer Q") to negotiate and settle consumer debt on behalf of
6 Consumer Q. The contract provided that Consumer Q would pay two installment
7 payments of \$499.00 each. The first payment of \$499.00 was made by Consumer
8 Q on September 10, 2008. Respondents charged an advance fee, in violation
9 of RSA 399-D:14,I.

10 56. Respondents collected \$998.00 in fees from Consumer Q, without the
11 written consent of Consumer Q's creditors, in violation of RSA 399-D:14,II.

12 57. On September 14, 2008, Respondents had contracted with a New Hampshire
13 consumer ("Consumer R") to negotiate and settle consumer debt on behalf of
14 Consumer R. The contract provided that Consumer R would pay two installment
15 payments of \$499.00 and \$900.00. The first payment of \$499.00 was made by
16 Consumer R on September 6, 2008. Respondents charged an advance fee, in
17 violation of RSA 399-D:14,I.

18 58. Respondents collected \$1,399.00 in fees from Consumer R, without the
19 written consent of Consumer R's creditors, in violation of RSA 399-D:14,II.

20 59. On September 23, 2008, Respondents had contracted with a New Hampshire
21 consumer ("Consumer S") to negotiate and settle consumer debt on behalf of
22 Consumer S. The contract provided that Consumer S would pay two installment
23 payments of \$499.00 and \$900.00. The first payment of \$499.00 was made by
24 Consumer S on September 22, 2008. Respondents charged an advance fee, in
25 violation of RSA 399-D:14,I.

1 60. Respondents collected \$1,399.00 in fees from Consumer S, without the
2 written consent of Consumer S's creditors, in violation of RSA 399-D:14,II.

3 61. On October 7, 2008, Respondents had contracted with a New Hampshire
4 consumer ("Consumer T") to negotiate and settle consumer debt on behalf of
5 Consumer T. The contract provided that Consumer T would pay two installment
6 payments of \$799.00 each. The first payment of \$799.00 was made by Consumer
7 T on October 13, 2008. Respondents charged an advance fee, in violation of
8 RSA 399-D:14,I.

9 62. Respondents collected \$1,598.00 in fees from Consumer T, without the
10 written consent of Consumer T's creditors, in violation of RSA 399-D:14,II.

11 63. In October 2008, Respondents had contracted with a New Hampshire
12 consumer ("Consumer U") to negotiate and settle consumer debt on behalf of
13 Consumer U. The contract provided that Consumer U would pay two installment
14 payments of \$700.00 and \$699.00. The first payment of \$700.00 was made by
15 Consumer U on October 11, 2008. Respondents charged an advance fee, in
16 violation of RSA 399-D:14,I.

17 64. Respondents collected \$1,399.00 in fees from Consumer U, without the
18 written consent of Consumer U's creditors, in violation of RSA 399-D:14,II.

19 65. On December 1, 2008, Respondents had contracted with a New Hampshire
20 consumer ("Consumer V") to negotiate and settle consumer debt on behalf of
21 Consumer V. The contract provided that Consumer V would pay two installment
22 payments of \$700.00 each. The first payment of \$700.00 was made by Consumer
23 V on November 26, 2008. Respondents charged an advance fee, in violation of
24 RSA 399-D:14,I.

25 66. Respondents collected \$1,400.00 in fees from Consumer V, without the

1 written consent of Consumer V's creditors, in violation of RSA 399-D:14,II.

2 67. On January 21, 2009, Respondents had contracted with a New Hampshire
3 consumer ("Consumer W") to negotiate and settle consumer debt on behalf of
4 Consumer W. The contract provided that Consumer W would pay two installment
5 payments of \$800.00 and \$400.00. The first payment of \$800.00 was made by
6 Consumer W on January 20, 2009. Respondents charged an advance fee, in
7 violation of RSA 399-D:14,I.

8 68. Respondents collected \$1,200.00 in fees from Consumer W, without the
9 written consent of Consumer W's creditors, in violation of RSA 399-D:14,II.

10 69. On March 25, 2009, Respondents had contracted with a New Hampshire
11 consumer ("Consumer X") to negotiate and settle consumer debt on behalf of
12 Consumer X. The contract provided that Consumer X would pay \$1,400.00 for
13 the Respondents' services. Respondents charged an advance fee, in violation
14 of RSA 399-D:14,I.

15 70. Respondents collected \$1,400.00 in fees from Consumer X, without the
16 written consent of Consumer X's creditors, in violation of RSA 399-D:14,II.

17 71. On March 23, 2010, the Department received an email correspondence
18 from Respondents indicating that Respondents would be pursuing licensure in
19 New Hampshire.

20 72. On March 26, 2010, the Department received an email correspondence
21 from Respondents indicating that Respondents had no intention of working
22 with any New Hampshire consumers, therefore they would not be pursuing
23 licensure in New Hampshire.

24 73. On March 26, 2010, the Department sent an email correspondence to
25 Respondents requesting they contact the Department immediately. The

1 399-D and rules or orders thereunder;

2 b. Respondents shall immediately provide the Department a list of
3 all New Hampshire consumers for whom Respondents have conducted or
4 contracted to conduct debt adjustment activities. This list must include
5 the names and contact information of the New Hampshire consumers, along with
6 all monies charged, collected, and waived (if applicable). The list shall
7 also be accompanied by all contracts, checks to and from the consumer and
8 any other documents in the New Hampshire consumers' files;

9 c. Respondents shall show cause why the Commissioner should not
10 enter an order of rescission, restitution, or disgorgement of profits,
11 including at a minimum restitution of \$799.00 (for Consumer A), \$1,399.00
12 (for Consumer B), \$2,000.00 (for Consumer C), \$1,200.00 (for Consumer D),
13 \$1,399.00 (for Consumer E), \$2,200.00 (for Consumer F), \$1,399.00 (for
14 Consumer G), \$1,598.00 (for Consumer H), \$1,600.00 (for Consumer I),
15 \$1,598.00 (for Consumer J), \$1,598.00 (for Consumer K), \$1,598.00 (for
16 Consumer L), \$1,999.00 (for Consumer M), \$1,598.00 (for Consumer N),
17 \$1,399.00 (for Consumer O), \$2,399.00 (for Consumer P), \$998.00 (for
18 Consumer Q), \$1,399.00 (for Consumer R), \$1,399.00 (for Consumer S),
19 \$1,598.00 (for Consumer T), \$1,399.00 (for Consumer U), \$1,400.00 (for
20 Consumer V), \$1,200.00 (for Consumer W), \$1,400.00 (for Consumer X);

21 d. Respondents shall show cause why an administrative fine of up to
22 a maximum of \$2,500.00 per violation should not be imposed as follows:

23 (1). Respondent 123 Fix My Loan:

24 Violation #1: Unlicensed activity as a debt adjuster (RSA
25 399-D:3,I) - 24 counts;

1 Violation #2: Collecting a Fee prior to payment to
2 creditors (RSA 399-D:14,I) - 24 counts;

3 Violation #3: Collecting a Fee without consent of the
4 creditors (RSA 399-D:14,II) - 24 counts;

5 (2). Respondent Parker (as Control Person, Direct Owner, and
6 Principal):

7 Violation #1: Unlicensed activity as a debt adjuster (RSA
8 399-D:3,I) - 24 counts;

9 Violation #2: Collecting a Fee prior to payment to
10 creditors (RSA 399-D:14,I) - 24 counts;

11 Violation #3: Collecting a Fee without consent of the
12 creditors (RSA 399-D:14,II) - 24 counts;

13 (3). Respondent Callahan (as Control Person, Direct Owner, and
14 Principal):

15 Violation #1: Unlicensed activity as a debt adjuster (RSA
16 399-D:3,I) - 24 counts;

17 Violation #2: Collecting a Fee prior to payment to
18 creditors (RSA 399-D:14,I) - 24 counts;

19 Violation #3: Collecting a Fee without consent of the
20 creditors (RSA 399-D:14,II) - 24 counts;

21 (4). Respondent Castrechini (as Control Person, Direct Owner,
22 and Principal):

23 Violation #1: Unlicensed activity as a debt adjuster (RSA
24 399-D:3,I) - 24 counts;

25 Violation #2: Collecting a Fee prior to payment to

1 creditors (RSA 399-D:14,I) - 24 counts;

2 Violation #3: Collecting a Fee without consent of the
3 creditors (RSA 399-D:14,II) - 24 counts;

4 e. Nothing in this Order:

5 (1). shall prevent the Department from taking any further
6 administrative and legal action as necessary under New Hampshire law; and

7 (2). shall prevent the New Hampshire Office of the Attorney
8 General from bringing an action against the above named Respondents in any
9 New Hampshire superior court, with or without prior administrative action by
10 the Commissioner.

11
12 **SO ORDERED.**

13
14 /s/
15 RONALD A. WILBUR
16 BANK COMMISSIONER

Dated: September 12, 2011