

1 In re the Matter of:) Case No.: 10-016
 2 State of New Hampshire Banking)
 3 Department,)
 4 Petitioner,) Order to Show Cause and
 5 and) Cease and Desist
 6 GMA (General Modification Affiliates))
 7 (d/b/a GMA Financial Group, d/b/a GMA)
 8 Mortgage, Inc., d/b/a GMA)
 9 Modification, Corp., and a/k/a)
 10 www.gmamodification.com), Avi P.)
 11 Shenkar, Marat Tsirelson, and Igo)
 12 Shrayev,)
 13 Respondents)

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

15 1. This Order commences an adjudicative proceeding under the provisions
 16 of RSA Chapter 397-A (including RSA 397-A:17,I and II, RSA 397-A:18,I and
 17 II, and RSA 397-A:20,IV), RSA Chapter 399-D (including RSA 399-D:13,I, RSA
 18 399-D:23,I and II, and RSA 399-D:25,IV) and RSA Chapter 541-A.

19 2. The Commissioner may impose administrative penalties of up to
 20 \$2,500.00 for each violation. RSA 397-A:21,IV and V, and RSA 399-D:24,IV and
 21 V.

22 RESPONDENTS

23 3. GMA (General Modification Affiliates) (d/b/a GMA Financial Group,
 24 d/b/a GMA Mortgage, Inc., d/b/a GMA Modification, Corp., and a/k/a
 25 www.gmamodification.com) ("Respondent GMA") is a corporation duly

1 incorporated in the State of Florida on February 6, 2007, with a principal
2 office location in Hallandale, Florida. Respondent GMA was voluntarily
3 dissolved on March 31, 2011 with notice to the Florida Secretary of State's
4 office. Respondent GMA is not registered with the New Hampshire Secretary
5 of State's Office. Respondent GMA is a "Person." RSA 397-A:1,XVIII and RSA
6 399-D:1,VII.

7 4. The National Mortgage Licensing System & Registry ("NMLS") does not
8 indicate that Respondent GMA has ever held a license as a mortgage broker.
9 The New Hampshire Banking Department's ("Department") records do not
10 indicate that Respondent GMA has ever held a New Hampshire Mortgage Broker
11 license, or a New Hampshire Debt Adjuster license.

12 5. Avi Shenkar ("Respondent Shenkar") is listed by the Florida Secretary
13 of State's office as the President of Respondent GMA from February 6, 2007
14 to April 16, 2010. Respondent Shenkar is a Control person (RSA 397-A:21,V-a
15 and RSA 399-D:2,II-a), a Principal (RSA 397-A:1,XIX and RSA 399-D:2,VII-a),
16 a Direct Owner (RSA 397-A:1,VI-a and RSA 399-D:2,V-b), and a Person (RSA
17 397-A:1,XVIII and RSA 399-D:2,VII).

18 6. NMLS does not indicate that Respondent Shenkar has ever held a license
19 as a mortgage broker. The Department's records do not indicate that
20 Respondent Shenkar has ever held a New Hampshire Mortgage Broker license, or
21 a New Hampshire Debt Adjuster license.

22 7. Marat Tsirelson ("Respondent Tsirelson") is listed by the Florida
23 Secretary of State's office as the President of Respondent GMA from April
24 16, 2010 to March 31, 2011, and Vice-President of Respondent GMA from
25 February 6, 2007 to April 16, 2010. Respondent Tsirelson is a Control

1 person (RSA 397-A:21,V-a and RSA 399-D:2,II-a), a Principal (RSA 397-A:1,XIX
2 and RSA 399-D:2,VII-a), a Direct Owner (RSA 397-A:1,VI-a and RSA 399-D:2,V-
3 b), and a Person (RSA 397-A:1,XVIII and RSA 399-D:2,VII).

4 8. NMLS does not indicate that Respondent Tsirelson has ever held a
5 license as a mortgage broker. The Department's records do not indicate that
6 Respondent Tsirelson has ever held a New Hampshire Mortgage Broker license,
7 or a New Hampshire Debt Adjuster license.

8 9. Igor Shirayev ("Respondent Shirayev") is listed by the Florida
9 Secretary of State's office as the Vice-President of Respondent GMA from
10 April 16, 2010 to March 31, 2011, and Treasurer of Respondent GMA from
11 February 6, 2007 to April 16, 2010. Respondent Shirayev is a Control person
12 (RSA 397-A:21,V-a and RSA 399-D:2,II-a), a Principal (RSA 397-A:1,XIX and
13 RSA 399-D:2,VII-a), a Direct Owner (RSA 397-A:1,VI-a and RSA 399-D:2,V-b),
14 and a Person (RSA 397-A:1,XVIII and RSA 399-D:2,VII).

15 10. NMLS does not indicate that Respondent Shirayev has ever held a
16 license as a mortgage broker. The Department's records do not indicate that
17 Respondent Shirayev has ever held a New Hampshire Mortgage Broker license,
18 or a New Hampshire Debt Adjuster license.

19 11. The above-named Respondents are hereinafter collectively known as
20 "Respondents".

21 **RIGHT TO REQUEST A HEARING**

22 12. Respondents have a right to request a hearing on this Order. A hearing
23 shall be held not later than ten (10) days after the Commissioner receives
24 the Respondent's written request for a hearing. Respondents may request a
25 hearing and waive the ten (10) day hearing requirement. The hearing shall

1 comply with RSA Chapter 541-A, RSA 397-A:17, RSA 397-A:18, RSA 399-D:13,I
2 and RSA 399-D:23,I and II.

3 13. If any person fails to request a hearing within thirty (30) days of
4 receiving this Order, then such person shall be deemed in default, and the
5 Order shall, on the thirty-first (31st) day, become permanent, all
6 allegations may be deemed true, and shall remain in full force and effect
7 until modified or vacated by the Commissioner for good cause shown. RSA
8 397-A:17,I, RSA 397-A:18, RSA 399-D:13,I and RSA 399-D:23,II.

9 14. A default may result in administrative fines as described in Paragraph
10 2 above.

11 **STATEMENT OF ALLEGATIONS**

12 15. On January 26, 2010, the Department received a complaint from a New
13 Hampshire consumer ("Consumer A") against Respondents concerning residential
14 mortgage loan modification services, and/or debt adjustment activity.

15 16. On July 28, 2009, Respondents contracted with Consumer A to modify
16 Consumer A's mortgage loan without a New Hampshire mortgage broker license,
17 in violation of RSA 397-A:3,I, and without a debt adjuster license, in
18 violation of RSA 399-D:3,I.

19 17. On July 28, 2009, Respondents collected an advance fee of \$1,950.00
20 from Consumer A, in violation of RSA 397-A:14,IV(m) and RSA 399-D:14,I.

21 18. Respondents failed to provide a residential mortgage loan modification
22 to Consumer A in violation of RSA 397-A:14,IV(b).

23 19. On September 7, 2010, the Department received a complaint from a New
24 Hampshire consumer ("Consumer B") against Respondents concerning residential
25 mortgage loan modification services, and/or debt adjustment activity.

1 20. In February 2008, Respondents contracted with Consumer B to modify
2 Consumer B's mortgage loan without a New Hampshire mortgage broker license,
3 in violation of RSA 397-A:3,I, and without a debt adjuster license, in
4 violation of RSA 399-D:3,I.

5 21. In February 2008, Respondents collected an advance fee of \$1,950.00
6 from Consumer B, in violation of RSA 397-A:14,IV(m) and RSA 399-D:14,I.

7 22. Respondents failed to provide a residential mortgage loan modification
8 to Consumer B in violation of RSA 397-A:14,IV(b).

9 23. On March 3, 2010, the Department sent a letter via U.S. Certified Mail
10 return receipt requested to Respondents, suggesting Respondents apply for
11 licensure with the Department and resolution of the consumer complaint. The
12 correspondence was received on March 6, 2010.

13 24. On March 18, 2010, the Department received a correspondence from
14 Respondents indicating that Respondents did contract with Consumer A in July
15 2009 for loan modification services, however since the loan modification was
16 unsuccessful, Respondents would be issuing a refund of \$1,450.00 to Consumer
17 A. The Respondents did not address the issue of licensure with the
18 Department in this correspondence.

19 25. On March 19, 2010, the Department sent a letter via U.S. Certified
20 Mail return receipt requested to Respondents, indicating that Respondents
21 would need to refund an additional \$500.00 to Consumer A. The Department
22 also indicated that Respondents' activities required it to be licensed, and
23 outlined the proper procedure to be compliant with the statute. The
24 correspondence was received by the Respondents on March 24, 2010.

25 26. On March 29, 2010, the Department received a correspondence from

1 Respondents indicating that the Respondents would be refunding the \$500.00
2 to Consumer A, and that Consumer A was the only client that Respondents
3 serviced in New Hampshire. The Respondents indicated that they would not be
4 seeking licensure in the State of New Hampshire.

5 27. On October 20, 2010, the Department sent a letter via U.S. Certified
6 Mail return receipt requested to Respondents, suggesting Respondents apply
7 for licensure with the Department, provide the Department with documentation
8 regarding the company and New Hampshire consumer activity, and resolution of
9 a consumer complaint. The correspondence was received by the Respondents on
10 October 28, 2010.

11 28. To date, Respondents have failed to provide the information requested
12 by the Department, in violation of RSA 397-A:12,I and RSA 399-D:22,VIII.

13
14 _____ /s/
15 Ryan McFarland
16 Hearings Examiner

Dated: September 12, 2011

17 **ORDER**

18 29. I hereby find as follows:

19 a. Pursuant to RSA 397-A:17,I, and RSA 399-D:13,I, the facts as alleged
20 above, if true, show Respondents are operating or have operated in violation
21 of RSA Chapter 397-A and/or Chapter 399-D and form the legal basis for this
22 Order;

23 b. Pursuant to 397-A:20,VI, and RSA 399-D:25,VI, this Order is necessary
24 and appropriate to the public interest and for the protection of consumers
25 and consistent with the purpose and intent of New Hampshire banking laws;

c. The Department finds pursuant to RSA 397-A:17,II, RSA 397-A:18,II, and

1 RSA 399-D:23,II reasonable cause to issue an order to cease and desist; and

2 d. Pursuant to RSA 397-A:17,I, RSA 397-A:18,II, RSA 399-D:13,I, and RSA
3 399-D:23,II, if any Respondent fails to respond to this Order and/or
4 defaults then all facts as alleged herein are deemed as true.

5 30. **Accordingly, it is hereby ORDERED that:**

6 a. Respondents shall cease and desist from violating RSA Chapter
7 397-A and/or RSA Chapter 399-D and rules or orders thereunder;

8 b. Respondents shall immediately provide the Department a list of
9 all New Hampshire consumers for whom Respondents have residential mortgage
10 loan modification activity, and/or debt adjustment activity, and a status of
11 those accounts. This list must include the names and contact information of
12 the New Hampshire consumers, along with monies charged, collected and waived
13 (if applicable). The list shall also be accompanied by all contracts, checks
14 to and from the consumer and any other documents in the New Hampshire
15 consumers' files;

16 c. Respondents shall show cause why the Commissioner should not
17 enter an order of rescission, restitution, or disgorgement of profits in the
18 amount of at least \$500.00 (for Consumer A) and \$1,950.00 (for Consumer B);

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

21 (1). Respondent GMA:

22 Violation #1: Unlicensed mortgage broker activity (RSA
23 397-A:3,I), and/or Unlicensed activity as a debt adjuster
24 (RSA 399-D:3,I) - 2 counts;

25 Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m))

1 and/or RSA 399-D:14,I) - 2 counts;

2 Violation #3: Failure to provide a residential mortgage
3 loan modification (RSA 397-A:14,IV(b)) - 2 counts;

4 Violation #4: Failure to provide documents (RSA 397-A:12,I
5 and/or RSA 399-D:22,VIII) - 1 count;

6 (2). Respondent Shenkar (as Control Person, Direct Owner, and
7 Principal):

8 Violation #1: Unlicensed mortgage broker activity (RSA
9 397-A:3,I), and/or Unlicensed activity as a debt adjuster
10 (RSA 399-D:3,I) - 2 counts;

11 Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)
12 and/or RSA 399-D:14,I) - 2 counts;

13 Violation #3: Failure to provide a residential mortgage
14 loan modification (RSA 397-A:14,IV(b)) - 2 counts;

15 Violation #4: Failure to provide documents (RSA 397-A:12,I
16 and/or RSA 399-D:22,VIII) - 1 count;

17 (3). Respondent Tsirelson (as Control Person, Direct Owner, and
18 Principal):

19 Violation #1: Unlicensed mortgage broker activity (RSA
20 397-A:3,I), and/or Unlicensed activity as a debt adjuster
21 (RSA 399-D:3,I) - 2 counts;

22 Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)
23 and/or RSA 399-D:14,I) - 2 counts;

24 Violation #3: Failure to provide a residential mortgage
25 loan modification (RSA 397-A:14,IV(b)) - 2 counts;

1 Violation #4: Failure to provide documents (RSA 397-A:12,I
2 and/or RSA 399-D:22,VIII) - 1 count;

3 (4). Respondent Shrayev (as Control Person, Direct Owner, and
4 Principal):

5 Violation #1: Unlicensed mortgage broker activity (RSA
6 397-A:3,I), and/or Unlicensed activity as a debt adjuster
7 (RSA 399-D:3,I) - 2 counts;

8 Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)
9 and/or RSA 399-D:14,I) - 2 counts;

10 Violation #3: Failure to provide a residential mortgage
11 loan modification (RSA 397-A:14,IV(b)) - 2 counts;

12 Violation #4: Failure to provide documents (RSA 397-A:12,I
13 and/or RSA 399-D:22,VIII) - 1 count;

14 e. Nothing in this Order:

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

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

21 **SO ORDERED.**

22
23 _____ /s/
24 RONALD A. WILBUR
25 BANK COMMISSIONER

Dated: September 13, 2011