

) Case No.: 10-130
1	In re the Matter of:)
)
2	State of New Hampshire Banking)
)
3	Department,)
)
4	Petitioner,) <u>AMENDED</u> Order to Show Cause and
5	and) Cease and Desist
)
6	American Home Relief Foundation, LLC,)
)
7	David A. Schmidt, Nick Stanco, Law)
)
8	Office of Michael A. Perry, and)
)
9	Michael A. Perry, Esquire,)
)
10	Respondents)

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

12 1. This AMENDED Order commences an adjudicative proceeding under the
13 provisions of RSA Chapter 397-A (including RSA 397-A:17,I and II, RSA 397-
14 A:18,I and II, and RSA 397-A:20,IV) and RSA Chapter 541-A.

15 2. The Commissioner may impose administrative penalties of up to
16 \$2,500.00 for each violation. RSA 397-A:21,IV and V.

17 RESPONDENTS

18 3. American Home Relief Foundation, LLC ("Respondent American") is a
19 corporation duly incorporated in the State of Delaware on December 14, 2009,
20 with a principal office location of 5730 Executive Drive, Suite 230,
21 Baltimore, MD 21228. Respondent American is not registered with the New
22 Hampshire Secretary of State's Office. Respondent American is a "Person."
23 RSA 397-A:1,XVIII.

24 4. The National Mortgage Licensing System & Registry ("NMLS") does not
25 indicate that Respondent American has ever held a license as a mortgage

1 broker. The New Hampshire Banking Department's ("Department") records do not
2 indicate that Respondent American has ever held a New Hampshire Mortgage
3 Broker license.

4 5. David A. Schmidt ("Respondent Schmidt") is the President of Respondent
5 American. Respondent Schmidt is a Control person (RSA 397-A:21,V-a), a
6 Principal (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person
7 (RSA 397-A:1,XVIII).

8 6. NMLS does not indicate that Respondent Schmidt has ever held a license
9 as a mortgage broker. The Department's records do not indicate that
10 Respondent Schmidt has ever held a New Hampshire Mortgage Broker license.

11 7. Nick Stanco ("Respondent Stanco") is the Vice President of Respondent
12 American. Respondent Stanco is a Control person (RSA 397-A:21,V-a), a
13 Principal (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person
14 (RSA 397-A:1,XVIII).

15 8. NMLS does not indicate that Respondent Stanco has ever held a license
16 as a mortgage broker. The Department's records do not indicate that
17 Respondent Stanco has ever held a New Hampshire Mortgage Broker license.

18 9. Law Office of Michael A. Perry ("Respondent Law Office") is a business
19 with a principal office of 10400 Eaton Place, Fairfax, VA 22030. Respondent
20 Law Office is a "Person." RSA 397-A:1,XVIII.

21 10. NMLS does not indicate that Respondent Law Office has ever held a
22 license as a mortgage broker. The Department's records do not indicate that
23 Respondent Law Office has ever held a New Hampshire Mortgage Broker license.

24 11. Michael A. Perry, Esquire ("Respondent Perry") is an attorney licensed
25 in the Commonwealth of Virginia and the founder of Respondent American with

1 a principal office location of 10400 Eaton Place Suite 420, Fairfax, VA
2 22030. Respondent Perry is a Control person (RSA 397-A:21,V-a), a Principal
3 (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person (RSA 397-
4 A:1,XVIII).

5 12. NMLS does not indicate that Respondent Perry has ever held a license
6 as a mortgage broker. The Department's records do not indicate that
7 Respondent Perry has ever held a New Hampshire Mortgage Broker license.

8 13. The above-named Respondents are hereinafter collectively known as
9 "Respondents".

10 **RIGHT TO REQUEST A HEARING**

11 14. Respondents have a right to request a hearing on this Order. A hearing
12 shall be held not later than ten (10) days after the Commissioner receives
13 the Respondent's written request for a hearing. Respondents may request a
14 hearing and waive the ten (10) day hearing requirement. The hearing shall
15 comply with RSA Chapter 541-A. RSA 397-A:17 and RSA 397-A:18.

16 15. If any person fails to request a hearing within thirty (30) days of
17 receiving this Order, then such person shall be deemed in default, and the
18 Order shall, on the thirty-first (31st) day, become permanent, all
19 allegations may be deemed true, and shall remain in full force and effect
20 until modified or vacated by the Commissioner for good cause shown. RSA
21 397-A:17,I and RSA 397-A:18.

22 16. A default may result in administrative fines as described in Paragraph
23 2 above.

24 **STATEMENT OF ALLEGATIONS**

25 17. On July 23, 2010, the Department received a call from a New Hampshire

1 resident (Consumer A) concerning Respondents' mortgage loan modification
2 activities within the State of New Hampshire.

3 18. The Department's investigator discovered Respondents had entered into
4 a written contract with Consumer A to provide mortgage loan modification
5 assistance, in violation of RSA 397-A:3,I, II, and III. The contract
6 expressed in writing that the agreement was between Consumer A and the "Law
7 Office of Michael A. Perry/American Home Relief Foundation".

8 19. Respondents charged Consumer A a fee of \$1,495.00 of which \$495.00 was
9 due in advance in violation of RSA 397-A:14,IV(m). This advance fee was
10 nonrefundable in violation of RSA 397-A:14,IV(b).

11 20. On August 27, 2010, the Department sent a letter via U.S. Certified
12 Mail return receipt requested to Respondents requesting that Respondents
13 submit an application for licensure within seven (7) days. Respondents
14 received this letter on August 30, 2010.

15 21. On September 20, 2010, Respondent Perry contacted the Department
16 concerning the Department's August 27, 2010 correspondence. The Department
17 agreed to Stay a Cease and Desist upon condition that Respondents:

- 18 a. Apply for appropriate (Mortgage Broker and Mortgage Loan Originator)
19 licensure with the Department within thirty (30) days;
- 20 b. Immediately cease and desist from violating RSA Chapter 397-A in the
21 State of New Hampshire;
- 22 c. Resolve Consumer A's complaint; and
- 23 d. Submit a transaction list to the Department with ten (10) days
24 detailing name, date, address, and fees for all New Hampshire consumer
25 contracts for the past calendar year.

22. Respondents submitted to the Department a New Hampshire consumer list indicating that Respondents had transacted business with thirteen (13) New Hampshire consumers ("Consumers A-M", listed below) and collected a total of \$19,435.00 in fees between June 8, 2010 and August 2, 2010 in violation of RSA 397-A:3,I, RSA 397-A:14,IV(m), and RSA 397-A:14,IV(d):

<u>Consumer</u>	<u>Agreement Date</u>	<u>Amount Paid</u>	<u>Consumer</u>	<u>Agreement Date</u>	<u>Amount Paid</u>
Consumer A	July 9, 2010	\$1,495.00	Consumer H	July 29, 2010	\$1,495.00
Consumer B	July 7, 2010	\$1,495.00	Consumer I	July 9, 2010	\$1,495.00
Consumer C	June 28, 2010	\$1,495.00	Consumer J	June 18, 2010	\$1,495.00
Consumer D	June 14, 2010	\$1,495.00	Consumer K	June 23, 2010	\$1,495.00
Consumer E	June 8, 2010	\$1,495.00	Consumer L	July 7, 2010	\$1,495.00
Consumer F	August 2, 2010	\$1,495.00	Consumer M	August 1, 2010	\$1,495.00
Consumer G	June 11, 2010	\$1,495.00			

23. To date, Respondents have failed to apply for a Mortgage Broker License and a Mortgage Loan Originator license with the Department.

24. To date, Respondents have failed to address Consumer A's complaint.

/s/

Ryan McFarland
Hearings Examiner

Dated: November 1, 2011

ORDER

25. **I hereby find as follows:**

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

b. Pursuant to 397-A:20,VI, this Order is necessary and appropriate to the public interest and for the protection of consumers and consistent

1 with the purpose and intent of New Hampshire banking laws;

2 c. The Department finds pursuant to RSA 397-A:17,II and RSA 397-
3 A:18,II, reasonable cause to issue an order to cease and desist; and

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

7 **26. Accordingly, it is hereby ORDERED that:**

8 a. Respondents shall cease and desist from violating RSA Chapter
9 397-A and rules or orders thereunder;

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

17 c. Respondents shall show cause why the Commissioner should not
18 enter an order of rescission, restitution, or disgorgement of profits in the
19 amount of at least \$19,435.00 (for Consumers A through M, as set out in
20 Paragraph 22 above);

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 American:

24 Violation #1: Unlicensed mortgage broker activity (RSA
25 397-A:3,I) - 13 counts;

1 Violation #2: Collecting an Advance Fee (RSA 397-
2 A:3,IV(m)) - 13 counts;

3 Violation #3: Hiring an unlicensed mortgage loan
4 originator (RSA 397-A:3,III) - 13 counts;

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

7 Violation #1: Unlicensed mortgage broker activity (RSA
8 397-A:3,I) - 13 counts;

9 Violation #2: Collecting an Advance Fee (RSA 397-
10 A:3,IV(m)) - 13 counts;

11 Violation #3: Hiring an unlicensed mortgage loan
12 originator (RSA 397-A:3,III) - 13 counts;

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

15 Violation #1: Unlicensed mortgage broker activity (RSA
16 397-A:3,I) - 13 counts;

17 Violation #2: Collecting an Advance Fee (RSA 397-
18 A:3,IV(m)) - 13 counts;

19 Violation #3: Hiring an unlicensed mortgage loan
20 originator (RSA 397-A:3,III) - 13 counts;

21 (4). Respondent Law Office:

22 Violation #1: Unlicensed mortgage broker activity (RSA
23 397-A:3,I) - 13 counts;

24 Violation #2: Collecting an Advance Fee (RSA 397-
25 A:3,IV(m)) - 13 counts;

1 Violation #3: Hiring an unlicensed mortgage loan
2 originator (RSA 397-A:3,III) - 13 counts;

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

5 Violation #1: Unlicensed mortgage broker activity (RSA
6 397-A:3,I) - 13 counts;

7 Violation #2: Collecting an Advance Fee (RSA 397-
8 A:3,IV(m)) - 13 counts;

9 Violation #3: Hiring an unlicensed mortgage loan
10 originator (RSA 397-A:3,III) - 13 counts;

11 e. Nothing in this Order:

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

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

18
19 **SO ORDERED.**

20
21 _____ /s/
22 RONALD A. WILBUR
23 BANK COMMISSIONER

Dated: November 1, 2011