

State of New Hampshire

State of New Hampshire
Banking Department

Docket # 10-130

v.

American Home Relief Foundation,
LLC, Law Office of Michael A. Perry
and Michael A. Perry, Esquire,

Order to Show Cause and Cease
and Desist

Respondents

Order to Show Cause and Cease and Desist (“Order”)

1. This Order commences an adjudicative proceeding under the provisions of RSA Chapter 397-A (including RSA 397-A:17, I and II, RSA 397-A:18, I and II and RSA 397-A:20, IV) and RSA Chapter 541-A.
2. The Commissioner may impose administrative fines up to a maximum of \$2,500.00 for each violation. RSA 397-A:21, IV and V.

Respondents

3. American Home Relief Foundation, LLC (“Respondent American”) is a corporation duly incorporated in the State of Delaware on December 14, 2009 with a principal office location of 5730 Executive Drive, Suite 230, Baltimore, MD 21228. Respondents operate a website at “homereliefusa.com” that states “Making Dreams Come True One Loan Modification at a Time.” Respondent American is a “Person.” RSA 397-A:1, XVIII.
4. Law Office of Michael A. Perry (“Respondent Law Office”) is a business with a principal office of 10400 Eaton Place, Fairfax, VA 22030. Respondent Law Office is a “Person.” RSA 397-A:1, XVIII.
5. The National Mortgage Licensing System (“NMLS”) indicates that Respondent American has never held a license as a mortgage broker. The New Hampshire Banking Department’s (“Department”) records indicate that Respondent American has never held a New Hampshire mortgage broker license.

6. Michael A. Perry, Esquire (“Respondent Perry”) is an attorney licensed in the Commonwealth of Virginia and the founder of Respondent American with a principal office location of 10400 Eaton Place Suite 420, Fairfax, VA 22030. Respondent Perry is a Direct Owner (RSA 397-A:1, VI-a), a Control person (RSA 397-A:21, V-a), a Principal (RSA 397-A:1, XIX) and a Person (RSA 397-A:1, XVIII).

7. NMLS indicates that Respondent Perry has never held a license as a mortgage loan originator.

8. The above-named parties are hereinafter collectively known as “Respondents”.

Right to Request a Hearing

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

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

11. A default may result in administrative fines as described in Paragraph 2 above.

Statement of Allegations

12. On July 23, 2010, the Department received a call from Consumer A, a New Hampshire resident, concerning Respondents’ mortgage loan modification activities within the State of New Hampshire.

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

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

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

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

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

17. 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 \$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			

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

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

20. To date, Respondents' website remains active and accessible to everyone, including New Hampshire consumers.

Alleged Violations:

Respondent American:

13 Counts for unlicensed activity as a mortgage broker

RSA 397-A:3, I and
RSA 397-A:14, IV (d)

13 Counts for hiring an unlicensed mortgage loan originator

RSA 397-A:3, III

13 Counts for collection of an advance fee for a mortgage loan modification

RSA 397-A:14, IV(m)

Respondent Law Office:

13 Counts for unlicensed activity as a mortgage broker

RSA 397-A:3, I and
RSA 397-A:14, IV (d)

13 Counts for hiring an unlicensed mortgage loan originator

RSA 397-A:3, III

13 Counts for collection of an advance fee for a mortgage loan modification
RSA 397-A:14, IV(m)

Respondent Perry (*as a control person, direct owner and principal*):

13 Counts for unlicensed activity as a mortgage broker
RSA 397-A:3, I and
RSA 397-A:14, IV (d)

13 Counts for hiring an unlicensed mortgage loan originator
RSA 397-A:3, III

13 Counts for collection of an advance fee for a loan modification
RSA 397-A:14, IV(m)

Respectfully Submitted:

_____/s/_____
Raef J. Granger
Hearings Examiner
N.H. Banking Department

04/19/11
Date:

Order

21. Whereas the Commissioner Finds:

- 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 RSA 397-A:20, VI, this Order is necessary and appropriate to the public interest and for the protection of consumers and consistent with the intent and purpose of New Hampshire banking laws;
- c. Pursuant to RSA 397-A:17, II and RSA 397-A:18, II, reasonable cause exists to issue an order to cease and desist;

- d. Pursuant to RSA 397-A:17, I and RSA 397-A:18, II, if Respondents fail to respond to this Order and/or default then all facts as alleged herein are deemed as true.

22. **Accordingly, it is hereby ORDERED that:**

- a. Respondents shall immediately cease and desist from violating RSA Chapter 397-A and rules or orders thereunder;
- b. Respondents shall within fourteen (14) days of the date of this Order provide to the Department a list of all New Hampshire consumers for whom Respondents have conducted or contracted to conduct mortgage modification activities. This list must include the names and contact information of the New Hampshire consumers, along with all monies charged, collected and waived (if applicable). The list shall also be accompanied by all contracts, checks to and from the consumer and any other documents in the New Hampshire consumers' files;
- c. Respondents shall show cause why the Commissioner should not enter an order of rescission, restitution, or disgorgement of profits and commissions for services rendered in the amount of \$19,435.00 back to Consumers A through M, as set out in Paragraph 17;
- d. Respondents shall show cause why the Commissioner should not recover costs for investigation of this matter in the minimum amount of \$2,250.00;
- e. Respondents shall show cause why administrative fines up to the maximum amount of \$2,500.00 for each violation should not be imposed, for a total minimum fine of \$92,500.00 per Respondent; and

