

State of New Hampshire

State of New Hampshire
Banking Department

Docket # 10-153

v.

American Forensic Loan Auditors:
(a/k/a AFLA: The Law Office of B.
Diego Hellewell), and Benjamin Diego
Hellewell

Complaint,
Order to Cease and Desist
and Show Cause

Respondents

Notice of Complaint, Order to Cease and Desist and Show Cause (“Order”)

1. This Order commences an adjudicative proceeding under the provisions of RSA Chapter 397-A (including RSA 397-A:17, I, RSA 397-A:20, IV and V, and RSA 397-A:17, IX) 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 Forensic Loan Auditors (a/k/a AFLA: The Law Office of B. Diego Hellewell) (“Respondent American Forensic”) is a company with a principal office location of 3699 Wilshire Blvd. Suite 220, Los Angeles, CA 90010. Internet search also shows this same address for the Law Office of Diego Hellewell. Respondent American Forensic is a “Person.” RSA 397-A:1, XVIII.
4. The National Mortgage Licensing System (“NMLS”) indicates that Respondent American Forensic has never held a license as a mortgage broker. The New Hampshire Banking Department’s (“Department”) records indicate that Respondent American Forensic has never held a New Hampshire Mortgage Broker license.

5. Benjamin Diego Hellewell (“Respondent Hellewell”) is an attorney who was admitted to the California State Bar June 1, 2009, but whose status is inactive with the California Bar in the State of California and the 100% owner of Respondent American Forensic with a contact address of P.O. Box 31382 Palm Beach Gardens, FL, 33420 and P.O. Box 2179, Culver City, CA 90231. Respondent Hellewell 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).
6. NMLS indicates that Respondent Hellewell has never held a license as a mortgage loan originator. The Department’s records indicate that Respondent Hellewell has never held a New Hampshire Mortgage Loan Originator license.
7. The above-named Respondents are hereinafter collectively known as “Respondents”.

Right to Request a Hearing

8. 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, I and RSA 397-A:18.
9. 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, I and RSA 397-A:18, II.
10. A default may result in administrative fines as described in Paragraph 2 above.

Statement of Allegations

11. On September 1, 2010, the Department received a Complaint from a New Hampshire consumer (“Consumer A”) against Respondents concerning mortgage loan modification services offered by Respondents.
12. In March of 2010, Respondents contacted Consumer A via telephone offering to reduce Consumer A’s mortgage interest rate and fix past due mortgage payments, in violation of RSA 397-A:3, I and RSA 397-A:3, III.
13. Respondents then sent Consumer A a “starter package” that Consumer A completed and returned to Respondents along with the requested \$2,000.00 “retainer.”
14. Respondents failed to provide a mortgage loan modification to Consumer A in violation of RSA 397-A:3, IV(m) and RSA 397-A:14, IV(b).
15. Respondents operated a website at “afla1online.com” that offered loan modification plans to New Hampshire consumers.
16. On September 13, 2010, the Department sent a letter via U.S. Certified Mail Return Receipt requested to Respondents requesting that they provide to the Department a list of Respondents’ transactions with New Hampshire consumers. Respondents received the letter on September 16, 2010.
17. To date, Respondents have failed to provide the information requested by the Department, in violation of RSA 397-A:12, I.
18. Respondent Hellewell acted as a mortgage loan originator without a license, in violation of RSA 397-A:3, II.
19. To date, Respondents have failed to refund Consumer A.

Alleged Violations

Respondent American
Forensic:

1 Count for unlicensed activity as a mortgage
broker

RSA 397-A:3, I

1 Count for contracting with a borrower to
earn a fee

RSA 397-A:14, IV(b)

1 Count for collecting an advance fee on a
loan modification

RSA 397-A:14, IV(m)

1 Count for failure to produce requested
documents

RSA 397-A:12, I

1 Count for retaining, employing, or otherwise
engaging an unlicensed loan originator

RSA 397-A:3, III

1 Count for unlicensed activity as a mortgage
broker

RSA 397-A:3, I

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

1 Count for contracting with a borrower to
earn a fee

RSA 397-A:14, IV(b)

1 Count for collecting an advance fee on a
loan modification

RSA 397-A:14, IV(m)

1 Count for failure to produce requested
documents

RSA 397-A:12, I

1 Count for retaining, employing, or otherwise
engaging an unlicensed loan originator

RSA 397-A:3, III

1 Count for unlicensed activity as a mortgage
loan originator (*individually*)

RSA 397-A:3, II

Respectfully Submitted:

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

04/12/11
Date:

Order

20. 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 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: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.

21. 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;
- 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 commissions for services rendered should not be disgorged;
- f. Respondents shall each 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 \$12,500.00 per Respondent;
- g. Respondents shall show cause why, in addition to administrative fines under RSA 397-A:21, IV and V, pursuant to RSA 397-A:17, IX, fines and penalties should not be paid up to the maximum amount of \$25,000.00 for each violation of the S.A.F.E. act should not be imposed, for a total penalty of \$25,000.00 for Respondent Hellewell individually as an unlicensed mortgage originator; and
- h. Nothing in this Order shall prevent either 1) the Department from taking any further administrative and legal action as necessary under New Hampshire law or 2) the New Hampshire Office of the Attorney General from bringing an action against the above-named Respondents in any New Hampshire superior court, with or without prior administrative action by the Commissioner.

SO ORDERED,

Entered this April 14, 2011.

/s/

Robert A. Fleury, Deputy Bank Commissioner
New Hampshire Banking Department