1	In re the Matter of:)Case No.: 10-429)
2	State of New Hampshire Banking)
3	Department,)
4	Petitioner,))Order to Show Cause and
5	and)Cease and Desist)
6	Home Safe America, Scott Schreiber,)
7	and Guy Samuel,)
8	Respondents)
9))
10	NOTICE OF ORDER TO SHOW CAUSE 2	AND CEASE AND DESIST ("ORDER")
11	1. This Order commences an adjudica	ative proceeding under the provisions
12	of RSA Chapter 397-A (including RSA 3	97-A:17,I and II, RSA 397-A:18,I and
13	II, and RSA 397-A:20,IV) and RSA Chapter 541-A.	
14	2. The Commissioner may impose	administrative penalties of up to
15	\$2,500.00 for each violation. RSA 397-A	:21,IV and V.
16	RESPON	DENTS
17	3. Home Safe America ("Respondent	Home Safe") is a limited liability
18	company incorporated in the State of N	ew York on December 2, 2008, where it
19	is located with a principal office	location in Levittown, NY. The
20	Respondents are not registered with th	ne New Hampshire Secretary of State's
21	Office. Respondent Home Safe is a "Per	son." RSA 397-A:1,XVIII.
22	4. The National Mortgage Licensing	System & Registry ("NMLS") does not
23	indicate that Respondent Home Safe ha	s ever held a license as a mortgage
24	broker. The New Hampshire Banking Depar	rtment's ("Department") records do not
25		

1 indicate that Respondent Home Safe has ever held a New Hampshire Mortgage
2 Broker license.

3 5. Scott Schreiber ("Respondent Schreiber") is listed by the Better 4 Business Bureau as the Co-Owner of Respondent Home Safe and is also listed 5 with the New York Department of State. Respondent Schreiber is a Control 6 person (RSA 397-A:21,V-a), a Principal (RSA 397-A:1,XIX), a Direct Owner 7 (RSA 397-A:1 VI-a), and a Person (RSA 397-A:1,XVIII).

NMLS does not indicate that Respondent Schreiber has ever held a 8 6. license as a mortgage broker. The Department's records do not indicate that 9 10 Respondent Schreiber has ever held a New Hampshire Mortgage Broker license. Guy Samuel ("Respondent Samuel") is listed by the Better Business 11 7. Bureau as the Co-Owner of Respondent Home Safe and is also listed with the 12 13 New York Department of State. Respondent Samuel is a Control person (RSA 14 397-A:21,V-a), a Principal (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1 15 VI-a), and a Person (RSA 397-A:1,XVIII).

16 8. NMLS does not indicate that Respondent Samuel has ever held a license 17 as a mortgage broker. The Department's records do not indicate that 18 Respondent Samuel has ever held a New Hampshire Mortgage Broker license. 19 9. The above-named Respondents are hereinafter collectively known as

20 "Respondents".

21

RIGHT TO REQUEST A HEARING

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

1 comply with RSA Chapter 541-A. RSA 397-A:17 and RSA 397-A:18.

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

8 12. A default may result in administrative fines as described in Paragraph9 2 above.

10

STATEMENT OF ALLEGATIONS

11 13. On October 7, 2010, the Department received a complaint from a New 12 Hampshire consumer ("Consumer A") against Respondents concerning residential 13 mortgage loan modification services.

14 14. On October 4, 2010, Respondents contracted with Consumer A to modify
15 Consumer A's mortgage loan interest rate without a New Hampshire mortgage
16 broker license, in violation of RSA 397-A:3,I.

17 15. On October 4, 2010, Respondents collected an advance fee of \$1,000.00
18 from Consumer A, in violation of RSA 397-A:14, IV(m).

19 16. Respondents failed to provide a residential mortgage loan modification20 to Consumer A in violation of RSA 397-A:14, IV(b).

21 17. On December 1, 2010, the Department received a complaint from a New 22 Hampshire consumer ("Consumer B") against Respondents concerning residential 23 mortgage loan modification services.

24 18. On October 5, 2010, Respondents contracted with Consumer B to modify
25 Consumer B's mortgage loan interest rate without a New Hampshire mortgage

1 || broker license, in violation of RSA 397-A:3,I.

2 19. Respondents collected an advance fee of \$1,995.00 from Consumer B, in 3 violation of RSA 397-A:14, IV(m).

4 20. Respondents failed to provide a residential mortgage loan modification 5 to Consumer B, in violation of RSA 397-A:14, IV(b).

6 21. On December 22, 2010, the Department sent a letter via U.S. Certified 7 Mail return receipt requested to Respondents, suggesting Respondents apply 8 for licensure with the Department and resolution of Consumer A and Consumer 9 B's complaints. The U.S. Post Office indicates that the correspondence was 10 delivered on December 29, 2010 to Respondent Home Safe and on December 28, 11 2010 to Respondents Schreiber and Samuel.

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

<u>8/2/11</u> Date

ORDER

18 23. I hereby find as follows:

/s/ Ryan McFarland

Hearings Examiner

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
with the purpose and intent of New Hampshire banking laws;

25

12

13

14

15

16

17

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

1 A:18, II, reasonable cause to issue an order to cease and desist; and

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

24. Accordingly, it is hereby ORDERED that:

5

21

22

23

24

25

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

b. Respondents shall immediately provide the Department a list of
all New Hampshire consumers for whom Respondents have residential mortgage
loan modification activity and a status of those accounts. This list must
include the names and contact information of the New Hampshire consumers,
along with 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;

15 c. Respondents shall show cause why the Commissioner should not 16 enter an order of rescission, restitution, or disgorgement of profits in the 17 amount of at least \$1,000.00 (for Consumer A) and \$1,995.00 (for Consumer 18 B);

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

(1). Respondent Home Safe:

Violation #1: Unlicensed mortgage broker activity (RSA 397-A:3,I) - 2 Counts; Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)) - 2 Counts;

1	Violation #3: Failure to provide a residential mortgage
2	loan modification (RSA 397-A:14,IV(b)) - 2 Counts;
3	Violation #4: Failure to provide documents (RSA 397-
4	A:12,I) - 2 Counts;
5	(2). Respondent Schreiber (as Control Person, Direct Owner, and
6	Principal):
7	Violation #1: Unlicensed mortgage broker activity (RSA
8	397-A:3,I) - 2 Counts;
9	Violation #2: Collecting an Advance Fee (RSA 397-
10	A:3, IV(m)) - 2 Counts;
11	Violation #3: Failure to provide a residential mortgage
12	loan modification (RSA 397-A:14,IV(b)) - 2 Counts;
13	Violation #4: Failure to provide documents (RSA 397-
14	A:12,I) - 2 Counts;
15	(3). Respondent Samuel (as Control Person, Direct Owner, and
16	Principal):
17	Violation #1: Unlicensed mortgage broker activity (RSA
18	397-A:3,I) - 2 Counts;
19	Violation #2: Collecting an Advance Fee (RSA 397-
20	A:3, IV(m)) - 2 Counts;
21	Violation #3: Failure to provide a residential mortgage
22	loan modification (RSA 397-A:14,IV(b)) - 2 Counts;
23	Violation #4: Failure to provide documents (RSA 397-
24	A:12,I) - 2 Counts;
25	e. Nothing in this Order:

1	(1). shall prevent the Department from taking any further
2	administrative and legal action as necessary under New Hampshire law; and
3	(2). shall prevent the New Hampshire Office of the Attorney
4	General from bringing an action against the above named Respondents in any
5	New Hampshire superior court, with or without prior administrative action by
6	the Commissioner.
7	
8	SO ORDERED.
9	
10	/s/ Dated: <u>August 3, 2011</u> RONALD A. WILBUR
11	BANK COMMISSIONER
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
	Order to Show Cause and Cease and Desist- 7