

1 In re the Matter of:) Case No.: 10-481
)
 2 State of New Hampshire Banking)
)
 3 Department,)
)
 4 Petitioner,) Order to Show Cause and
) Cease and Desist
 5 and)
)
 6 ICU Financial Services, Inc.,)
)
 7 Christopher L. Stafford, Esq.,)
)
 8 [REDACTED], and Ben)
)
 9 Hirshman,)
)
 10 Respondents)
)
 11)

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

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

16 2. The Commissioner may impose administrative penalties of up to
 17 \$2,500.00 for each violation. RSA 397-A:21,IV and V.

18 RESPONDENTS

19 3. ICU Financial Services, Inc. ("Respondent ICU Financial") is a
 20 corporation duly incorporated in the State of California on February 1,
 21 2010, with a principal office location in Foothill Ranch, California.
 22 Respondent ICU Financial is listed by the California Secretary of State's
 23 office as "Dissolved". Respondent ICU Financial is not registered with the
 24 New Hampshire Secretary of State's Office. Respondent ICU Financial is a
 25 "Person." RSA 397-A:1,XVIII.

1 4. The National Mortgage Licensing System & Registry ("NMLS") does not
2 indicate that Respondent ICU Financial has ever held a license as a mortgage
3 broker. The New Hampshire Banking Department's ("Department") records do not
4 indicate that Respondent ICU Financial has ever held a New Hampshire
5 Mortgage Broker license.

6 5. Christopher L. Stafford, Esq. ("Respondent C. Stafford") is the Chief
7 Executive Officer of Respondent ICU Financial. Respondent C. Stafford is an
8 attorney licensed to practice in the State of California since December 5,
9 2006. Respondent C. Stafford is a Control person (RSA 397-A:21,V-a), a
10 Principal (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person
11 (RSA 397-A:1,XVIII).

12 6. NMLS does not indicate that Respondent C. Stafford has ever held a
13 license as a mortgage broker. The Department's records do not indicate that
14 Respondent C. Stafford has ever held a New Hampshire Mortgage Broker
15 license.

16 7. [REDACTED] ("Respondent [REDACTED]") is the General
17 Counsel of Respondent ICU Financial. Respondent [REDACTED] is an attorney
18 licensed to practice in the State of [REDACTED] since [REDACTED].
19 Respondent [REDACTED] is a Control person (RSA 397-A:21,V-a), a Principal
20 (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person (RSA 397-
21 A:1,XVIII).

22 8. NMLS does not indicate that Respondent [REDACTED] has ever held a
23 license as a mortgage broker. The Department's records do not indicate that
24 Respondent [REDACTED] has ever held a New Hampshire Mortgage Broker
25 license.

1 9. Ben Hirshman ("Respondent Hirshman") is listed by the Better Business
2 Bureau as the General Manager of Respondent ICU Financial. Respondent
3 Hirshman is also listed as an agent of Respondent ICU Financial with the
4 California Secretary of State's office. Respondent Hirshman is a Control
5 person (RSA 397-A:21,V-a), a Principal (RSA 397-A:1,XIX), a Direct Owner
6 (RSA 397-A:1 VI-a), and a Person (RSA 397-A:1,XVIII).

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

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

12 **RIGHT TO REQUEST A HEARING**

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

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

24 14. A default may result in administrative fines as described in Paragraph
25 2 above.

STATEMENT OF ALLEGATIONS

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2 15. On October 21, 2010, the Department received a complaint from a New
3 Hampshire consumer ("Consumer A") against Respondents concerning residential
4 mortgage loan modification services.

5 16. On March 21, 2010, Respondents contracted with Consumer A to modify
6 Consumer A's mortgage loan without a New Hampshire mortgage broker license,
7 in violation of RSA 397-A:3,I.

8 17. Respondents collected an advance fee of \$1,600.00 from Consumer A, in
9 violation of RSA 397-A:14,IV(m).

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

12 19. On July 7, 2011, the Department sent a letter via U.S. Certified Mail
13 return receipt requested to Respondents at the Foothill Ranch, California
14 address, suggesting Respondents apply for licensure with the Department,
15 requesting documents relative to New Hampshire consumers, and requesting a
16 resolution to the consumer complaint. The U.S. Post Office returned the
17 letter on August 1, 2011 indicating, "Return to Sender, Attempted Not
18 Known".

19 20. On July 7, 2011, the Department sent a letter via U.S. Certified Mail
20 return receipt requested to Respondents at the Rancho Santa Margarita,
21 California address, suggesting Respondents apply for licensure with the
22 Department, requesting documents relative to New Hampshire consumers, and
23 requesting a resolution to the consumer complaint. The U.S. Post Office
24 returned the letter on August 8, 2011 indicating, "Return to Sender,
25 Unclaimed".

1 21. On July 7, 2011, the Department sent a letter via facsimile to
2 Respondents, suggesting Respondents apply for licensure with the Department,
3 requesting documents relative to New Hampshire consumers, and requesting a
4 resolution to the consumer complaint. The Department received a report that
5 indicated the facsimile was transmitted properly on July 7, 2011.

6 22. On July 7, 2011, the Department sent a letter via email to Respondent
7 C. Stafford and to Respondent [REDACTED] at the email addresses provided by
8 the State Bar of California, suggesting Respondents apply for licensure with
9 the Department, requesting documents relative to New Hampshire consumers,
10 and requesting a resolution to the consumer complaint.

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

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

Dated: September 14, 2011

17 **ORDER**

18 24. **I hereby find as follows:**

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

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

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

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

4 25. Accordingly, it is hereby ORDERED that:

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

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

14 c. Respondents shall show cause why the Commissioner should not
15 enter an order of rescission, restitution, or disgorgement of profits in the
16 amount of at least \$1,600.00 (for Consumer A);

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

19 (1). Respondent ICU Financial:

20 Violation #1: Unlicensed mortgage broker activity (RSA
21 397-A:3,I) - 1 count;

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

24 Violation #3: Failure to provide a residential mortgage
25 loan modification (RSA 397-A:14,IV(b)) - 1 count;

1 Violation #4: Failure to provide documents (RSA 397-
2 A:12,I) - 1 count;

3 (2). Respondent C. Stafford (as Control Person, Direct Owner,
4 and Principal):

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

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

9 Violation #3: Failure to provide a residential mortgage
10 loan modification (RSA 397-A:14,IV(b)) - 1 count;

11 Violation #4: Failure to provide documents (RSA 397-
12 A:12,I) - 1 count;

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

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

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

19 Violation #3: Failure to provide a residential mortgage
20 loan modification (RSA 397-A:14,IV(b)) - 1 count;

21 Violation #4: Failure to provide documents (RSA 397-
22 A:12,I) - 1 count;

23 (4). Respondent Hirshman (as Control Person, Direct Owner, and
24 Principal):

25 Violation #1: Unlicensed mortgage broker activity (RSA

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397-A:3,I) - 1 count;
Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)) - 1 count;
Violation #3: Failure to provide a residential mortgage loan modification (RSA 397-A:14,IV(b)) - 1 count;
Violation #4: Failure to provide documents (RSA 397-A:12,I) - 1 count;

e. Nothing in this Order:

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

(2). shall prevent 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.

_____/s/
RONALD A. WILBUR
BANK COMMISSIONER

Dated: September 15, 2011