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| 1 | In re the Matter of: |) Case No.: 11-084 |
| | |) |
| 2 | State of New Hampshire Banking |) |
| | |) |
| 3 | Department, |) |
| | |) |
| 4 | Petitioner, |) Order to Show Cause and |
| 5 | and |) Cease and Desist |
| | |) |
| 6 | Procorp Debt Solutions, LLC, Kevin |) |
| | |) |
| 7 | Garbowit, Peter Brooke, Thomas |) |
| | |) |
| 8 | McDonald, and Reliable Response |) |
| | |) |
| 9 | Marketing, LLC, |) |
| | |) |
| 10 | Respondents |) |

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

12 1. This Order commences an adjudicative proceeding under the provisions
13 of RSA Chapter 399-D (including RSA 399-D:13,I, RSA 399-D:23,I and II, RSA
14 399-D:24, IV and V and RSA 399-D:25,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 399-D:24,IV and V.

17 RESPONDENTS

18 3. Procorp Debt Solutions, LLC ("Respondent Procorp") is a limited
19 liability company incorporated in the State of Florida on February 13, 2008,
20 with a principal office location in Deerfield Beach, Florida. The
21 Respondents are not registered with the New Hampshire Secretary of State's
22 Office. Respondent Procorp is a "Person." RSA 399-D:1,VII.

23 4. The New Hampshire Banking Department's ("Department") records do not
24 indicate that Respondent Procorp has ever held a New Hampshire Debt Adjuster
25 license.

1 5. Kevin Garbowit ("Respondent Garbowit") is listed in the Florida
2 Secretary of State filings as a Managing Member of Respondent Procorp from
3 February 13, 2008 until April 23, 2010. Respondent Garbowit is a Control
4 Person (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal
5 (RSA 399-D:2,VII-a), and a Person (RSA 399-D:2,VII).

6 6. The New Hampshire Banking Department's ("Department") records do not
7 indicate that Respondent Garbowit has ever held a New Hampshire Debt
8 Adjuster license.

9 7. Peter Brooke ("Respondent Brooke") is listed in the Florida Secretary
10 of State filings as a Managing Member of Respondent Procorp from February
11 13, 2008 until April 23, 2010. Respondent Brooke is a Control Person (RSA
12 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal (RSA 399-
13 D:2,VII-a), and a Person (RSA 399-D:2,VII).

14 8. The New Hampshire Banking Department's ("Department") records do not
15 indicate that Respondent Brooke has ever held a New Hampshire Debt Adjuster
16 license.

17 9. Thomas McDonald ("Respondent McDonald") is listed in the Florida
18 Secretary of State filings as a Managing Member of Respondent Procorp from
19 April 23, 2010 until February 9, 2011. Respondent McDonald is a Control
20 Person (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal
21 (RSA 399-D:2,VII-a), and a Person (RSA 399-D:2,VII).

22 10. The New Hampshire Banking Department's ("Department") records do not
23 indicate that Respondent McDonald has ever held a New Hampshire Debt
24 Adjuster license.

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1 11. Reliable Response Marketing, LLC. ("Respondent Reliable") is a limited
2 liability company incorporated in the State of Delaware on September 15,
3 2010 with a principal address in Boca Raton, Florida. Respondent Reliable
4 is listed in the Florida Secretary of State filings as a Managing Member of
5 Respondent Procorp as of February 9, 2011. Respondent Reliable is a Control
6 Person (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal
7 (RSA 399-D:2,VII-a), and a Person (RSA 399-D:2,VII).

8 12. The New Hampshire Banking Department's ("Department") records do not
9 indicate that Respondent Reliable has ever held a New Hampshire Debt
10 Adjuster license.

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

13 **RIGHT TO REQUEST A HEARING**

14 14. Respondents have a right to request a hearing on this Order. A hearing
15 shall be held not later than ten (10) days after the Commissioner receives
16 the Respondent's written request for a hearing. Respondents may request a
17 hearing and waive the ten (10) day hearing requirement. The hearing shall
18 comply with RSA Chapter 541-A. RSA 399-D:13,I and RSA 399-D:23, I and II.

19 15. If any person fails to request a hearing within thirty (30) days of
20 receiving this Order, then such person shall be deemed in default, and the
21 Order shall, on the thirty-first (31st) day, become permanent, all
22 allegations may be deemed true, and shall remain in full force and effect
23 until modified or vacated by the Commissioner for good cause shown. RSA
24 399-D:13,I and RSA 399-D:23,II.

25 16. A default may result in administrative fines as described in Paragraph

1 2 above.

2 STATEMENT OF ALLEGATIONS

3 17. On January 25, 2011, the Department received a complaint against
4 Respondent from a New Hampshire consumer ("Consumer A") alleging that
5 Respondents failed to provide debt relief assistance or refund money paid
6 for this assistance.

7 18. On February 17, 2010, Respondents had contracted with Consumer A to
8 negotiate and settle consumer debt on behalf of Consumer A. The contract
9 provided that Consumer A would pay \$426.67 per month for a period of thirty-
10 six (36) months with included \$222.30 in administrative fees paid to
11 Respondent for the first fifteen (15) months, \$9.85 in bank fees paid for
12 the thirty-six (36) months period, with the remainder being held in a non-
13 interest bearing account. Respondents charged an advanced fee and an
14 unequally amortized fee, both in violation of RSA 399-D:14,I.

15 19. The contract also provided that Respondent would not negotiate any
16 settlements with Consumer A's creditors until sufficient funds have been
17 saved in the set-aside account to effect a settlement, in violation of RSA
18 399-D:14,II.

19 20. By October 31, 2010, Respondent had collected \$1,778.40 in fees from
20 Consumer A, without either the written consent of Consumer A's creditors or
21 any payments made to Consumer A's creditors, in violation of RSA 399-D:14,I
22 and II.

23 21. Respondent failed to conduct any debt negotiations on behalf of
24 Consumer A, and has failed to use any of the funds to pay Consumer A's
25 creditors, in violation of RSA 399-D:15,I(b).

1 22. On April 20, 2011, the Department sent a letter via U.S. Mail to
2 Respondent, suggesting Respondent apply for licensure with the Department,
3 provide requested documentation and resolution of Consumer A's complaint.
4 The correspondence was return by the U.S. Mail with a new forwarding address
5 for the Respondent.

6 23. On May 3, 2011, the Department sent a letter via U.S. Mail to
7 Respondent, suggesting Respondent apply for licensure with the Department,
8 provide requested documentation and resolution of Consumer A's complaint.
9 This correspondence has not been returned to the Department.

10 24. To date, Respondents have failed respond or to provide any of the
11 information requested by the Department, in violation of RSA 399-D:22,VIII.

12 25. To date, Respondent has failed to return \$1778.40 of Consumer A's
13 funds.

14
15 _____ /s/
16 Ryan McFarland
Hearings Examiner

August 8, 2011
Date

17 **ORDER**

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

19 a. Pursuant to RSA 399-D:13,I, the facts as alleged above, if true,
20 show Respondents are operating or have operated in violation of RSA Chapter
21 399-D and form the legal basis for this Order;

22 b. Pursuant to 399-D:25,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 399-D:23,II reasonable

1 cause to issue an order to cease and desist; and

2 d. Pursuant to RSA 399-D:13,I and RSA 399-D:23,II, if any
3 Respondent fails to respond to this Order and/or defaults then all facts as
4 alleged herein are deemed as true.

5 27. **Accordingly, it is hereby ORDERED that:**

6 a. Respondents shall cease and desist from violating RSA Chapter
7 399-D and rules or orders thereunder;

8 b. Respondents shall immediately provide the Department a list of
9 all New Hampshire consumers for whom Respondents have conducted or
10 contracted to conduct debt adjustment activities. This list must include
11 the names and contact information of the New Hampshire consumers, along with
12 all monies charged, collected, and waived (if applicable). The list shall
13 also be accompanied by all contracts, checks to and from the consumer and
14 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 \$1,778.40 (Consumer A);

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

20 (1). Respondent Procorp:

21 Violation #1: Unlicensed activity as a debt adjuster (RSA
22 399-D:3,I) - 1 Count;

23 Violation #2: Collecting a Fee prior to payment to
24 creditors (RSA 399-D:14,I) - 1 Count;

25 Violation #3: Collecting an Unequally amortized fee (RSA

1 399-D:14,I) - 1 Count;

2 Violation #4: Collecting a Fee without consent of the
3 creditors (RSA 399-D:14,II) - 1 Count;

4 Violation #5: Failure to provide documents (RSA 399-
5 D:22,VIII) - 1 Count;

6 (2). Respondent Garbowit (as Control Person, Direct Owner, and
7 Principal):

8 Violation #1: Unlicensed activity as a debt adjuster (RSA
9 399-D:3,I) - 1 Count;

10 Violation #2: Collecting a Fee prior to payment to
11 creditors (RSA 399-D:14,I) - 1 Count;

12 Violation #3: Collecting an Unequally amortized fee (RSA
13 399-D:14,I) - 1 Count;

14 Violation #4: Collecting a Fee without consent of the
15 creditors (RSA 399-D:14,II) - 1 Count;

16 Violation #5: Failure to provide documents (RSA 399-
17 D:22,VIII) - 1 Count;

18 (3). Respondent Brooke (as Control Person, Direct Owner, and
19 Principal):

20 Violation #1: Unlicensed activity as a debt adjuster (RSA
21 399-D:3,I) - 1 Count;

22 Violation #2: Collecting a Fee prior to payment to
23 creditors (RSA 399-D:14,I) - 1 Count;

24 Violation #3: Collecting an Unequally amortized fee (RSA
25 399-D:14,I) - 1 Count;

1 Violation #4: Collecting a Fee without consent of the
2 creditors (RSA 399-D:14,II) - 1 Count;

3 Violation #5: Failure to provide documents (RSA 399-
4 D:22,VIII) - 1 Count;

5 (4). Respondent McDonald (as Control Person, Direct Owner, and
6 Principal):

7 Violation #1: Unlicensed activity as a debt adjuster (RSA
8 399-D:3,I) - 1 Count;

9 Violation #2: Collecting a Fee prior to payment to
10 creditors (RSA 399-D:14,I) - 1 Count;

11 Violation #3: Collecting an Unequally amortized fee (RSA
12 399-D:14,I) - 1 Count;

13 Violation #4: Collecting a Fee without consent of the
14 creditors (RSA 399-D:14,II) - 1 Count;

15 Violation #5: Failure to provide documents (RSA 399-
16 D:22,VIII) - 1 Count;

17 (5). Respondent Reliable (as Control Person, Direct Owner, and
18 Principal):

19 Violation #1: Unlicensed activity as a debt adjuster (RSA
20 399-D:3,I) - 1 Count;

21 Violation #2: Collecting a Fee prior to payment to
22 creditors (RSA 399-D:14,I) - 1 Count;

23 Violation #3: Collecting an Unequally amortized fee (RSA
24 399-D:14,I) - 1 Count;

25 Violation #4: Collecting a Fee without consent of the

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creditors (RSA 399-D:14,II) - 1 Count;

Violation #5: Failure to provide documents (RSA 399-D:22,VIII) - 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: August 10, 2011