

1 In re the Matter of:) Case No.: 11-143
)
 2 State of New Hampshire Banking)
)
 3 Department,)
)
 4 Petitioner,)
)
 5 and)
) Order to Show Cause and
 6 American Servicing and Recovery Group,) Cease and Desist
)
 7 LLC, ASRG Investment Partners LP, ASRG)
)
 8 Partners, LLC, DeWit Talmage Ray III,)
)
 9 Kenneth Murchison, Rick Justin)
)
 10 O'Brien, William Stewart Buchanan,)
)
 11 ASRG Investors, LLC, and Central)
)
 12 Investments, LLC,)
)
 13 Respondents)

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

15 1. This Order commences an adjudicative proceeding under the provisions
 16 of RSA Chapter 397-B (including RSA 397-B:3,VIII and IX, and RSA 397-
 17 B:3,III) and RSA Chapter 541-A.

18 2. The Commissioner may impose administrative penalties of up to
 19 \$2,500.00 for each violation. RSA 397-B:6,IV and V.

20 RESPONDENTS

21 3. American Servicing and Recovery Group, LLC ("Respondent American
 22 Servicing and Recovery") is a limited liability company duly formed with the
 23 Texas Secretary of State on November 6, 2008. Respondent American Servicing
 24 and Recovery was registered with the New Hampshire Secretary of State on
 25 March 12, 2009 with a principal office location in Dallas, Texas. Respondent

1 American Servicing and Recovery is a Mortgage Servicing Company. RSA 397-
2 B:1,III.

3 4. Respondent American Servicing and Recovery has been registered as a
4 Mortgage Servicer with the New Hampshire Banking Department ("Department")
5 since at least July 22, 2009.

6 5. Respondent American Servicing and Recovery is registered with the
7 Nationwide Mortgage Licensing System & Registry ("NMLS") and carries a
8 number of licenses as follows: Alabama (approved Consumer Credit License);
9 Iowa (approved Mortgage Banker License); Minnesota (approved Residential
10 Mortgage Servicer License); Mississippi (approved Mortgage Lender License);
11 Ohio (approved Mortgage Loan Act Certificate of Registration); Oklahoma
12 (approved Mortgage Broker License); and South Dakota (Expired Mortgage
13 Lender License).

14 6. ASRG Investment Partners LP ("Respondent ASRG") is a limited
15 Partnership with a principal office location in Dallas, Texas. Respondent
16 ASRG is the 74.08% direct owner of Respondent American Servicing and
17 Recovery. Respondent ASRG is a Direct Owner (RSA 397-B:1,I-c) a Control
18 owner (RSA 397-B:1,I-a) and a Principal (RSA 397-B:1,V).

19 7. ASRG Partners, LLC ("Respondent ASRG Partners") is a limited liability
20 company duly formed with the Delaware Secretary of State on November 5, 2008
21 with a principal office location in Dallas, Texas. Respondent ASRG is the
22 25.92% direct owner and control person of Respondent American Servicing and
23 Recovery. Respondent ASRG Partners is a Direct Owner (RSA 397-B:1,I-c), a
24 Control owner (RSA 397-B:1,I-a) and a Principal (RSA 397-B:1,V).

25 8. DeWit Talmage Ray, III ("Respondent Ray") is the Chief Executive

1 Officer and control person of Respondent American Servicing and Recovery.
2 Respondent Ray is a Direct Owner (RSA 397-B:1,I-c), a Control owner (RSA
3 397-B:1,I-a) and a Principal (RSA 397-B:1,V).

4 9. Kenneth Murchison ("Respondent Murchison") is the Vice President,
5 Secretary and control person of Respondent American Servicing and Recovery.
6 Respondent Murchison is a Direct Owner (RSA 397-B:1,I-c), a Control owner
7 (RSA 397-B:1,I-a) and a Principal (RSA 397-B:1,V).

8 10. Rick Justin O'Brien ("Respondent O'Brien" is the President and control
9 person of Respondent American Servicing and Recovery. Respondent O'Brien is
10 a Direct Owner (RSA 397-B:1,I-c), a Control owner (RSA 397-B:1,I-a) and a
11 Principal (RSA 397-B:1,V).

12 11. William Stewart Buchanan ("Respondent Buchanan") is the Vice President
13 and control person of Respondent American Servicing and Recovery.
14 Respondent Buchanan is a Direct Owner (RSA 397-B:1,I-c), a Control owner
15 (RSA 397-B:1,I-a) and a Principal (RSA 397-B:1,V).

16 12. ASRG Investors, LLC ("Respondent ASRG Investors, LLC") is the 56.74%
17 direct owner of Respondent ASRG and an indirect owner of Respondent American
18 Servicing and Recovery. Respondent ASRG Investors, LLC is a Direct Owner
19 (RSA 397-B:1,I-c), an Indirect Owner (RSA 397-B:1,II-a) and a Principal (RSA
20 397-B:1,V).

21 13. Central Investments, LLC ("Respondent Central") is the 33.56% direct
22 owner of Respondent ASRG and an indirect owner of Respondent American
23 Servicing and Recovery. Respondent Central is a Direct Owner (RSA 397-
24 B:1,I-c), an Indirect Owner (RSA 397-B:1,II-a) and a Principal (RSA 397-
25 B:1,V).

1 14. The above-named Respondents are hereinafter collectively known as
2 "Respondents".

3 **RIGHT TO REQUEST A HEARING**

4 15. Respondents have a right to request a hearing on this Order. A hearing
5 shall be held not later than ten (10) days after the Commissioner receives
6 the Respondent's written request for a hearing. Respondents may request a
7 hearing and waive the ten (10) day hearing requirement. The hearing shall
8 comply with RSA Chapter 541-A. RSA 397-B:3.

9 16. If any person fails to request a hearing within thirty (30) days of
10 receiving this Order, then such person shall be deemed in default, and the
11 Order shall, on the thirty-first (31st) day, become permanent, all
12 allegations may be deemed true, and shall remain in full force and effect
13 until modified or vacated by the Commissioner for good cause shown. RSA
14 397-B:3.

15 17. A default may result in administrative fines as described in Paragraph
16 2 above.

17 **STATEMENT OF ALLEGATIONS**

18 18. On May 2, 2011, the Department's Licensing Division received a bond
19 cancellation notice for Respondent American Servicing and Recovery with an
20 effective cancellation date of May 22, 2011.

21 19. On May 3, 2011, the Department sent Respondents a certified letter
22 requesting replacement or reinstatement of the surety bond before the
23 effective cancellation date of May 22, 2011.

24 20. On May 3, 2011, the Department telephoned the Licensing Contact for
25 Respondent American Servicing and Recovery. The Department also forwarded a

1 letter of the same date via U.S. Certified Mail, Return Receipt requested.

2 Respondents received the certified letter on May 9, 2011.

3 21. On May 18, 2011, the Department emailed the Licensing Contact for
4 Respondent American Servicing and Recovery as a reminder about the surety
5 bond cancellation.

6 22. On May 19, 2011, the Department telephoned the Licensing Contact for
7 Respondent American Servicing and Recovery. The Licensing Contact informed
8 the Department that the surety bond was being reinstated and would be
9 available by the end of the week.

10 23. On May 22, 2011, the surety bond cancelled while Respondent American
11 Servicing and Recovery still has an active Department Mortgage Servicer
12 Registration, in violation of RSA 397-B:4,V(a).

13 24. Several telephone calls were exchanged between the Department and
14 Respondents regarding the surety bond cancellation and required
15 reinstatement.

16 25. On June 8, 2011, the Department received correspondence from the
17 Licensing Contact for Respondent American Servicing and Recovery. The
18 undated correspondence states that Respondents were unable to obtain a
19 surety bond because it did not have a set of audited financial statements
20 for 2010 and Respondents "do not have capacity for one to be completed in
21 time" to meet the Department's requirements. Respondents further indicated
22 that Respondent American Servicing and Recovery is currently servicing 33
23 loans for New Hampshire consumers and is "making arrangements to transfer
24 these loans to a licensed third party servicer immediately."

25 26. Respondents made a false or misleading statement to the Commissioner

1 397-B and rules or orders thereunder;

2 b. Respondents shall immediately (within 24 hours of receipt of
3 this Order) provide the Department a list of all New Hampshire consumers for
4 whom Respondents are servicing their loans. This list must include the names
5 and contact information of the New Hampshire consumers, along with monies
6 charged, collected and waived (if applicable). The list shall also be
7 accompanied by all contracts, checks to and from the consumer and any other
8 documents in the New Hampshire consumers' files;

9 c. Respondents shall immediately provide (as each loan is
10 transferred) proof of transfer of such New Hampshire serviced mortgage loans
11 to a third party servicer, who is licensed with the New Hampshire Banking
12 Department and has an active surety bond;

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

15 (1). Respondent American Servicing and Recovery:

16 Violation #1: Failure to maintain surety bond (RSA 397-
17 B:4,V(a)) - 1 Count;

18 Violation #2: False or misleading statement (RSA 397-
19 B:3,IX(b)) - 1 Count;

20 Violation #3: Omit material fact/untrue statement (RSA
21 397-B:3,X) - 1 Count;

22 (2). Respondent ASRG (as Direct Owner, Control owner, and
23 Principal):

24 Violation #1: Failure to maintain surety bond (RSA 397-
25 B:4,V(a)) - 1 Count;

1 Violation #2: False or misleading statement (RSA 397-
2 B:3,IX(b)) - 1 Count;

3 Violation #3: Omit material fact/untrue statement (RSA
4 397-B:3,X) - 1 Count;

5 (3). Respondent ASRG Partners (as Direct Owner, Control owner,
6 and Principal):

7 Violation #1: Failure to maintain surety bond (RSA 397-
8 B:4,V(a)) - 1 Count;

9 Violation #2: False or misleading statement (RSA 397-
10 B:3,IX(b)) - 1 Count;

11 Violation #3: Omit material fact/untrue statement (RSA
12 397-B:3,X) - 1 Count;

13 (4). Respondent Ray (as Direct Owner, Control owner, and
14 Principal):

15 Violation #1: Failure to maintain surety bond (RSA 397-
16 B:4,V(a)) - 1 Count;

17 Violation #2: False or misleading statement (RSA 397-
18 B:3,IX(b)) - 1 Count;

19 Violation #3: Omit material fact/untrue statement (RSA
20 397-B:3,X) - 1 Count;

21 (5). Respondent Murchison (as Direct Owner, Control owner, and
22 Principal):

23 Violation #1: Failure to maintain surety bond (RSA 397-
24 B:4,V(a)) - 1 Count;

25 Violation #2: False or misleading statement (RSA 397-

1 B:3,IX(b)) - 1 Count;

2 Violation #3: Omit material fact/untrue statement (RSA
3 397-B:3,X) - 1 Count;

4 (6). Respondent O'Brien (as Direct Owner, Control owner, and
5 Principal):

6 Violation #1: Failure to maintain surety bond (RSA 397-
7 B:4,V(a)) - 1 Count;

8 Violation #2: False or misleading statement (RSA 397-
9 B:3,IX(b)) - 1 Count;

10 Violation #3: Omit material fact/untrue statement (RSA
11 397-B:3,X) - 1 Count;

12 (7). Respondent Buchanan (as Direct Owner, Control owner, and
13 Principal):

14 Violation #1: Failure to maintain surety bond (RSA 397-
15 B:4,V(a)) - 1 Count;

16 Violation #2: False or misleading statement (RSA 397-
17 B:3,IX(b)) - 1 Count;

18 Violation #3: Omit material fact/untrue statement (RSA
19 397-B:3,X) - 1 Count;

20 (8). Respondent ASRG Investors, LLC (as Direct Owner, Indirect
21 Owner, and Principal):

22 Violation #1: Failure to maintain surety bond (RSA 397-
23 B:4,V(a)) - 1 Count;

24 Violation #2: False or misleading statement (RSA 397-
25 B:3,IX(b)) - 1 Count;

1 Violation #3: Omit material fact/untrue statement (RSA
2 397-B:3,X) - 1 Count;

3 (8).Respondent Central (as Direct Owner, Indirect Owner, and
4 Principal):

5 Violation #1: Failure to maintain surety bond (RSA 397-
6 B:4,V(a)) - 1 Count;

7 Violation #2: False or misleading statement (RSA 397-
8 B:3,IX(b)) - 1 Count;

9 Violation #3: Omit material fact/untrue statement (RSA
10 397-B:3,X) - 1 Count; and

11 e. Nothing in this Order:

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

14 (2). shall prevent the New Hampshire Office of the Attorney
15 General from bringing an action against the above named Respondents in any
16 New Hampshire superior court, with or without prior administrative action by
17 the Commissioner.

18
19 **SO ORDERED.**

20
21 _____
22 /s/
RONALD A. WILBUR
BANK COMMISSIONER

Dated: 06/16/11