

State of New Hampshire

State of New Hampshire
Banking Department

Docket # 08-292

v.

Fresh Start Mortgage Assistance, LLC
a/k/a MAS Foreclosure Program; Fresh
Start Mortgage, LLC; and Fresh Start
American Mortgage Services, LLC; all
Officers, Directors, Employees and
Agents
&
Michael Thomas Stoller, Esq.

Order to Cease & Desist
And
Order to Show Cause

Respondents

Notice of Order to Show Cause and Cease & Desist (Order)

This Order commences an adjudicative proceeding under the provisions of
RSA 399-D, RSA 541-A and RSA 383:10-d.

Respondents

1. Fresh Start Mortgage Assistance, LLC a/k/a MAS Foreclosure Program; Fresh Start Mortgage, LLC and Fresh Start American Mortgage Services, LLC are businesses that hold or held a principal office location of 26810 US Highway 19 N; Clearwater, FL 33761-3405 and may also have operated at 7441 Marvin D. Love Hwy # 301, Dallas, TX 75237-3770.
2. Michael Thomas Stoller, Esq. is or was the principal of Fresh Start Mortgage, LLC *et al* with a principal office location of 23945 Calabasas Rd. Suite 104; Calabasa CA 91302.
3. Fresh Start Mortgage, LLC *et al* and Michael Thomas Stoller, Esq. (Respondents) have never held a New Hampshire debt adjuster license, pursuant to RSA 399-D.

Legal Authority and Jurisdiction

4. The Commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of RSA 399-D and when such actions are necessary or appropriate to the public interest or for the protection of consumers. RSA 399-D:25 IV and VI.
5. All Respondents are “Persons” as defined by RSA 399-D:1, VII.
6. Any person that, in its own name or on behalf of other persons, engages in the business of debt adjustment in this state or with persons located in this state shall be required to obtain a license from the banking department. RSA 399-D:3, I.
7. If a person, or a person’s members, officers, directors, agents, and employees, performs unlicensed debt adjustment in violation of RSA 399-D:3, I , the debt adjustment contract shall be void and the person shall have no right to receive or retain any interest or charges whatsoever and any compensation shall be returned to the consumer. RSA 399-D:3, III.
8. It is unlawful for any person, in connection with the solicitation, offer, or implementation of a debt adjustment service, directly or indirectly to engage in any act, practice, or course of business to defraud or operate a deceit upon any person. RSA 399-D:13-a.
9. Every person who directly or indirectly controls a person liable under this section, either knowingly or negligently, may be subject to administrative fines up to a maximum of \$2,500. Each act shall constitute a separate violation, and be in addition to any civil or criminal penalty imposed. *See* RSA 399-D:24, V.
10. The Banking Department (the Department) has jurisdiction to examine and investigate the business affairs of any licensee or any other person, whether licensed

or not, as it deems necessary to determine compliance with this chapter and the rules adopted under it pursuant to statute. RSA 399-D:22, II.

11. The Commissioner has jurisdiction to order restitution and assess penalties up to a maximum fine of \$2,500.00 for each violation. RSA 399-D:3, III and RSA 383:10-d.
12. A person who violates any provision of RSA 399-D shall be guilty of a misdemeanor for each violation if a natural person, or guilty of a felony in any other person. Any person who willfully violates any provision of RSA 399-D:13-a, I or II or a cease and desist order or an injunction issued pursuant to RSA 399-D:23, II shall be guilty of a class B felony. Each of the acts specified shall constitute a separate violation. RSA 399-D:24, I and RSA 399-D:24-a.
13. The Commissioner has jurisdiction to recover the costs of investigation. RSA 399-D:19, IV.
14. The Department may issue a Cease and Desist Order when it has reasonable cause to believe a licensee or other person is in violation or about to violate New Hampshire law, rule, or order under RSA 399-D:23.

Right to a Hearing

15. Respondents have the right to request a hearing of this Order. A hearing shall be held not later than ten (10) days after the Commissioner receives the Respondent's request for a hearing. The Respondent may request a hearing and waive the ten (10) day hearing requirement. The hearing shall comply with RSA 541-A and RSA 399-D:23, I.
16. If any person fails to request a hearing within thirty (30) days of receiving this Order, then such person shall likewise be deemed in default, all allegations may be deemed true, and the Order shall, on the thirty-first (31st) day, become permanent and shall

remain in full force and effect until modified or vacated by the Commissioner for good cause shown. RSA 399-D:23, II.

17. A default shall result in administrative fines up to the maximum amount of \$2,500.00 per violation. Each of the acts specified shall constitute a separate violation. RSA 399-D:24, IV.

Statement of Alleged Facts

18. On or about September 21, 2010, the Department conducted an investigation into the Respondent's business activities.
19. The Department found that Respondents operate or operated a website offering mortgage modification to consumers.
20. At least one New Hampshire consumer filed a complaint with the Department against Respondents stating she paid \$1,300.00 in July and August 2007 for assistance in negotiating her home mortgage company.
21. The Department verified with its licensing database that Respondents have not ever held a New Hampshire license as required by RSA 399-D:3. Unlicensed activity may be considered unfair and deceptive pursuant to RSA 399-D:13-a and RSA 383:10-d.
22. The Department found Respondents have solicited and/ or engaged in business with at least one New Hampshire consumer in violation of RSA 399-D.
23. On September 21, 2010, the Department mailed, and Respondents received, a certified letter to the Respondents to Cease and Desist all unlicensed activity in New Hampshire and to provide, within (10) days of receipt, a response regarding the alleged unlicensed activity; a new Hampshire loan list; a contact person; and a response to the consumer complaints.
24. As of October 25, 2010 the Respondents have failed to respond to the Department.

25. The State of Maine also issued a Cease and Desist Order on July 7, 2009 against Respondents Michael Thomas Stoller, Esq. and Fresh Start Mortgage Assistance Solutions.

Alleged Violations:

- | | |
|---|---|
| A. Fresh Start Mortgage Assistance, LLC
a/k/a MAS Foreclosure Program, Fresh
Start Mortgage Services, LLC; and All
Officers, Directors, Employees, and
Agents | 1 Count Each for Unlicensed Activity
as a Debt Adjuster. RSA 399-D:3, I.

1 Count Each for Failure to Produce
requested documents relevant to an
investigation. RSA 399-D:22 II.

1 Count Each for Failure to Supervise.
RSA 399-D:24, V. |
| B. Michael Thomas Stoller, Esq. | 1 Count Unlicensed Activity
as a Debt Adjuster. RSA 399-D:3, I.

1 Count Failure to Produce requested
documents relevant to an
investigation. RSA 399-D:22 II.

1 Count Each for Failure to Supervise.
RSA 399-D:24, V. |

Respectfully Submitted:

/s/
Raef J. Granger, Esq.
Legal Division
N.H. Banking Department

11/04/10
Date

Order

26. **Whereas the Commissioner Finds** the facts as alleged above, if true, show Respondents are operating or have operated in violation of New Hampshire banking laws, more specifically RSA Chapter 399-D.
27. **Whereas the Commissioner Finds** this Order necessary or appropriate to the public's best interest or for the protection of consumers and consistent with the purposes of New Hampshire banking laws.
28. **Whereas the Commissioner Finds** reasonable cause to issue an Order to Respondents to Cease and Desist.
29. **Whereas the Commissioner Finds** if Respondents fail to respond to this Order and/or are defaulted then all facts as alleged are deemed as true.
30. **Now Therefore the Department Orders Respondents to:**
- a. Cease and Desist immediately from violating RSA Chapter 399-D in the State of New Hampshire;
 - b. Provide to the Department, for the past one calendar year, a loan list detailing name, date, address, and amount of each service and provide all consumer contracts involving New Hampshire consumers within thirty (30) days of the date of this Order;
 - c. Pay restitution by refunding to all New Hampshire consumers all fees paid;
 - d. Show cause as to why costs should not be recovered for investigation in the minimum amount of \$2,250.00;
 - e. Show cause as to why administrative penalties should not be paid up to the maximum amount of \$2,500.00 for each violation;

- f. Show cause as to why Respondent Stoller; and all Officers, Directors, Employees, and Agents shall not be guilty of a Misdemeanor for each violation;
- g. Show cause as to why Respondent Fresh Start Mortgage Assistance, LLC a/k/a MAS Foreclosure Program; Fresh Start Mortgage, LLC; and Fresh Start Mortgage Services, LLC, shall not be guilty of a Felony for each violation.

SO ORDERED,

Entered this November 4, 2010.

/s/ Robert A. Fleury for

Peter C. Hildreth,
New Hampshire Bank Commissioner
Robert A. Fleury, Deputy Bank Commissioner