

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-142
)
 3 State of New Hampshire Banking)
)
 4 Department,)
)
 5 Petitioner,)
) Consent Order
 6 and)
)
 7 21st Mortgage Corporation,)
)
 8 Respondent)
)

9
10 CONSENT ORDER

11 I. For purposes of amicably settling the above-referenced matter, the New
12 Hampshire Banking Department (hereinafter referred to as "the
13 Department") and Respondent 21st Mortgage Corporation ("Respondent") do
14 hereby stipulate and agree to the following:

15 1. The term "this matter" shall refer to the Respondent's
16 unregistered mortgage servicer activity in the State of New
17 Hampshire from at least October 2000.

18 2. The Department is authorized by New Hampshire RSA 397-B:2 to
19 regulate those mortgage servicing companies engaged in the
20 business of servicing first or second mortgage loans secured by
21 real property located in the state of New Hampshire, which is or
22 shall be occupied in whole or in part as a primary domicile or
23 place of residence by the mortgagor and which consists of not more
24 than 4 living units.

25 3. RSA 397-B:4 requires the registration of Respondent, which is

1 located in Tennessee.

2 4. RSA 397-B:4,I(c)and RSA 397-B:9 authorize the Department to
3 investigate alleged violations of laws or rules to determine
4 whether any person has violated or is violating any provision of
5 RSA Chapter 397-B, rule or order given under RSA Chapter 397-B.

6 5. RSA 397-B:4-a authorizes the Department to perform examinations
7 of Respondent's mortgage servicing activity.

8 6. Respondent has agreed to register with the Department to obtain
9 a mortgage servicer registration in the State of New Hampshire.
10 However, Respondent has previously and is currently conducting
11 mortgage servicing activity in the State of New Hampshire
12 without a registration.

13 7. The Department and Respondent would like to avoid formal
14 proceedings, and further expense, and to finally resolve this
15 matter under the terms and conditions set forth below.

16 8. The terms of this Consent Order are a fair and reasonable
17 disposition of this matter and are in the public interest.

18 9. In consideration of the mutual promises and representations set
19 forth herein, and in further consideration of the Department's
20 reliance upon the substantial accuracy and good faith of the
21 representations and submissions made to it by Respondent, the
22 Department and Respondent intending to be legally bound herein,
23 agree to the terms and conditions below.

24 II. For purposes of amicably resolving and closing this matter, the above
25 named Respondent and the Department hereby agree to the

1 following terms and conditions:

- 2 1. Respondent agrees that it has voluntarily entered into this
3 Consent Order without reliance upon any discussions between the
4 Department and Respondent, without promise of a benefit of any
5 kind (other than concessions contained in this Consent Order),
6 and without threats, force, intimidation, or coercion of any
7 kind. Respondent further acknowledges its understanding of the
8 nature of the allegations set forth in this action, including
9 the potential penalties provided by law.
- 10 2. Respondent agrees to waive any and all rights to a hearing and
11 appeal regarding the allegations set forth in this action.
- 12 3. Respondent agrees it will not deny the factual basis for this
13 Consent Order to which it has stipulated above and will not give
14 conflicting statements about such facts or its involvement in
15 the stipulated facts.
- 16 4. Respondent agrees that all terms of this Consent Order are
17 contractual and none is a mere recital.
- 18 5. Respondent represents and warrants that it has all the necessary
19 rights, powers and ability to carry out all of the terms of this
20 Consent Order which are applicable to Respondent.
- 21 6. Respondent represents and warrant that it can accomplish the
22 full relief contemplated and required herein and that all
23 parents, subsidiaries, affiliates, and successors necessary to
24 effectuate the full relief contemplated by this Consent Order
25 are parties to this Consent Order.

1 7. Respondent represents and warrants that it has obtained all
2 third-party approvals necessary to comply with this Consent
3 Order.

4 8. Respondent acknowledges that the Department is relying upon the
5 representations and warranties of Respondent stated herein, in
6 making its determination in this matter.

7 9. Subject to the terms of this Consent Order, Respondent agrees to
8 a total administrative penalty of \$20,000.00, which shall be
9 paid to the Department contemporaneously with the execution of
10 this Consent Order.

11 10. Subject to the terms of this Consent Order, Respondent agrees to
12 immediately pay contemporaneously with the execution of this
13 Consent Order \$1,900.00 to the Department, which represents the
14 back registration fees of \$500.00 for each year Respondents
15 conducted mortgage servicer activity in the State of New
16 Hampshire without a registration (it excludes the \$500.00
17 registration fee with its application in 2008).

18 11. Respondent agrees to immediately refund or waive the following
19 sixty-nine (69) consumers the fees assessed (totaling
20 \$3,282.14), such amounts of which shall be paid or waived
21 contemporaneously with the execution of this Consent Order. If
22 waiver of assessed fees is appropriate, then the amount by which
23 the principal increased (via charged interest) shall also be
24 credited back to those consumers who were assessed fees that
25 were not paid to Respondent. The amounts corresponding to each

1 Consumer as set out in Attachment A shall be herein incorporated
2 by reference.

3 12. Respondent acknowledges the amounts to be paid above exclude any
4 fees incurred as a result of a pre-registration examination the
5 above named Respondent hereby agrees will be conducted by the
6 Department (if one has not already been conducted).

7 13. Respondent hereby acknowledges that failure to make payment as
8 agreed above may result in civil and/or criminal penalties.

9 14. Upon completion of all the requirements within this Consent
10 Order, the Department shall, if all statutory requirements have
11 been met, issue a mortgage servicer registration to Respondent.

12 15. This Consent Order shall become effective immediately upon the
13 date of its issuance, which is upon the Commissioner's
14 signature.

15 16. The provisions of this Consent Order shall remain effective and
16 enforceable except to the extent that, and until such time as,
17 any provisions of this Consent Order shall have been modified,
18 terminated, suspended, or set aside by the Bank Commissioner or
19 upon an order of a court of competent jurisdiction.

20 III. This Consent Order represents the resolution of and discharge of any
21 basis for any civil or administrative proceeding by the Department
22 against the above named Respondent for violations arising as a result
23 of or in connection with any actions or omissions by the above named
24 Respondent through the date of this Consent Order as it applies to the
25 allegations in this matter; provided, however, this release does not

1 apply to facts not known by the Department or not otherwise provided
2 by the above named Respondent to the Department as of the date of this
3 Consent Order or any possible actions related to the examination to be
4 completed prior to issuance of the registration by the Department.
5 Such facts would include, but not be limited to, any consumer harm
6 from Respondent's actions. The Department expressly reserves its right
7 to pursue any administrative, civil or criminal action or remedy
8 available to it should Respondents breach this Consent Order or in the
9 future violate the Act or rules and orders promulgated thereunder.

10
11 **WHEREFORE**, based on the foregoing, we have set our hands to this Consent
12 Order, with it taking effect upon the signature of Peter C. Hildreth, Bank
13 Commissioner.

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15 Recommended this 23rd day of April, 2010 by

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17 _____
/s/

18 Maryam Torben Desfosses, Hearings Examiner, Banking Department

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20 Executed this 3rd day of May, 2010 by

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22 _____
/s/

23 ~~Martin J. Honigberg, Esq., as legal representative~~ Timothy Williams,
24 ~~President~~ for Respondent 21st Mortgage Corporation

1 **SO ORDERED** this 5th day of May, 2010 by

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3 _____
4 /s/

5 Peter C. Hildreth,

6 Bank Commissioner

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ATTACHMENT A TO THE CONSENT ORDER:

21st Mortgage Corporation, et al.

DOCKET #09-142

The Department hereby presents the following list of Consumers who are entitled to restitution of assessed fees charged and collected or waiver of such fees when Respondent 21st Mortgage Corporation conducted mortgage servicer activity in the State of New Hampshire without a mortgage servicer registration from 2000 to the present:

CONSUMER NUMBER	TOTAL RESTITUTION OR WAIVER [waived fees shall also include a reduction in principal for the amount charged in interest]
1	Restitution of \$55.00
2	Restitution of \$10.00
3	Restitution of \$5.00
4	Restitution of \$10.00 and waiver of \$110.00
5	Restitution of \$265.00 and waiver of \$290.00
6	Restitution of \$60.00
7	Waiver of \$195.00
8	Restitution of \$145.00
9	\$0.00 owed; \$0.00 needs to be waived
10	Waiver of \$5.00
11	Restitution of \$60.00
12	Restitution of \$10.00 and waiver of \$216.60

1	13	Restitution of \$14.28 and waiver of \$5.72
2	14	Restitution of \$20.00
3	15	Waiver of \$76.94
4	16	Waiver of \$78.40
5	17	Waiver of \$39.79
6	18	Waiver of \$449.40
7	19	Waiver of \$23.78
8	20	Waiver of \$292.64
9	21	Waiver of \$121.71
10	22	\$0.00 owed; \$0.00 needs to be waived
11	23	Waiver of \$410.48
12	24	Waiver of \$72.40, restitution of \$.50
13	25	Waiver of \$45.34
14	26	Waiver of \$93.46
15	27	Restitution of \$70.34
16	28	Waiver of \$328.20
17	29	Restitution of \$77.88
18	30	Waiver of \$65.04
19	31	Waiver of \$108.96
20	32	Waiver of \$62.62
21	33	\$0.00 owed; \$0.00 needs to be waived
22	34	Waiver of \$269.64
23	35	Waiver of \$20.00
24	36	Waiver of \$59.44
25	37	Restitution of \$292.80

1	38	Waiver of \$194.75
2	39	Waiver of \$50.04
3	40	Waiver of \$193.81
4	41	Waiver of \$608.90
5	42	Waiver of \$984.08
6	43	Waiver of \$214.55
7	44	Waiver of \$177.05
8	45	Restitution of \$44.91
9	46	Waiver of \$421.78
10	47	Waiver of \$312.90
11	48	Waiver of \$30.00
12	49	Waiver of \$137.34
13	50	Restitution of \$40.00 and waiver of \$40.00
14	51	Waiver of \$275.46
15	52	\$0.00 owed; \$0.00 needs to be waived
16	53	\$0.00 owed; \$0.00 needs to be waived
17	54	\$0.00 owed; \$0.00 needs to be waived
18	55	Waiver of \$20.00
19	56	Waiver of \$30.97
20	57	Waiver of \$630.50
21	58	Waiver of \$18.58
22	59	\$0.00 owed; \$0.00 needs to be waived
23	60	\$0.00 owed; \$0.00 needs to be waived
24	61	\$0.00 owed; \$0.00 needs to be waived
25	62	Waiver of \$18.06

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63	Waiver of \$20.00
64	\$0.00 owed; \$0.00 needs to be waived
65	Waiver of \$30.95
66	\$0.00 owed; \$0.00 needs to be waived
67	\$0.00 owed; \$0.00 needs to be waived
68	\$0.00 owed; \$0.00 needs to be waived
69	Waiver of \$5.00