

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 10-009
)
 3 State of New Hampshire Banking Department,)
)
 4 Petitioner,)
)
 5 and)
)
 6 Mortgage Mitigators (a division of and d/b/a)
)
 7 for Envisage Enterprises Corp. [a/k/a Envisage) Order to Show Cause
) and Cease and Desist
 8 Enterprises Inc.], a/k/a)
)
 9 www.mortgagemitigators.net, and an affiliate)
)
 10 of Sanford Consulting Services and Financial)
)
 11 Solutions Advisors, LLC Mortgage Modification)
)
 12 & Debt Settlement), Kyle Vanderheiden, Josh)
)
 13 Malesa, Tracie Malesa, and Andrew Cappello,)
)
 14 Respondents)

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

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

19 2. The Commissioner may impose administrative penalties of up to
20 \$2,500.00 for each violation. RSA 397-A:21,IV and V.

21 RESPONDENTS

22 3. Mortgage Mitigators (a division of and d/b/a for Envisage Enterprises
23 Corp. [a/k/a Envisage Enterprises Inc.], a/k/a www.mortgagemitigators.net,
24 an affiliate of Sanford Consulting Services and Financial Solutions
25 Advisors, LLC Mortgage Modification & Debt Settlement), ("Respondent

1 Mortgage Mitigators") is incorporated with the Nebraska Secretary of State
2 under Envisage Enterprises Inc and has been since February 9, 2009. The
3 Nebraska Secretary of State's website indicates the company's nature of
4 business is "Online Marketing" with a principal office location of Elkhorn,
5 Nebraska. However, at the www.mortgagemitigators.net website, Mortgage
6 Mitigators is listed as a division of Envisage Enterprises Corp. and is
7 affiliated with Sanford Consulting Services and Financial Solutions
8 Advisors, LLC Mortgage Modification & Debt Settlement. Further, the address
9 given in a WHO IS Network Solutions search for mortgagemitigators.net lists
10 the administrative contact as Respondent Andrew Cappello out of Boynton
11 Beach, Florida. Respondent Mortgage Mitigators is a "Person." RSA 397-
12 A:1,XVIII.

13 4. The Nationwide Mortgage Licensing System & Registry ("NMLS") does not
14 have a record of Respondent Mortgage Mitigators. The New Hampshire Banking
15 Department's ("Department") records do not show that Respondent Mortgage
16 Mitigators has ever held a New Hampshire Mortgage Broker license.

17 5. Kyle Vanderheiden ("Respondent Vanderheiden") is the President and
18 Director of Envisage Enterprises Inc. and therefore of Respondent Mortgage
19 Mitigators. NMLS records do not show a record for Respondent Vanderheiden.
20 Respondent Vanderheiden is a Direct Owner (RSA 397-A:1,VI-a), an Indirect
21 Owner (RSA 397-A:1,VIII-a), a Control person (RSA 397-A:21,V-a), a Principal
22 (RSA 397-A:1,XIX) and a Person (RSA 397-A:1,XVIII).

23 6. Josh Malesa ("Respondent J. Malesa") is the Vice-President and
24 Director of Envisage Enterprises Inc. and therefore of Respondent Mortgage
25 Mitigators. NMLS records do not show a record for Respondent J. Malesa.

1 Respondent J. Malesa is a Direct Owner (RSA 397-A:1,VI-a), an Indirect Owner
2 (RSA 397-A:1,VIII-a), a Control person (RSA 397-A:21,V-a), a Principal (RSA
3 397-A:1,XIX) and a Person (RSA 397-A:1,XVIII).

4 7. Respondent Tracie Malesa ("Respondent T. Malesa") is the Chief
5 Financial Officer, Director, Treasurer and Secretary of Envisage Enterprises
6 Inc. and therefore of Respondent Mortgage Mitigators. NMLS records do not
7 show a record for Respondent T. Malesa. Respondent T. Malesa is a Direct
8 Owner (RSA 397-A:1,VI-a), an Indirect Owner (RSA 397-A:1,VIII-a), a Control
9 person (RSA 397-A:21,V-a), a Principal (RSA 397-A:1,XIX) and a Person (RSA
10 397-A:1,XVIII).

11 8. Respondent Andrew Cappello ("Respondent Cappello") is the Chief
12 Executive Officer of Envisage Enterprises Inc. and therefore of Respondent
13 Mortgage Mitigators. NMLS records do not show a record for Respondent
14 Cappello. Respondent Cappello is a Control person (RSA 397-A:21,V-a), a
15 Principal (RSA 397-A:1,XIX) and a Person (RSA 397-A:1,XVIII).

16 9. The above-named Respondents are hereinafter known as "Respondents".

17 **RIGHT TO REQUEST A HEARING**

18 10. Respondents have a right to request a hearing on this Order. A hearing
19 shall be held not later than ten (10) days after the Commissioner receives
20 the Respondents' written request for a hearing. Respondents may request a
21 hearing and waive the ten (10) day hearing requirement. The hearing shall
22 comply with RSA Chapter 541-A, RSA 397-A:17,I and II and RSA 397-A:18, I and
23 II.

24 11. If any person fails to request a hearing within thirty (30) days of
25 receiving this Order, then such person shall be deemed in default, and the

1 Order shall, on the thirty-first (31st) day, become permanent, all
2 allegations may be deemed true, and shall remain in full force and effect
3 until modified or vacated by the Commissioner for good cause shown. RSA 397-
4 A:17,I and II and RSA 397-A:18,I and II.

5 12. A default may result in administrative fines as described in Paragraph
6 2 above.

7 **STATEMENT OF ALLEGATIONS**

8 13. On or about October 27, 2009, the Department received information from
9 at least two sources that Respondent Mortgage Mitigators was conducting
10 unlicensed mortgage loan modification activity with New Hampshire consumers
11 for New Hampshire residential property without a New Hampshire Mortgage
12 Broker license.

13 14. On or about December 21, 2009, the Department received a New Hampshire
14 consumer list from Sanford Consulting, which identifies the New Hampshire
15 consumers for whom Respondent Mortgage Mitigators conducted unlicensed
16 mortgage loan modification activity, in violation of RSA 397-A:3,I.

17 15. The list also shows that Respondent Mortgage Mitigators collected
18 \$395.00 for its services from each of those 11 New Hampshire Consumers
19 (Consumers A through K).

20 16. Respondent Mortgage Mitigators receives mortgage loan modification
21 documentation from an unlicensed New Hampshire mortgage broker (Sanford
22 Consulting Services, LLC). Respondent Mortgage Mitigators then processes the
23 mortgage loan modification and either negotiates directly with the New
24 Hampshire consumer's lender/servicer or "denies" the New Hampshire the
25 mortgage loan modification if it determines the New Hampshire consumer won't

1 qualify for a mortgage loan modification. Respondents conduct business,
2 assist or aid and abet Sanford Consulting Services, LLC (a business under
3 RSA Chapter 397-A without a valid Department license) in violation of RSA
4 397-A:14,IV(b):

5 17. Sanford Consulting Services, LLC collects at least \$1,900.00 from the
6 New Hampshire consumer once Respondent Mortgage Mitigators begins
7 negotiations with the consumer's lender or servicer. Sanford Consulting
8 Services, LLC then forwards \$395.00 to Respondent Mortgage Mitigators and
9 retains the remaining amount. Respondents collected a total of \$4,345.0 in
10 advance fees from New Hampshire Consumers A through K in violation of RSA
11 397-A:14,IV(m).

12 18. On December 22, 2009, the Department sent a letter to Respondent
13 Cappello via U.S. Certified Mail Return Receipt requested, which the post
14 office returned to the Department on January 4, 2010 with a forwarding
15 address of Andrew Cappello Enterprises, in Fort Lauderdale, Florida.

16 19. On June 16, 2009, Respondent Cappello had signed a Marketing and
17 Affiliation Agreement with Sanford Consulting Group, LLC and indicates in
18 the agreement that Respondent Envisage Enterprises Inc d/b/a Mortgage
19 Mitigators is "in the loan modification business providing full service
20 business solutions to the Consumer" and the services listed include that of
21 a mortgage broker.

22 20. To date, Respondents have failed to refund New Hampshire Consumers A
23 through K.

24 21. To date, Respondents have failed to apply for a mortgage broker
25 license with the Department

1 accompanied by all contracts, checks to and from the consumer and any other
2 documents in the New Hampshire consumers' files;

3 c. Respondents shall show cause why the Commissioner should not
4 enter an order of rescission, restitution, or disgorgement of profits and/or
5 commissions for services rendered;

6 d. Respondents shall show cause why Respondents should not refund
7 each of its New Hampshire consumers fees paid to Respondents which at a
8 minimum would be a total of \$4,345.00 (for New Hampshire Consumers A through
9 K);

10 e. Respondents shall show cause why back-license fees of \$500.00
11 for mortgage broker (mortgage loan modification) activity in 2009 should not
12 be paid to the Department;

13 f. 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 Mortgage Mitigators:

16 Violation #1: Engaging in mortgage loan modification
17 without a New Hampshire mortgage broker license (RSA 397-
18 A:3,I): 11 Counts;

19 Violation #2: Conducting business, assisting or aiding and
20 abetting any business under RSA Chapter 397-A without a
21 valid license (RSA 397-A:14,IV(d)): 11 Counts;

22 Violation #3: Collecting an advance fee from Consumers A
23 through K (RSA 397-A:14,IV(m)): 11 Counts;

24 (2). Respondent Vanderheiden (as Direct Owner, Indirect Owner
25 Principal and Control person):

1 Violation #1: Engaging in mortgage loan modification
2 without a New Hampshire mortgage broker license (RSA 397-
3 A:3,I): 11 Counts;

4 Violation #2: Conducting business, assisting or aiding and
5 abetting any business under RSA Chapter 397-A without a
6 valid license (RSA 397-A:14,IV(d)): 11 Counts;

7 Violation #3: Collecting an advance fee from Consumers A
8 through K (RSA 397-A:14,IV(m)): 11 Counts;

9 (3). Respondent J. Malesa (as Direct Owner, Indirect Owner
10 Principal and Control person):

11 Violation #1: Engaging in mortgage loan modification
12 without a New Hampshire mortgage broker license (RSA 397-
13 A:3,I): 11 Counts;

14 Violation #2: Conducting business, assisting or aiding and
15 abetting any business under RSA Chapter 397-A without a
16 valid license (RSA 397-A:14,IV(d)): 11 Counts;

17 Violation #3: Collecting an advance fee from Consumers A
18 through K (RSA 397-A:14,IV(m)): 11 Counts;

19 (4). Respondent T. Malesa (as Direct Owner, Indirect Owner
20 Principal and Control person):

21 Violation #1: Engaging in mortgage loan modification
22 without a New Hampshire mortgage broker license (RSA 397-
23 A:3,I): 11 Counts;

24 Violation #2: Conducting business, assisting or aiding and
25 abetting any business under RSA Chapter 397-A without a

1 valid license (RSA 397-A:14,IV(d)): 11 Counts;

2 Violation #3: Collecting an advance fee from Consumers A
3 through K (RSA 397-A:14,IV(m)): 11 Counts;

4 (5). Respondent Cappello (as Principal and Control person):

5 Violation #1: Engaging in mortgage loan modification
6 without a New Hampshire mortgage broker license (RSA 397-
7 A:3,I): 11 Counts;

8 Violation #2: Conducting business, assisting or aiding and
9 abetting any business under RSA Chapter 397-A without a
10 valid license (RSA 397-A:14,IV(d)): 11 Counts;

11 Violation #3: Collecting an advance fee from Consumers A
12 through K (RSA 397-A:14,IV(m)): 11 Counts;

13 g. Nothing in this Order:

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

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

20 **SO ORDERED.**

21
22 _____ /s/
23 ROBERT A. FLEURY
24 DEPUTY BANK COMMISSIONER

Dated: April 22, 2011