

1 In re the Matter of:) Case No.: 11-020
)
 2 State of New Hampshire Banking)
)
 3 Department,)
)
 4 Petitioner,) Order to Show Cause and
) Cease and Desist
 5 and)
)
 6 Markson Group LLC (d/b/a Family)
)
 7 Mortgage Advisors and)
)
 8 www.familymortgageadvisors.com a/k/a)
)
 9 Family Financial Consultants), and)
)
 10 Mark E. Gaddis,)
)
 11 Respondents)

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

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

16 2. The Commissioner may impose administrative penalties of up to
 17 \$2,500.00 for each violation. RSA 397-A:21,IV and V.

18 RESPONDENTS

19 3. Markson Group LLC (d/b/a Family Mortgage Advisors and
 20 www.familymortgageadvisors.com a/k/a Family Financial Consultants)
 21 ("Respondent Markson") is a limited liability company incorporated in the
 22 State of Florida on May 1, 2009, with a principal office location in West
 23 Palm Beach, Florida. Respondent Markson was also incorporated in the State
 24 of Indiana on February 8, 2010 with an office location in Indianapolis,
 25 Indiana, however Respondent Markson filed Articles of Dissolution on August

1 12, 2011. The Respondent Markson is not registered with the New Hampshire
2 Secretary of State's Office. Respondent Markson is a "Person." RSA 397-
3 A:1,XVIII.

4 4. The National Mortgage Licensing System & Registry ("NMLS") does not
5 indicate that Respondent Markson has ever held a license as a mortgage
6 broker. The New Hampshire Banking Department's ("Department") records do not
7 indicate that Respondent Markson has ever held a New Hampshire Mortgage
8 Broker license.

9 5. Mark E. Gaddis ("Respondent Gaddis") is listed by filings with the
10 Florida Secretary of State's Office as the President of Respondent Markson.
11 Respondent Gaddis is a Control person (RSA 397-A:21,V-a), a Principal (RSA
12 397-A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person (RSA 397-
13 A:1,XVIII).

14 6. NMLS does not indicate that Respondent Gaddis has ever held a license
15 as a mortgage broker. The Department's records do not indicate that
16 Respondent Gaddis has ever held a New Hampshire Mortgage Broker license.

17 7. The above-named Respondents are hereinafter collectively known as
18 "Respondents".

19 **RIGHT TO REQUEST A HEARING**

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

25 9. If any person fails to request a hearing within thirty (30) days of

1 receiving this Order, then such person shall be deemed in default, and the
2 Order shall, on the thirty-first (31st) day, become permanent, all
3 allegations may be deemed true, and shall remain in full force and effect
4 until modified or vacated by the Commissioner for good cause shown. RSA
5 397-A:17,I and RSA 397-A:18.

6 10. A default may result in administrative fines as described in Paragraph
7 2 above.

8 **STATEMENT OF ALLEGATIONS**

9 11. On December 15, 2010, the Department received a complaint from a New
10 Hampshire consumer ("Consumer A") against Respondents concerning residential
11 mortgage loan modification services.

12 12. On May 27, 2009, Respondents contracted with Consumer A to modify
13 Consumer A's mortgage loan without a New Hampshire mortgage broker license,
14 in violation of RSA 397-A:3,I.

15 13. Respondents collected an advance fee of \$1,500.00 from Consumer A, in
16 violation of RSA 397-A:14,IV(m).

17 14. Respondents failed to provide a residential mortgage loan modification
18 to Consumer A in violation of RSA 397-A:14,IV(b).

19 15. On May 19, 2011, the Department sent a letter via U.S. Certified Mail
20 return receipt requested to Respondents, suggesting Respondents apply for
21 licensure with the Department, requesting documents relative to New
22 Hampshire consumers, and requesting a resolution to the consumer complaint.
23 The U.S. Post Office returned the letter on June 21, 2011 indicating,
24 "Return to Sender, Unclaimed".

25 16. On May 19, 2011, the Department sent an email to Respondents,

1 suggesting Respondents apply for licensure with the Department, requesting
2 documents relative to New Hampshire consumers, and requesting a resolution
3 to the consumer complaint.

4 17. On May 19, 2011, the Department received an email correspondence from
5 Respondent Gaddis. Respondent Gaddis indicated that the Respondents are not
6 a mortgage company and have not solicited as a mortgage broker. Respondent
7 Gaddis further indicated that Respondents are no longer working in New
8 Hampshire or any other State as a loan modification company.

9 18. On May 19, 2011, the Department responded to Respondent Gaddis
10 referencing the relevant statutes and licensure requirements and requested
11 that the Respondents reply within 10 days.

12 19. To date, Respondents are still operating a website
13 (www.familymortgageadvisors.com) indicating that they are a loan
14 modification company.

15 20. To date, Respondents have failed to provide the information requested
16 by the Department, in violation of RSA 397-A:12,I.

17 _____ /s/
18 Ryan McFarland
19 Hearings Examiner

Dated: August 23, 2011

19 **ORDER**

20 21. **I hereby find as follows:**

21 a. Pursuant to RSA 397-A:17,I, the facts as alleged above, if true,
22 show Respondents are operating or have operated in violation of RSA Chapter
23 397-A and form the legal basis for this Order;

24 b. Pursuant to 397-A:20,VI, this Order is necessary and appropriate
25 to the public interest and for the protection of consumers and consistent

1 with the purpose and intent of New Hampshire banking laws;

2 c. The Department finds pursuant to RSA 397-A:17,II and RSA 397-
3 A:18,II, reasonable cause to issue an order to cease and desist; and

4 d. Pursuant to RSA 397-A:17,I and RSA 397-A:18,II, if any
5 Respondent fails to respond to this Order and/or defaults then all facts as
6 alleged herein are deemed as true.

7 **22. Accordingly, it is hereby ORDERED that:**

8 a. Respondents shall cease and desist from violating RSA Chapter
9 397-A and rules or orders thereunder;

10 b. Respondents shall immediately provide the Department a list of
11 all New Hampshire consumers for whom Respondents have residential mortgage
12 loan modification activity and a status of those accounts. This list must
13 include the names and contact information of the New Hampshire consumers,
14 along with monies charged, collected and waived (if applicable). The list
15 shall also be accompanied by all contracts, checks to and from the consumer
16 and any other documents in the New Hampshire consumers' files;

17 c. Respondents shall show cause why the Commissioner should not
18 enter an order of rescission, restitution, or disgorgement of profits in the
19 amount of at least \$1,500.00 (for Consumer A);

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

22 (1). Respondent Markson:

23 Violation #1: Unlicensed mortgage broker activity (RSA
24 397-A:3,I) - 1 Count;

25 Violation #2: Collecting an Advance Fee (RSA 397-

1 A:3,IV(m)) - 1 Count;

2 Violation #3: Failure to provide a residential mortgage
3 loan modification (RSA 397-A:14,IV(b)) - 1 Count;

4 Violation #4: Failure to provide documents (RSA 397-
5 A:12,I) - 1 Count;

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

8 Violation #1: Unlicensed mortgage broker activity (RSA
9 397-A:3,I) - 1 Count;

10 Violation #2: Collecting an Advance Fee (RSA 397-
11 A:3,IV(m)) - 1 Count;

12 Violation #3: Failure to provide a residential mortgage
13 loan modification (RSA 397-A:14,IV(b)) - 1 Count;

14 Violation #4: Failure to provide documents (RSA 397-
15 A:12,I) - 1 Count;

16 e. Nothing in this Order:

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

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

23 **SO ORDERED.**

24 _____/s/
25 RONALD A. WILBUR
BANK COMMISSIONER

Dated: August 23, 2011