

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) AMENDED
8 Enterprises Inc.], a/k/a) Order to Show Cause
9 www.mortgagemitigators.net, and an affiliate) and Cease and Desist
10 of Sanford Consulting Services and Financial)
11 Solutions Advisors, LLC Mortgage Modification)
12 & Debt Settlement), and Andrew Cappello,)
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 397-A (including RSA 397-A:17,I and II, RSA 397-A:18,I and II and RSA
17 397-A:20,IV) 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-A:21,IV and V.

20 RESPONDENTS

21 3. Mortgage Mitigators (a division of and d/b/a for Envisage Enterprises
22 Corp. [a/k/a Envisage Enterprises Inc.], a/k/a www.mortgagemitigators.net,
23 an affiliate of Sanford Consulting Services and Financial Solutions
24 Advisors, LLC Mortgage Modification & Debt Settlement), ("Respondent
25 Mortgage Mitigators") is not incorporated. The www.mortgagemitigators.net

1 website, Mortgage Mitigators is listed as a division of Envisage Enterprises
2 Corp. and is affiliated with Sanford Consulting Services and Financial
3 Solutions Advisors, LLC Mortgage Modification & Debt Settlement. Further,
4 the address given in a WHO IS Network Solutions search for
5 mortgagemitigators.net lists the administrative contact as Respondent Andrew
6 Cappello out of Boynton Beach, Florida. A Florida Secretary of State search
7 for Envisage Enterprises Inc. shows an address in Fort Lauderdale, Florida
8 with Respondent Andrew P. Cappello listed as the President and Registered
9 Agent. Respondent Mortgage Mitigators is a "Person." RSA 397-A:1,XVIII.

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

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

19 6. The above-named Respondents are hereinafter known as "Respondents".

20 **RIGHT TO REQUEST A HEARING**

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

1 II.

2 8. If any person fails to request a hearing within thirty (30) days of
3 receiving this Order, then such person shall be deemed in default, and the
4 Order shall, on the thirty-first (31st) day, become permanent, all
5 allegations may be deemed true, and shall remain in full force and effect
6 until modified or vacated by the Commissioner for good cause shown. RSA 397-
7 A:17,I and II and RSA 397-A:18,I and II.

8 9. A default may result in administrative fines as described in Paragraph
9 2 above.

10 **STATEMENT OF ALLEGATIONS**

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

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

20 12. The list also shows that Respondent Mortgage Mitigators collected
21 \$395.00 for its services from each of those 11 New Hampshire Consumers
22 (Consumers A through K).

23 13. Respondent Mortgage Mitigators receives mortgage loan modification
24 documentation from an unlicensed New Hampshire mortgage broker (Sanford
25 Consulting Services, LLC). Respondent Mortgage Mitigators then processes the

1 mortgage loan modification and either negotiates directly with the New
2 Hampshire consumer's lender/servicer or "denies" the New Hampshire the
3 mortgage loan modification if it determines the New Hampshire consumer won't
4 qualify for a mortgage loan modification. Respondents conduct business,
5 assist or aid and abet Sanford Consulting Services, LLC (a business under
6 RSA Chapter 397-A without a valid Department license) in violation of RSA
7 397-A:14, IV(b):

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

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

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

25 17. To date, Respondents have failed to refund New Hampshire Consumers A

1 activity and a status of those accounts. This list must include the names
2 and contact information of the New Hampshire consumers, along with monies
3 charged, collected and waived (if applicable). The list shall also be
4 accompanied by all contracts, checks to and from the consumer and any other
5 documents in the New Hampshire consumers' files;

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

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

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

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

18 (1). Respondent Mortgage Mitigators:

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

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

25 Violation #3: Collecting an advance fee from Consumers A

1 through K (RSA 397-A:14,IV(m)): 11 Counts; and

2 (2). Respondent Cappello (as Principal and Control person):

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

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

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

11 g. 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 **SO ORDERED.**

19
20 _____ /s/

Dated: May 3, 2011

21 ROBERT A. FLEURY
22 DEPUTY BANK COMMISSIONER
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