

1	In re the Matter of:) Case No.: 10-015
)
2	State of New Hampshire Banking)
)
3	Department,)
)
4	Petitioner,) Order to Show Cause and
5	and) Cease and Desist
)
6	Yellow Brick, LLC (d/b/a Yellow Brick)
)
7	Financial), Perennial Funding, LLC,)
)
8	and Corey Gee,)
)
9	Respondents)
)
10)

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

1. This Order commences an adjudicative proceeding under the provisions of RSA Chapter 399-D (including RSA 399-D:13,I, RSA 399-D:23,I and II, RSA 399-D:24, IV and V and RSA 399-D:25,IV) and RSA Chapter 541-A.

2. The Commissioner may impose administrative penalties of up to \$2,500.00 for each violation. RSA 399-D:24,IV and V.

RESPONDENTS

3. Yellow Brick, LLC (d/b/a Yellow Brick Financial) ("Respondent Yellow Brick") is a limited liability company incorporated in the State of Pennsylvania on March 26, 2008, with a principal office location in King of Prussia, Pennsylvania. Respondent Yellow Brick is not registered with the New Hampshire Secretary of State's Office. Respondent Yellow Brick is a "Person." RSA 399-D:1,VII.

4. The New Hampshire Banking Department's ("Department") records do not indicate that Respondent Yellow Brick has ever held a New Hampshire Debt

1 Adjuster license.

2 5. Perennial Funding, LLC ("Respondent Perennial") is a limited liability
3 company incorporated in the State of Pennsylvania on December 4, 2006, with
4 a principal office location in Conshohocken, Pennsylvania. Respondent
5 Perennial is listed in the Pennsylvania Department of State filings as the
6 owner of Respondent Yellow Brick. Respondent Perennial is a Control Person
7 (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal (RSA 399-
8 D:2,VII-a), and a Person (RSA 399-D:2,VII).

9 6. The New Hampshire Banking Department's ("Department") records do not
10 indicate that Respondent Perennial has ever held a New Hampshire Debt
11 Adjuster license.

12 7. Corey Gee ("Respondent Gee") is the owner of Respondent Yellow Brick
13 and the President of Respondent Perennial. Respondent Gee is a Control
14 Person (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal
15 (RSA 399-D:2,VII-a), and a Person (RSA 399-D:2,VII).

16 8. The New Hampshire Banking Department's ("Department") records do not
17 indicate that Respondent Gee has ever held a New Hampshire Debt Adjuster
18 license.

19 9. The above-named Respondents are hereinafter collectively known as
20 "Respondents".

21 **RIGHT TO REQUEST A HEARING**

22 10. Respondents have a right to request a hearing on this Order. A hearing
23 shall be held not later than ten (10) days after the Commissioner receives
24 the Respondent's written request for a hearing. Respondents may request a
25 hearing and waive the ten (10) day hearing requirement. The hearing shall

1 comply with RSA Chapter 541-A. RSA 399-D:13,I and RSA 399-D:23, I and II.

2 11. 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
7 399-D:13,I and RSA 399-D:23,II.

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

10 **STATEMENT OF ALLEGATIONS**

11 13. On March 10, 2010, the Department was notified by a New Hampshire
12 consumer that the Respondents may be offering debt adjustment services to
13 consumers in the State of New Hampshire.

14 14. On March 18, 2010, the Department sent a letter via U.S. Mail return
15 receipt requested to Respondents, suggesting Respondents apply for licensure
16 with the Department. The correspondence was received by the Respondents on
17 March 22, 2010.

18 15. On April 15, 2010, the Department received a correspondence from
19 Respondents' attorney indicating that Respondents' debt assistance program
20 did enroll six New Hampshire residents, however any New Hampshire consumer
21 files would be referred to a licensed New Hampshire attorney.

22 16. On April 21, 2010, the Department sent a letter via U.S. Mail return
23 receipt requested to Respondents' attorney, requesting a copy of the six New
24 Hampshire client files as well as further information regarding the expected
25 transfer.

1 17. On May 10, 2010, the Department received correspondence from
2 Respondents' attorney which included a list of the six New Hampshire
3 consumers.

4 18. On June 16, 2010, the Department received an email correspondence from
5 Respondents' attorney indicating that the New Hampshire consumer files were
6 not going to be transferred to a New Hampshire licensed attorney but rather
7 refunds would be given to the consumers.

8 19. On August 9, 2011, the Department received an email correspondence
9 from Respondents' attorney indicating that his firm no longer represented
10 the Respondents and any correspondence should be sent directly to the
11 Respondents.

12 20. On August 17, 2011, the Department sent a letter via U.S. Mail return
13 receipt requested to the Respondents indicating that any unlicensed activity
14 still needed to be addressed either through a Consent Order or a Cease and
15 Desist Order. The Department requested a current company contact name,
16 address, phone number and email; an updated New Hampshire consumer list; and
17 proof of refunds to New Hampshire consumers previously reported to the
18 Department. The letter was returned to the Department by the U.S. Post
19 Office on September 16, 2011, indicating "Return to Sender, Unclaimed,
20 Unable to Forward."

21 21. The Department has evidence of six New Hampshire consumers enrolling
22 in the Respondents' debt assistance program.

23 **Consumer A**

24 22. On July 16, 2009, Respondents had contracted with Consumer A to
25 negotiate and settle consumer debt on behalf of Consumer A. The contract

1 provided that Consumer A would pay \$266.35 per month for a period of thirty
2 (30) months which included \$224.98 in retainer fees paid to Respondents for
3 the first three (3) months, \$112.51 in service fees paid to the Respondents
4 for the next twelve (12) months, \$9.85 in bank fees paid for the thirty (30)
5 months period, with the remainder being held in a non-interest bearing
6 account. Respondents charged an advanced fee and an unequally amortized
7 fee, both in violation of RSA 399-D:14,I.

8 23. Respondents collected \$224.98 in fees from Consumer A, before the
9 contract was terminated, without either the written consent of Consumer A's
10 creditors or any payments made to Consumer A's creditors, in violation of
11 RSA 399-D:14, I and II.

12 24. The Respondents engaged in debt adjustment activity with a person
13 located within the State of New Hampshire without the required license, in
14 violation of RSA 399-D:3,I.

15 **Consumer B**

16 25. On September 3, 2009, Respondents had contracted with Consumer B to
17 negotiate and settle consumer debt on behalf of Consumer B. The contract
18 provided that Consumer B would pay \$424.02 per month for a period of forty-
19 two (42) months which included \$371.21 in retainer fees paid to Respondents
20 for the first four (4) months, \$212.15 in service fees paid to the
21 Respondents for the next fourteen (14) months, \$9.85 in bank fees paid for
22 the forty-two (42) months period, with the remainder being held in a non-
23 interest bearing account. Respondents charged an advanced fee and an
24 unequally amortized fee, both in violation of RSA 399-D:14,I.

25 26. Respondents collected \$371.21 in fees from Consumer B, before the

1 contract was terminated, without either the written consent of Consumer B's
2 creditors or any payments made to Consumer B's creditors, in violation of
3 RSA 399-D:14, I and II.

4 27. The Respondents engaged in debt adjustment activity with a person
5 located within the State of New Hampshire without the required license, in
6 violation of RSA 399-D:3,I.

7 **Consumer C**

8 28. On January 22, 2010, Respondents had contracted with Consumer C to
9 negotiate and settle consumer debt on behalf of Consumer C. The contract
10 provided that Consumer C would pay \$276.97 per month for a period of forty-
11 two (42) months which included \$247.44 in retainer fees paid to Respondents
12 for the first four (4) months, \$141.41 in service fees paid to the
13 Respondents for the next fourteen (14) months, \$9.85 in bank fees paid for
14 the forty-two (42) months period, with the remainder being held in a non-
15 interest bearing account. Respondents charged an advanced fee and an
16 unequally amortized fee, both in violation of RSA 399-D:14,I.

17 29. Respondents collected \$1,247.05 in fees from Consumer C, before the
18 contract was terminated, without either the written consent of Consumer C's
19 creditors or any payments made to Consumer C's creditors, in violation of
20 RSA 399-D:14, I and II.

21 30. The Respondents engaged in debt adjustment activity with a person
22 located within the State of New Hampshire without the required license, in
23 violation of RSA 399-D:3,I.

24 **Consumer D**

25 31. On January 25, 2010, Respondents had contracted with Consumer D to

1 negotiate and settle consumer debt on behalf of Consumer D. The contract
2 provided that Consumer D would pay \$262.92 per month for a period of thirty-
3 six (36) months which included \$199.49 in retainer fees paid to Respondents
4 for the first four (4) months, \$106.41 in service fees paid to the
5 Respondents for the next fifteen (15) months, \$9.85 in bank fees paid for
6 the thirty-six (36) months period, with the remainder being held in a non-
7 interest bearing account. Respondents charged an advanced fee and an
8 unequally amortized fee, both in violation of RSA 399-D:14,I.

9 32. Respondents collected \$398.98 in fees from Consumer D, before the
10 contract was terminated, without either the written consent of Consumer D's
11 creditors or any payments made to Consumer D's creditors, in violation of
12 RSA 399-D:14, I and II.

13 33. The Respondents engaged in debt adjustment activity with a person
14 located within the State of New Hampshire without the required license, in
15 violation of RSA 399-D:3,I.

16 **Consumer E**

17 34. On February 11, 2010, Respondents had contracted with Consumer E to
18 negotiate and settle consumer debt on behalf of Consumer E. The contract
19 provided that Consumer E would pay \$334.83 per month for a period of thirty-
20 three (33) months which included \$274.96 in retainer fees paid to
21 Respondents for the first three (3) months, \$110.00 in service fees paid to
22 the Respondents for the next fifteen (15) months, \$9.85 in bank fees paid
23 for the thirty-three (33) months period, with the remainder being held in a
24 non-interest bearing account. Respondents charged an advanced fee and an
25 unequally amortized fee, both in violation of RSA 399-D:14,I.

1 35. Respondents collected \$559.77 in fees from Consumer E, before the
2 contract was terminated, without either the written consent of Consumer E's
3 creditors or any payments made to Consumer E's creditors, in violation of
4 RSA 399-D:14, I and II.

5 36. The Respondents engaged in debt adjustment activity with a person
6 located within the State of New Hampshire without the required license, in
7 violation of RSA 399-D:3,I.

8 **Consumer F**

9 37. On October 8, 2008, Respondents had contracted with Consumer F to
10 negotiate and settle consumer debt on behalf of Consumer F. The contract
11 provided that Consumer F would pay \$218.00 per month for a period of forty
12 (40) months which included \$197.83 in retainer fees paid to Respondents for
13 the first four (4) months, \$105.51 in service fees paid to the Respondents
14 for the next fifteen (15) months, \$9.85 in bank fees paid for the forty (40)
15 months period, with the remainder being held in a non-interest bearing
16 account. Respondents charged an advanced fee and an unequally amortized
17 fee, both in violation of RSA 399-D:14,I.

18 38. Respondents collected \$1,635.40 in fees from Consumer F, before the
19 contract was terminated, without either the written consent of Consumer F's
20 creditors or any payments made to Consumer F's creditors, in violation of
21 RSA 399-D:14, I and II.

22 39. The Respondents engaged in debt adjustment activity with a person
23 located within the State of New Hampshire without the required license, in
24 violation of RSA 399-D:3,I.

25 40. To date, Respondents have failed respond to the Department's last

1 correspondence or to provide any of the information requested by the
2 Department in the last correspondence, in violation of RSA 399-D:22,VIII.

3 41. To date, Respondents have failed to provide the Department with proof
4 of the refunds given to the New Hampshire consumers.

5
6 _____ /s/ _____
7 Ryan McFarland
8 Hearings Examiner

10/18/11
Date

8 **ORDER**

9 42. **I hereby find as follows:**

10 a. Pursuant to RSA 399-D:13,I, the facts as alleged above, if true,
11 show Respondents are operating or have operated in violation of RSA Chapter
12 399-D and form the legal basis for this Order;

13 b. Pursuant to 399-D:25,VI, this Order is necessary and appropriate
14 to the public interest and for the protection of consumers and consistent
15 with the purpose and intent of New Hampshire banking laws;

16 c. The Department finds pursuant to RSA 399-D:23,II reasonable
17 cause to issue an order to cease and desist; and

18 d. Pursuant to RSA 399-D:13,I and RSA 399-D:23,II, if any
19 Respondent fails to respond to this Order and/or defaults then all facts as
20 alleged herein are deemed as true.

21 43. **Accordingly, it is hereby ORDERED that:**

22 a. Respondents shall cease and desist from violating RSA Chapter
23 399-D and rules or orders thereunder;

24 b. Respondents shall immediately provide the Department a list of
25 all New Hampshire consumers for whom Respondents have conducted or

1 contracted to conduct debt adjustment activities. This list must include
2 the names and contact information of the New Hampshire consumers, along with
3 all monies charged, collected, and waived (if applicable). The list shall
4 also be accompanied by all contracts, checks to and from the consumer and
5 any other 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 in the
8 amount of at least \$224.98 (Consumer A), \$371.21 (Consumer B), \$1,247.05
9 (Consumer C), \$398.98 (Consumer D), \$559.77 (Consumer E), and \$1,635.40
10 (Consumer F);

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

13 (1). Respondent Yellow Brick:

14 Violation #1: Unlicensed activity as a debt adjuster (RSA
15 399-D:3,I) - 6 counts;

16 Violation #2: Collecting a Fee prior to payment to
17 creditors (RSA 399-D:14,I) - 6 counts;

18 Violation #3: Collecting an Unequally amortized fee (RSA
19 399-D:14,I) - 6 counts;

20 Violation #4: Collecting a Fee without consent of the
21 creditors (RSA 399-D:14,II) - 6 counts;

22 Violation #5: Failure to provide documents (RSA 399-
23 D:22,VIII) - 1 count;

24 (2). Respondent Perennial (as Control Person, Direct Owner, and
25 Principal):

1 Violation #1: Unlicensed activity as a debt adjuster (RSA
2 399-D:3,I) - 6 counts;

3 Violation #2: Collecting a Fee prior to payment to
4 creditors (RSA 399-D:14,I) - 6 counts;

5 Violation #3: Collecting an Unequally amortized fee (RSA
6 399-D:14,I) - 6 counts;

7 Violation #4: Collecting a Fee without consent of the
8 creditors (RSA 399-D:14,II) - 6 counts;

9 Violation #5: Failure to provide documents (RSA 399-
10 D:22,VIII) - 1 count;

11 (3). Respondent Gee (as Control Person, Direct Owner, and
12 Principal):

13 Violation #1: Unlicensed activity as a debt adjuster (RSA
14 399-D:3,I) - 6 counts;

15 Violation #2: Collecting a Fee prior to payment to
16 creditors (RSA 399-D:14,I) - 6 counts;

17 Violation #3: Collecting an Unequally amortized fee (RSA
18 399-D:14,I) - 6 counts;

19 Violation #4: Collecting a Fee without consent of the
20 creditors (RSA 399-D:14,II) - 6 counts;

21 Violation #5: Failure to provide documents (RSA 399-
22 D:22,VIII) - 1 count;

23 e. Nothing in this Order:

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

