

1	In re the Matter of:	)	Case No.: 10-089
		)	
2	State of New Hampshire Banking	)	
		)	
3	Department,	)	
		)	
4	Petitioner,	)	Order to Show Cause and
		)	Cease and Desist
5	and	)	
		)	
6	The MAC Group, and Marco A. Chaidez,	)	
		)	
7	Respondents	)	
		)	
8		)	

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

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

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

RESPONDENTS

3. The MAC Group ("Respondent MAC") is a possible sole proprietorship owned by Respondent Marco A. Chaidez. Respondent MAC is not registered with the Nevada Secretary of State or the New Hampshire Secretary of State's Office. Respondent MAC is a "Person." RSA 397-A:1,XVIII and RSA 399-D:1,VII.

4. The National Mortgage Licensing System & Registry ("NMLS") does not indicate that Respondent MAC has ever held a license as a mortgage broker. The New Hampshire Banking Department's ("Department") records do not indicate that Respondent MAC has ever held a New Hampshire Mortgage Broker license. Respondent MAC was licensed by the Nevada Department of Business

1 and Industry, Division of Mortgage Lending, who issued an order on February  
2 1, 2011 against Respondent MAC ordering it to cease doing business and  
3 asking for a revocation of its license. The matter is pending in 8<sup>th</sup> Judicial  
4 District Court.

5 5. Marco A. Chaidez ("Respondent Chaidez") is the owner of Respondent  
6 MAC. Respondent Chaidez is currently a licensed real estate Salesperson with  
7 the Nevada Real Estate Division. Respondent Chaidez's license was issued by  
8 the Nevada Real Estate Division on February 23, 2009 and expires on February  
9 29, 2012. Respondent Chaidez is a Control person (RSA 397-A:21,V-a), a  
10 Principal (RSA 397-A:1,XIX), a Direct Owner (RSA 397-A:1,VI-a), and a Person  
11 (RSA 397-A:1,XVIII).

12 6. NMLS does not indicate that Respondent Chaidez has ever held a license  
13 as a mortgage broker or mortgage loan originator. The Department's records  
14 do not indicate that Respondent Chaidez has ever held a New Hampshire  
15 Mortgage Broker or Mortgage Loan Originator license.

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

18 **RIGHT TO REQUEST A HEARING**

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

24 9. 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 (31<sup>st</sup>) 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  
4 397-A:17,I and RSA 397-A:18.

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

7 **STATEMENT OF ALLEGATIONS**

8 11. On August 24, 2010, the Department received a complaint from a New  
9 Hampshire consumer ("Consumer A") against Respondents concerning residential  
10 mortgage loan modification services.

11 12. On December 15, 2009, Respondents contracted with Consumer A to  
12 modify Consumer A's mortgage loan without a New Hampshire mortgage broker  
13 license, in violation of RSA 397-A:3,I.

14 13. On or about December 15, 2009, Respondents collected an advance fee of  
15 \$3,000.00 from Consumer A, in violation of RSA 397-A:14,IV(m).

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

18 15. On September 13, 2010, the Department sent a letter via U.S. Certified  
19 Mail return receipt requested and via facsimile to Respondents, suggesting  
20 Respondents apply for licensure with the Department and requesting  
21 documentation from Respondents. The facsimile was successfully delivered  
22 and Respondents received the correspondence on September 17, 2010.

23 16. On September 27, 2010, the Department received a response from  
24 Respondents indicating it has not seen the consumer complaint filed against  
25 them. On October 8, 2010, the Department faxed a copy of the Consumer A

1 consumer complaint to Respondents, which was successfully sent.

2 17. On October 8, 2010, the Department emailed Respondent Chaidez to  
3 explain that Respondents had an additional 30 days to file an application  
4 and provide the required materials to the Department. Respondents failed to  
5 respond to the Department.

6 18. On November 16, 2010, the Department emailed Respondents to indicate  
7 Respondents' telephone number was no longer in service and that they needed  
8 to contact the Department. Respondent Chaidez responded with a new telephone  
9 number and the Department emailed back to indicate that Respondents' 30-day  
10 period to file has ended.

11 19. On August 3, 2011, the Department received information from the Nevada  
12 Department of Business & Industry, Division of Mortgage Lending regarding  
13 the administrative action it took against Respondents.

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

16  
17 \_\_\_\_\_ /s/  
18 Maryam Torben Desfosses  
19 Hearings Examiner

Dated: August 17, 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 \$3,000.00 (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 MAC:

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 Chaidez (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 \_\_\_\_\_  
25 /s/  
RONALD A. WILBUR  
BANK COMMISSIONER

Dated: 08/18/2011