

1 In re the Matter of:) Case No.: 10-099
)
 2 State of New Hampshire Banking)
)
 3 Department,)
)
 4 Petitioner,) Order to Show Cause and
) Cease and Desist
 5 and)
)
 6 Access Financial Modifications Inc.)
)
 7 (a/k/a Access Financial Modifications),)
)
 8 and Melissa A. Peters,)
)
 9 Respondents)

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

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

14 2. The Commissioner may impose administrative penalties of up to
 15 \$2,500.00 for each violation. RSA 399-D:24,IV and V.

16 RESPONDENT

17 3. Access Financial Modifications Inc. (a/k/a Access Financial
 18 Modifications) ("Respondent AFM") is a corporation duly incorporated in the
 19 State of Florida on March 3, 2009, with a principal office location in
 20 Plantation, Florida. Respondent AFM has also had an office location
 21 Pembroke Pines, Florida. Respondent AFM is not registered with the New
 22 Hampshire Secretary of State. Respondent AFM is a "Person." RSA 399-
 23 D:1,VII.

24 4. The New Hampshire Banking Department's ("Department") records do not
 25 indicate that Respondent AFM has ever held a New Hampshire Debt Adjuster

1 license.

2 5. Melissa A. Peters ("Respondent Peters") is listed in the Florida
3 Secretary of State filings as the President of Respondent AFM. Respondent
4 Peters is listed as the Incorporator of Respondent AFM in the Articles of
5 Incorporation filed on March 3, 2009. Respondent Peters is a Control Person
6 (RSA 399-D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal (RSA 399-
7 D:2,VII-a), and a Person (RSA 399-D:2,VII).

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

11 7. The above-named Respondents are hereinafter collectively known as
12 "Respondents".

13 **RIGHT TO REQUEST A HEARING**

14 8. Respondents have a right to request a hearing on this Order. A hearing
15 shall be held not later than ten (10) days after the Commissioner receives
16 the Respondent's written request for a hearing. Respondents may request a
17 hearing and waive the ten (10) day hearing requirement. The hearing shall
18 comply with RSA Chapter 541-A. RSA 399-D:13,I and RSA 399-D:23, I and II.

19 9. If any person fails to request a hearing within thirty (30) days of
20 receiving this Order, then such person shall be deemed in default, and the
21 Order shall, on the thirty-first (31st) day, become permanent, all
22 allegations may be deemed true, and shall remain in full force and effect
23 until modified or vacated by the Commissioner for good cause shown. RSA
24 399-D:13,I and RSA 399-D:23,II.

25 10. A default may result in administrative fines as described in Paragraph

1 2 above.

2 STATEMENT OF ALLEGATIONS

3 11. On March 1, 2010, the Department received a complaint against
4 Respondents from a New Hampshire consumer ("Consumer A") and Consumer A's
5 legal counsel alleging that Respondents provided debt relief assistance
6 without licensure and with advance payments in violation of RSA Chapter 399-
7 D.

8 12. On or about May 16, 2009, Consumer A hired Respondents to negotiate a
9 mortgage loan modification. Consumer A made three (3) payments of \$600 for a
10 total payment of \$1,800.00. Respondents charged an advanced fee in violation
11 of RSA 399-D:14,I.

12 13. Respondents collected \$1,800.00 in fees from Consumer A, without
13 either the written consent of Consumer A's creditors or any payments made to
14 Consumer A's creditors, in violation of RSA 399-D:14,I and II.

15 14. Respondents failed to conduct any debt negotiations or loan
16 modification on behalf of Consumer A, and failed to use any of the funds to
17 pay Consumer A's creditors, in violation of RSA 399-D:15,I(b).

18 15. On September 10, 2010, the Department sent a letter via U.S. Mail
19 return receipt requested to Respondents, suggesting Respondents apply for
20 licensure with the Department, provide requested documentation and
21 resolution of Consumer A's complaint. The correspondence was returned to
22 the Department on September 27, 2010 as "Return to sender; undeliverable as
23 addressed". On September 24, 2010, the Department sent the same letter to
24 the same address, which was again returned to the Department on November 9,
25 2010.

1 16. On October 4, 2011, the Department sent a letter via U.S. Mail return
2 receipt requested to Respondents at a certain Daytona Beach, Florida
3 address, suggesting Respondents apply for licensure with the Department,
4 provide requested documentation and resolution of Consumer A's complaint.
5 According to the U.S. Post Office Track and Confirm, notice was left on
6 October 11, 2011 and submitted back to the Department on October 25, 2011.

7 17. On October 4, 2011, the Department sent a letter via U.S. Mail return
8 receipt requested to Respondents at a certain Pembroke Pines, Florida
9 address, suggesting Respondents apply for licensure with the Department,
10 provide requested documentation and resolution of Consumer A's complaint.
11 According to the U.S. Post Office Track and Confirm, notice was left on
12 October 7, 2011 and has not been returned to the Department.

13 18. On October 4, 2011, the Department sent a letter via facsimile to
14 Respondents, suggesting Respondents apply for licensure with the Department,
15 provide requested documentation and resolution of Consumer A's complaint.
16 The Department received confirmation that the facsimile was transmitted
17 properly and successfully.

18 19. On October 4, 2011, the Department sent a letter via electronic mail
19 to Respondents, suggesting Respondents apply for licensure with the
20 Department, provide requested documentation and resolution of Consumer A's
21 complaint. The Department received an automated response indicating the
22 electronic mail failed.

23 20. To date, Respondents have failed to respond or to provide any of the
24 information requested by the Department, in violation of RSA 399-D:22,VIII.

25 21. To date, Respondent has failed to return the \$1,800.00 Consumer A paid

1 Respondent AFM.

2 22. The Respondents contracted with at least one (1) New Hampshire
3 consumer to provide unlicensed debt adjustment services in violation of RSA
4 399-D:3,I.

5
6 _____ /s/ _____
7 Maryam Torben Desfosses
8 Hearings Examiner

10/26/11

Date

8 **ORDER**

9 23. **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 24. **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 \$1,800.00 (Consumer A);

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

11 (1). Respondent AFM:

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

14 Violation #2: Collecting a Fee prior to payment to
15 creditors (RSA 399-D:14,I) - 1 count;

16 Violation #4: Collecting a Fee without consent of the
17 creditors (RSA 399-D:14,II) - 1 count;

18 Violation #5: Failure to make payment to creditors within
19 10 days after receipt of funds (RSA 399-D:15,I(b)) - 1
20 count;

21 Violation #6: Failure to provide documents (RSA 399-
22 D:22,VIII) - 1 count;

23 (2). Respondent Peters (as Control Person, Direct Owner, and
24 Principal):

25 Violation #1: Unlicensed activity as a debt adjuster (RSA

