

State of New Hampshire

State of New Hampshire
Banking Department

v.

LoanMediate,
Respondent

Docket # 10-106

Complaint, Order
to Show Cause and Cease and
Desist

Complaint, 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 & II, RSA 397-A:18, I & II and RSA 397-A:20,IV) and RSA Chapter 541-A.
2. The Commissioner has jurisdiction to assess penalties up to a maximum fine of \$2,500.00 for each violation. RSA 397-A:21, IV & V.

Respondent

3. LoanMediate (“Respondent”) is a business located in California with a principal office location of 2060-D, Avenida de los Arboles, Ste 469, Thousand Oaks, CA 91362. The Respondent is a Person. RSA 397-A:1, XVIII.
4. Respondent has never held a New Hampshire mortgage broker license with the New Hampshire Banking Department (“Department”).

Right to a Hearing

5. Respondent has the right to request a hearing of this Order. A hearing shall be held not later than ten (10) days after the Commissioner receives the Respondent’s written request for a hearing. Respondent may request a hearing and waive the ten (10) day hearing requirement. The hearing shall comply with RSA Chapter 541-A, RSA 397:17, I and RSA 397-A:18, II.

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

Statement of Alleged Facts

8. On April 22, 2010, Consumer A, a New Hampshire resident, filed a consumer complaint with the New Hampshire Attorney General's Office regarding the Respondents' business activities within the State of New Hampshire.
9. The Department's investigator discovered that the Respondent engaged in business of mortgage loan modification without a New Hampshire Mortgage Broker license in violation of RSA 397-A:3, I and RSA 397-A:14, IV(d).
10. Respondent required Consumer A to make an advanced payment of \$2,895.00 in violation of RSA 397-A:14, IV (m).
11. Respondent failed to obtain a mortgage loan modification for Consumer A, therefore the \$2,895.00 payment was a "best efforts" fee or commission in violation of RSA 397-A:14, IV (b).
12. On September 13, 2010, the Department sent Respondent a letter via U.S. Certified Mail Return Receipt requested asking Respondent to provide, within (10) days of receipt, a response regarding the potential unlicensed activity, a New Hampshire transaction list and a contact person. Respondent received the certified letter on September 17, 2010. As of March 9, 2011, Respondent has yet to reply with the requested information in violation RSA 397-A:14,IV(f).

Alleged Violations:

Respondent:

1 Count for Unlicensed Activity
as a Mortgage Broker

RSA 397-A:3, I; and
RSA 397-A:14, IV(d)

1 Count of Collection of an Advanced
Fee for a loan modification

RSA 397-A:14, IV (m)

1 Count of Solicitation of a best efforts
Commission or Fee for a loan
modification

RSA 397-A:14, IV (b)

1 Count of Failure to Produce
requested documents

RSA 397-A:14, IV(f)

Respectfully Submitted:

_____/s/_____
Raef J. Granger
Hearings Examiner
N.H. Banking Department

Date: 04/11/11

Order

13. I hereby find as follows:

- a. Pursuant to RSA 397-A:17, I, the facts as alleged above, if true, show Respondents are operating or have operated in violation of RSA Chapter 397-A and form the legal basis for this Order;
- b. Pursuant to RSA 397-A:20, VI, this Order is necessary and appropriate to the public interest and for the protection of consumers and consistent with the intent and purpose of New Hampshire banking laws;

- c. Pursuant to RSA 397-A:18, II, reasonable cause exists to issue an order to cease and desist; and
- d. Pursuant to RSA 397-A:17, I and RSA 397-A:18, II, if Respondent fails to respond to this Order and/or default then all facts as alleged herein are deemed as true.

14. Accordingly, it is hereby ordered that:

- a. Respondent shall immediately Cease and Desist from violating RSA Chapter 397-A in the State of New Hampshire;
- b. Respondent shall provide to the Department, for the past one calendar year, a transaction list detailing name, date, address, and amount of each service and provide all consumer contracts involving New Hampshire consumers within thirty (30) days of the date of this Order;
- c. Respondent shall show cause why Consumer A should not be reimbursed the \$2,895.00 paid to Respondent;
- d. Respondent shall show cause why commissions for services rendered should not be disgorged;
- e. Respondent shall show cause why the Commissioner should not enter an order of rescission, restitution, or disgorgement of profits;
- f. Respondents shall show cause why costs should not be recovered for investigation in the minimum amount of \$2,250.00;
- g. Respondents shall show cause why administrative penalties of a minimum of \$10,000.00 per Respondent should not be imposed; and
- h. Nothing in this Order shall prevent 1) the Department from taking any further administrative and legal action as necessary under New Hampshire law or 2) the New Hampshire Office of the Attorney General from bringing an action against

