

1	In re the Matter of:)	Case No.: 10-141
)	
2	State of New Hampshire Banking)	
)	
3	Department,)	
)	
4	Petitioner,)	Order to Show Cause and
)	Cease and Desist
5	and)	
)	
6	National Home Loan Assistance Program)	
)	
7	(a/k/a nhlap.com), and Donald Sarver,)	
)	
8	Respondents)	
)	
9)	

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), RSA Chapter 399-D (including RSA 399-D:13,I, RSA 399-D:23,I and II, 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 397-A:21,IV and V, and RSA 399-D:24,IV and V.

RESPONDENTS

3. National Home Loan Assistance Program (a/k/a nhlap.com) ("Respondent National Home Loan") is a corporation incorporated in the State of Wyoming on July 3, 2008, with a principal office location in San Diego, California. Respondent National Home Loan is not registered with the New Hampshire Secretary of State's Office. Respondent National Home Loan is a "Person." RSA 397-A:1,XVIII and RSA 399-D:1,VII.

4. The National Mortgage Licensing System & Registry ("NMLS") does not

1 indicate that Respondent National Home Loan has ever held a license as a
2 mortgage broker. The New Hampshire Banking Department's ("Department")
3 records do not indicate that Respondent National Home Loan has ever held a
4 New Hampshire Mortgage Broker license, or a New Hampshire Debt Adjuster
5 license.

6 5. Donald Sarver ("Respondent Sarver") is listed by the Better Business
7 Bureau as the Chief Executive Officer and Director of Respondent National
8 Home Loan and is also listed with the Wyoming Secretary of State as Director
9 for Respondent National Home Loan. Respondent Sarver is a Control person
10 (RSA 397-A:21,V-a and RSA 399-D:2,II-a), a Principal (RSA 397-A:1,XIX and
11 RSA 399-D:2,VII-a), a Direct Owner (RSA 397-A:1,VI-a and RSA 399-D:2,V-b),
12 and a Person (RSA 397-A:1,XVIII and RSA 399-D:2,VII).

13 6. NMLS does not indicate that Respondent Sarver has ever held a license
14 as a mortgage broker. The Department's records do not indicate that
15 Respondent Sarver has ever held a New Hampshire Mortgage Broker license, or
16 a New Hampshire Debt Adjuster license.

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

19 **RIGHT TO REQUEST A HEARING**

20 8. Respondents have a right to request a hearing on this Order. A hearing
21 shall be held not later than ten (10) days after the Commissioner receives
22 the Respondent's written request for a hearing. Respondents may request a
23 hearing and waive the ten (10) day hearing requirement. The hearing shall
24 comply with RSA Chapter 541-A, RSA 397-A:17, RSA 397-A:18, RSA 399-D:13,I
25 and RSA 399-D:23,I and II.

1 9. If any person fails to request a hearing within thirty (30) days of
2 receiving this Order, then such person shall be deemed in default, and the
3 Order shall, on the thirty-first (31st) day, become permanent, all
4 allegations may be deemed true, and shall remain in full force and effect
5 until modified or vacated by the Commissioner for good cause shown. RSA
6 397-A:17,I, RSA 397-A:18, RSA 399-D:13,I and RSA 399-D:23,II.

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

9 **STATEMENT OF ALLEGATIONS**

10 11. On October 14, 2008, the Department received a complaint from a New
11 Hampshire consumer ("Consumer A") against Respondents concerning residential
12 mortgage loan modification services, and/or debt adjustment activity.

13 12. Prior to October 14, 2008, Respondents contracted with Consumer A to
14 modify Consumer A's mortgage loan without a New Hampshire mortgage broker
15 license, in violation of RSA 397-A:3,I, and without a debt adjuster license,
16 in violation of RSA 399-D:3,I.

17 13. Prior to October 14, 2008, Respondents collected an advance fee of
18 \$1,800.00 from Consumer A, in violation of RSA 397-A:14,IV(m) and RSA 399-
19 D:14,I.

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

22 15. On October 21, 2008, the Department sent a letter via U.S. Certified
23 Mail return receipt requested to Respondents, suggesting Respondents apply
24 for licensure with the Department and requesting documentation from
25 Respondents. The U.S. Post Office indicates that the correspondence was

1 delivered and signed for on October 24, 2008.

2 16. On November 10, 2009, the Department sent a letter via U.S. Certified
3 Mail return receipt requested to Respondents, suggesting Respondents apply
4 for licensure with the Department. The U.S. Post Office returned the letter
5 on November 24, 2009 indicating, "Moved Left No Address, Unable to Forward,
6 Return to Sender".

7 17. To date, Respondents have failed to provide the information requested
8 by the Department, in violation of RSA 397-A:12,I and RSA 399-D:22,VIII.

9
10 _____ /s/
11 Ryan McFarland
12 Hearings Examiner

Dated: August 11, 2011

13 **ORDER**

14 18. **I hereby find as follows:**

15 a. Pursuant to RSA 397-A:17,I, and RSA 399-D:13,I, the facts as
16 alleged above, if true, show Respondents are operating or have operated in
17 violation of RSA Chapter 397-A and/or Chapter 399-D and form the legal basis
18 for this Order;

19 b. Pursuant to 397-A:20,VI, and RSA 399-D:25,VI, this Order is
20 necessary and appropriate to the public interest and for the protection of
21 consumers and consistent with the purpose and intent of New Hampshire
22 banking laws;

23 c. The Department finds pursuant to RSA 397-A:17,II, RSA 397-
24 A:18,II, and RSA 399-D:23,II reasonable cause to issue an order to cease and
25 desist; and

d. Pursuant to RSA 397-A:17,I, RSA 397-A:18,II, RSA 399-D:13,I, and

1 RSA 399-D:23,II, if any Respondent fails to respond to this Order and/or
2 defaults then all facts as alleged herein are deemed as true.

3 19. **Accordingly, it is hereby ORDERED that:**

4 a. Respondents shall cease and desist from violating RSA Chapter
5 397-A and/or RSA Chapter 399-D and rules or orders thereunder;

6 b. Respondents shall immediately provide the Department a list of
7 all New Hampshire consumers for whom Respondents have residential mortgage
8 loan modification activity, and/or debt adjustment activity, and a status of
9 those accounts. This list must include the names and contact information of
10 the New Hampshire consumers, along with monies charged, collected and waived
11 (if applicable). The list shall also be accompanied by all contracts, checks
12 to and from the consumer and any other documents in the New Hampshire
13 consumers' files;

14 c. Respondents shall show cause why the Commissioner should not
15 enter an order of rescission, restitution, or disgorgement of profits in the
16 amount of at least \$1,800.00 (for Consumer A);

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

19 (1). Respondent National Home Loan:

20 Violation #1: Unlicensed mortgage broker activity (RSA
21 397-A:3,I), and/or Unlicensed activity as a debt adjuster
22 (RSA 399-D:3,I) - 1 Count;

23 Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)
24 and/or RSA 399-D:14,I) - 1 Count;

25 Violation #3: Failure to provide a residential mortgage

1 loan modification (RSA 397-A:14,IV(b)) - 1 Count;

2 Violation #4: Failure to provide documents (RSA 397-A:12,I
3 and/or RSA 399-D:22,VIII) - 1 Count;

4 (2). Respondent Sarver (as Control Person, Direct Owner, and
5 Principal):

6 Violation #1: Unlicensed mortgage broker activity (RSA
7 397-A:3,I), and/or Unlicensed activity as a debt adjuster
8 (RSA 399-D:3,I) - 1 Count;

9 Violation #2: Collecting an Advance Fee (RSA 397-A:3,IV(m)
10 and/or RSA 399-D:14,I) - 1 Count;

11 Violation #3: Failure to provide a residential mortgage
12 loan modification (RSA 397-A:14,IV(b)) - 1 Count;

13 Violation #4: Failure to provide documents (RSA 397-A:12,I
14 and/or RSA 399-D:22,VIII) - 1 Count;

15 e. Nothing in this Order:

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

18 (2). shall prevent the New Hampshire Office of the Attorney
19 General from bringing an action against the above named Respondents in any
20 New Hampshire superior court, with or without prior administrative action by
21 the Commissioner.

22 **SO ORDERED.**

23
24 _____
25 /s/
RONALD A. WILBUR
BANK COMMISSIONER

Dated: August 11, 2011