

) Case No.: 10-189

1 In re the Matter of:)
)
 2 State of New Hampshire Banking Department,)
)
 3 Petitioner,)
)
 4 and)
) Order to Cease and Desist
 5 The Modify Guy.com (d/b/a)
)
 6 themodifyguy.com), Mark William Cote, Law)
)
 7 Offices of Matthew T. Desrochers, P.C., and)
)
 8 Matthew Thomas Desrochers, Esquire,)
)
 9 Respondents)

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

11 1. This Order commences an adjudicative proceeding under the provisions
 12 of RSA Chapter 397-A (including RSA 397-A:17,I and II, RSA 397-A:18,I and
 13 II, and RSA 397-A:20,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 397-A:21,IV and V.

RESPONDENTS

17 3. The Modify Guy.com (d/b/a themodifyguy.com) ("Respondent Modify Guy")
 18 was an online entity that is not registered with the New Hampshire Secretary
 19 of State. An email from Respondent Modify Guy indicates it was located in
 20 Stoneham, Massachusetts. Respondent Modify Guy is a "Person." RSA 397-
 21 A:1,XVIII.

22 4. The National Mortgage Licensing System & Registry ("NMLS") records do
 23 not have a listing for Respondent Modify Guy. The New Hampshire Banking
 24 Department's ("Department") records do not indicate that Respondent Modify
 25 Guy has ever held a New Hampshire Mortgage Broker license.

1 5. Mark William Cote ("Respondent Cote") was the owner of Respondent
2 Modify Guy. Respondent Cote is listed by the NMLS as a Mortgage Loan
3 Originator who was licensed by Massachusetts from October 31, 2008 until his
4 license expired on December 31, 2009. Respondent Cote last lost his
5 sponsorship by a Department licensee on October 2, 2009. Respondent Cote is
6 also listed by the NMLS as a New Hampshire Mortgage Loan Originator, who was
7 licensed from April 1, 2009 until he voluntarily surrendered his license on
8 October 26, 2009. NMLS records and the Department's records also indicate
9 that Respondent Cote did not list Respondent Modify Guy as part of his past
10 employment history. Respondent Cote was once an employee of Vision Mortgage,
11 LLC (a former New Hampshire licensed Mortgage Broker and partly owned by
12 Respondent Matthew Thomas Desrochers). Respondent Cote is a Control person
13 (RSA 397-A:21,V-a), a Principal (RSA 397-A:1,XIX), a Direct Owner (RSA 397-
14 A:1,VI-a), a Person (RSA 397-A:1,XVIII) and a Mortgage Loan Originator (RSA
15 397-A:1,XVII).

16 6. Law Offices of Matthew T. Desrochers, P.C. ("Respondent Law Offices")
17 is a professional corporation registered with the Massachusetts Secretary of
18 State on August 6, 2004 with a principal office location in Reading,
19 Massachusetts and dissolved on May 31, 2007. Respondent Law Offices is not
20 registered with the New Hampshire Secretary of State. NMLS records do not
21 indicate that Respondent Law Offices has ever held a license as a mortgage
22 broker. The Department's records do not indicate Respondent Law Offices has
23 ever held a New Hampshire Mortgage Broker license. Respondent Law Offices is
24 a "Person." RSA 397-A:1,XVIII.

25 7. Matthew Thomas Desrochers, Esquire ("Respondent Desrochers") is a

1 Massachusetts licensed attorney, who has been licensed since December 13,
2 1999. Respondent Desrochers is the 100% owner of Respondent Law Offices.
3 NMLS records indicate that Respondent Desrochers was a licensed
4 Massachusetts Mortgage Loan Originator from April 18, 2007 until August 12,
5 2008, when his license expired. A trade name for Respondent Desrochers was
6 Desrochers Mortgage, and prior legal names for Respondent Desrochers were:
7 Desrochers, Matthew Thomas d/b/a Vision Mortgage, LLC and Matthew Thomas
8 Desrochers, d/b/a Vision Mortgage. Department records indicate Respondent
9 Desrochers was the 50% owner and Vice-President of Vision Mortgage, LLC,
10 which was a licensed New Hampshire Mortgage Broker from July 23, 2008 until
11 November 16, 2011, when it surrendered its license. Neither NMLS records nor
12 Department records indicate Respondent Desrochers ever held a New Hampshire
13 Mortgage New Hampshire Mortgage Loan Originator license. Respondent
14 Desrochers is a Control person (RSA 397-A:21,V-a), a Principal (RSA 397-
15 A:1,XIX), a Direct Owner (RSA 397-A:1 VI-a), and a Person (RSA 397-
16 A:1,XVIII).

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

19 **RIGHT TO REQUEST A HEARING**

20 9. 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 and RSA 397-A:18.

25 10. If any person fails to request a hearing within thirty (30) days of

1 receiving this Order, then such person shall be deemed in default, and the
2 Order shall, on the thirty-first (31st) day, become permanent, all
3 allegations may be deemed true, and shall remain in full force and effect
4 until modified or vacated by the Commissioner for good cause shown. RSA 397-
5 A:17,I and RSA 397-A:18.

6 11. A default may result in administrative fines as described in Paragraph
7 2 above.

8 **STATEMENT OF ALLEGATIONS**

9 12. On October 5, 2009, a Department employee received an email at the
10 employee's Department email address from Respondent Modify Guy and
11 Respondent Cote. The email asked if the employee was having problems with
12 mortgage payments and that the "Law Office" can work with the employee's
13 lender on the employee's behalf to "modify the terms of [] [the employee's]
14 loan." The solicitation of October 5, 2009 was in violation of RSA 397-
15 A:14,IV(c).

16 13. Respondent Cote, at the time of the email to the Department employee,
17 was not sponsored by any Department licensee or registrant to conduct
18 business as a New Hampshire Mortgage Loan Originator.

19 14. On March 3, 2010, the Department sent a letter via U.S. Certified Mail
20 return receipt requested to Respondent Modify Guy and Respondent Cote at the
21 Stoneham, Massachusetts address, suggesting Respondents may require
22 licensure by the Department. Respondent Modify Guy received the
23 correspondence on March 8, 2011 but failed to respond.

24 15. On September 17, 2010, the Department sent a letter via U.S. Certified
25 Mail return receipt requested to Respondent Modify Guy and Respondent Cote

1 at the Manchester, New Hampshire address for Respondent Cote, suggesting
2 Respondents may require licensure by the Department. The correspondence was
3 returned to the Department on October 8, 2010 and labeled only as
4 "unclaimed" after two notices were left.

5 16. On November 9, 2011, the Department telephoned and spoke with
6 Respondent Cote. Respondent Cote indicated that the Law Office mentioned in
7 the October 5, 2009 email referred to the Law Office of Matthew T.
8 Desrochers, P.C. and recommended the Department contact Respondent
9 Desrochers.

10 17. On November 10, 2011, the Department sent a letter via U.S. Certified
11 Mail return receipt requested to Respondent Law Offices and Respondent
12 Desrochers at the Reading, Massachusetts address, suggesting Respondents
13 apply for licensure with the Department and provide a consumer list within
14 ten (10) calendar days of their receipt of the correspondence. Respondent
15 Law Offices and Respondent Desrochers received the correspondence on
16 November 15, 2011 and responded to the Department on the same day by
17 telephone. Respondent Desrochers indicated he owned Vision Mortgage and
18 indicated he would send in affidavits explaining his position and that of
19 Respondent Cote.

20 18. On November 16, 2011 (the same day Respondent Desrochers surrendered
21 the Vision Mortgage New Hampshire Mortgage Broker license), Respondent
22 Desrochers submitted correspondence to the Department indicating he and
23 Respondent Cote would be willing to sign affidavits indicating neither he
24 nor Respondent Cote conducted mortgage modification work in New Hampshire as
25 long as the Department can show that the Department's employee was a New

1 b. Respondents shall immediately provide the Department a list of
2 all New Hampshire consumers for whom Respondents have residential mortgage
3 loan modification activity and a status of those accounts or the affidavits
4 the Department previously requested stating the Respondents did not engage
5 in New Hampshire consumer residential mortgage loan modification activity.
6 The list (if this is provided) must include the names and contact
7 information of the New Hampshire consumers, along with monies charged,
8 collected and waived (if applicable). The list shall also be accompanied by
9 all contracts, checks to and from the consumer and any other documents in
10 the New Hampshire consumers' files;

11 c. Respondents shall be hereby ordered to rescind, provide
12 restitution or disgorge profits;

13 d. Respondents shall hereby be administratively fined a maximum of
14 \$2,500.00 per violation (as stated in Counts below) as follows:

15 (1). Respondent Modify Guy:

16 #1: Solicitation of mortgage loan modification without a
17 mortgage broker license (RSA 397-A:14,IV(c)) - 1 Count;

18 #2: Failure to provide documents (RSA 397-A:12,I) - 1
19 Count;

20 (2). Respondent Cote (as Control Person, Direct Owner, and
21 Principal):

22 #1: Solicitation of mortgage loan modification without a
23 mortgage broker license (RSA 397-A:14,IV(c)) - 1 Count;

24 #2: Failure to provide documents (RSA 397-A:12,I) - 1
25 Count;

1 (3). Respondent Law Offices:

2 #1: Solicitation of mortgage loan modification without a
3 mortgage broker license (RSA 397-A:14,IV(c)) - 1 Count;

4 #2: Failure to provide documents (RSA 397-A:12,I) - 1
5 Count;

6 (4). Respondent Desrochers (as Control Person, Direct Owner,
7 and Principal):

8 #1: Solicitation of mortgage loan modification without a
9 mortgage broker license (RSA 397-A:14,IV(c)) - 1 Count;

10 #2: Failure to provide documents (RSA 397-A:12,I) - 1
11 Count;

12 e. Nothing in this Order:

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

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

19
20 **SO ORDERED.**

21
22 _____ /s/
23 RONALD A. WILBUR
24 BANK COMMISSIONER

Dated: 4/26/12