

State of New Hampshire
Banking Department

In re:)	Case Nos.: 10-386, 10-388 & 11-086
)	
State of New Hampshire Banking)	
)	
Department,)	Order to Cease and Desist
)	
Petitioner,)	
)	
and)	
)	
American Residential Law Group, Inc.)	
)	
a/k/a Estevez & Jacobi Law Firm a/k/a Law)	
)	
Offices of Joel S. Jacobi, Oscar Estevez, and)	
)	
Joel S. Jacobi,)	
)	
Respondents.)	

Now comes the petitioner, the State of New Hampshire Banking Department (the “Department”), commencing an adjudicative proceeding under the provisions of RSA Chapter 397-A and RSA Chapter 541-A against the respondents, American Residential Law Group, Inc. a/k/a Estevez & Jacobi Law Firm a/k/a Law Offices of Joel S. Jacobi (collectively “ARLG”), Oscar Estevez, and Joel S. Jacobi.

JURISDICTION

The Department licenses and regulates persons “engage[d] in the business of offering, originating, making, funding, or brokering mortgage loans from the state of New Hampshire or mortgage loans secured by real property located in the state of New Hampshire.” RSA 397-A:2, I.

RESPONDENTS

1. ARLG is a Florida corporation with a mailing address of 12555 Biscayne Boulevard, Suite 844, Miami, FL 33181. The Florida Department of State lists ARLG as being “inactive” and administratively dissolved on September 23, 2011. ARLG has never held a New Hampshire Mortgage Broker license.
2. Mr. Estevez is an individual and member in good standing of the Florida Bar Association with a mailing address of 2529 S.W. 8th Street, Miami, FL 33135. Mr. Estevez has never held a New Hampshire Mortgage Broker license.
3. Mr. Jacobi is an individual with a suspended Florida law license and a mailing address of 12555 Biscayne Boulevard, Suite 844, Miami, FL 33181. Mr. Jacobi has never held a New Hampshire Mortgage Broker license.

FACTS

On or about February 14, 2011, the Department received a complaint forwarded by the Florida Office of Financial Regulation regarding a New Hampshire resident, Consumer A. Consumer A alleges that he contacted ARLG to obtain a loan modification. Consumer A allegedly spoke with an employee of ARLG who agreed to help him modify his mortgage under a government-backed program. Consumer A alleges that he paid ARLG \$1,950.00 for the loan modification service. He states that a week before the mortgage company auctioned off his house, ARLG informed him that he did not qualify for a government-backed mortgage modification program.

Consumer A further states that ARLG was able to negotiate a new payment schedule with his mortgage company, but this procedure required a \$13,000 down payment which he was unable to provide. ARLG told Consumer A that he may have legal recourse available to him

because the mortgage company could not obtain certain loan documents. However, when Consumer A attempted to contact ARLG about his legal options, ARLG never responded.

Upon receipt of Consumer A's complaint, the Department attempted to contact the respondents without success. On August 17, 2012, the Department sent subpoenas duces tecum to the respondents. The respondents received the subpoenas on or about August 22, 2012, but failed to comply with the subpoenas. Subsequently, the Department commenced this adjudicative action.

GOVERNING LAW

Under RSA 397-A:3, I, “[a]ny person . . . that, in its own name or on behalf of other persons, engages in the business of making or brokering mortgage loans secured by real property located in this state shall be required to obtain a license from the department.” A “mortgage broker” is defined as “a person . . . who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly . . . [a]cts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring mortgage loans.” RSA 397-A:1, XIII.

Additionally, under RSA 397-A:12, I, “[t]he banking department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with [RSA Chapter 397-A].” The Department “shall have the power . . . to compel, by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to its investigation.” *Id.* “Every person being examined . . . shall make freely available to the commissioner or his or her examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control

relating to the subject of the examination and shall facilitate the examination.” RSA 397-A:12, VII.

“The [Department] may issue a cease and desist order against any licensee or person who it has reasonable cause to believe is in violation of the provisions of [RSA Chapter 397-A] or any rule or order under [RSA Chapter 397-A].” Additionally, the State of New Hampshire Bank Commissioner (the “Commissioner”) “may by order, upon due notice and opportunity for hearing, assesses penalties . . . if it is in the public interest and the . . . respondent, or . . . any partner, officer, member, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the . . . respondent . . . has violated any provision of [RSA Chapter 397-A] or rules or orders thereunder.” RSA 397-A:17, I(a). The Commissioner may also “enter an order of rescission, restitution, or disgorgement of profits directed to a person who has violated [RSA Chapter 397-A], or a rule or order under [RSA Chapter 397-A].” RSA 397-A:17, VIII.

FINDINGS

Pursuant to RSA 397-A:18, II, the Department has reasonable cause to believe that the respondents have violated the following provisions of RSA Chapter 397-A:

1. RSA 397-A:3, I: The respondents knowingly or negligently violated RSA 397-A:3, I when they offered to negotiate the terms of Consumer A’s mortgage secured by real property located in New Hampshire in exchange for financial compensation without a license from the Department. There is no evidence that the respondents activities were ancillary to other legal representation provided to Consumer A. See RSA 397-A:4, V (“The provisions of [RSA Chapter 397-A] shall not apply to . . . [a] licensed attorney who negotiates the terms of a

residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client . . .").

2. RSA 397-A:12, VII: The respondents knowingly or negligently violated RSA 397-A:12, VII by failing to facilitate the Department's examination of the respondents when they did not comply with the subpoena duces tecum.

Pursuant to RSA 397-A:20, VI, this Order is necessary and appropriate to the public interest, for the protection of consumers, and consistent with the purposes fairly intended by the policy and provisions of RSA Chapter 397-A.

ORDER

Accordingly, pursuant to RSA 397-A:17, I(a) and RSA 397-A:17, II, the Commissioner orders as follows:

1. The respondents shall cease and desist from violating RSA Chapter 397-A and any rules or order under RSA Chapter 397-A;
2. The respondents shall provide restitution to Consumer A pursuant to RSA 397-A:17, VIII; and
3. The respondents shall be assessed an administrative fine of \$2,500 for knowingly or negligently violating RSA 397-A:3, I when they engaged in the business of brokering Consumer A's mortgage loan without a license from the Department.
4. The respondents shall be assessed an administrative fine of \$2,500 for knowingly or negligently violating RSA 397-A:12, VII when they failed to facilitate the Department's examination.

NOTICE OF RIGHT TO A HEARING

The respondents have a right to request a hearing in writing on this Order to Cease and Desist. If requested, “[a] hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner.” RSA 397-A:18, II.

If the respondents “fail[] to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.” Id.

RECOMMENDED by:

10/3/12
Date

_____/s/
Emelia A.S. Galdieri
N.H. Bar #19840
Hearings Examiner
State of New Hampshire Banking Department

ORDERED by:

10/3/12
Date

_____/s/
Ronald A. Wilbur
State of New Hampshire Bank Commissioner

CERTIFICATE OF SERVICE

I, Rebekah L. Becker, hereby certify that on October 5, 2012, a copy of this Order to Cease and Desist was sent to the following parties via U.S. Registered Mail First Class:

American Residential Law Group
Attn: Joel Jacobi & Oscar Estevez
12555 Biscayne Blvd., Ste 844
Miami, FL 33181

Oscar Estevez
American Residential Law Group
2529 SW 8th Street
Miami, FL 33135

_____/s/_____
Rebekah L. Becker
Paralegal, Consumer Credit Division
State of New Hampshire Banking Department