

State of New Hampshire
Banking Department

In re:)	Case No.: 13-015
)	
State of New Hampshire Banking)	
)	
Department,)	Consent Order
)	
Petitioner,)	
)	
and)	
)	
Rosen & Winig, P.A., f/k/a Eric A. Rosen,)	
)	
P.A., and Eric A. Rosen, Esq.,)	
)	
Respondents.)	
_____)	

CONSENT ORDER

The State of New Hampshire Banking Department (the “Department”) finds and orders as follows:

Respondents

1. Rosen & Winig, P.A. (the “Firm”), formerly known as Eric A. Rosen, P.A., maintains offices at 2925 PGA Boulevard, Suite 100, Palm Beach Gardens, Florida 33410. The firm engaged Morgan Drexen, Inc. (“Morgan Drexen”)¹ from September 2007 until May 2011 to provide internet-based paralegal and administrative support-staff services in the area of unsecured debt settlement. The firm has never held a New Hampshire Debt Adjuster license.
2. Eric A. Rosen, Esq., is an attorney licensed to practice law in the State of New York since 1986 and in the State of Florida since 2007. Attorney Rosen is a principal owner of

¹ The Department is proceeding in a separate action against Morgan Drexen, Inc. (Case No. 07-317). The terms of this Consent Order apply only to Attorney Rosen and the Firm.

the Firm (Attorney Rosen and the Firm are collectively referred to as the “Respondents”). Attorney Rosen has never held a New Hampshire Debt Adjuster license and is not admitted to practice law in New Hampshire.

Jurisdiction

The Department regulates debt adjustment services performed in the State of New Hampshire or on behalf of a person located in the State of New Hampshire. RSA 399-D:1, IV; RSA 399-D:23. RSA 399-D:19, IV authorizes the Department to investigate whether any person has violated or is about to violate any provision of RSA Chapter 399-D, or any rule or order given under RSA Chapter 399-D.

Background

On November 9, 2007, the Department’s investigation of an unrelated company licensed by the Department (the “Licensee”)² revealed that Morgan Drexen sent debt settlement documents to the licensee on Consumer A’s behalf. Additionally, on December 12, 2008, the Department received a complaint from Consumer B’s attorney alleging that Morgan Drexen contacted his client and offered to provide debt settlement services. In response, the Department conducted an investigation to determine if Morgan Drexen was engaged in debt adjustment activities without the license required by RSA Chapter 399-D.

During the investigation, the Department issued a Cease and Desist Order against the Morgan Drexen. Subsequently, the Department entered into negotiations with Morgan Drexen to attempt to resolve the concerns raised in the Cease and Desist Order. In the course of negotiations, legal counsel for Morgan Drexen, at the request of Attorney Rosen, disclosed to the Department that the Firm contracted to provide debt settlement services to 102 New Hampshire consumers with the assistance of legal support staff at Morgan Drexen. Attorney Rosen is not

² The licensee is not a party to this action.

admitted to practice law in New Hampshire, but did affiliate with attorneys admitted to practice law in New Hampshire.

The Department, Attorney Rosen, and the Firm would like to avoid further formal proceedings and expense, and to finally resolve this matter under the terms and conditions set forth below.

Governing Law

Under RSA 399-D:3, “[a]ny person that, in its own name or on behalf of other persons, engages in the business of debt adjustment in this state or with persons located in this state shall be required to obtain a license from the banking department.” However, “[t]he provisions of [RSA Chapter 399-D] shall not apply to . . . [a]ny attorney admitted to the practice of law in this state, when engaged in such practice.” RSA 399-D:4, I.

The Respondents’ Consent and Recognitions

1. Without admitting any violations, the Respondents recognize the Department’s position that the provision of debt settlement services or debt adjustment services without a New Hampshire Debt Adjustment license constitutes a violation of RSA 399-D:3.
2. Without admitting any violations, the Respondents recognize the Department’s position that it has the authority to regulate debt settlement services pursuant to RSA Chapter 399-D.
3. Without admitting any violations, the Respondents recognize the Department’s position that the Respondents’ provision of debt settlement services constitutes a violation of RSA 399-D:3 and does not fall within the exception stated in RSA 399-D:4, I.
4. The Respondents have voluntarily entered into this Consent Order without reliance upon any discussions between the Department and the Respondents, without the promise of a benefit of any kind (other than the concessions contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind.

5. The Respondents further acknowledge their understanding of the nature of the allegations set forth in this proceeding, including the potential penalties provided by law.
6. The Respondents acknowledge, understand, and agree that they have the right to notice, hearing, civil action, and/or appeal, and hereby waive those rights.
7. The Respondents represent and warrant that they have all the necessary rights, powers, and ability to carry out all of the terms of this Consent Order that are applicable to them.
8. The Respondents acknowledge that the Department is relying upon the Respondents' representations and warranties stated herein in making its determination in this matter.

Order

Whereas, pursuant to RSA 399-D:25, VI, this Consent Order is necessary, appropriate, in the public interest, and consistent with the intent and purposes fairly intended by the policy and provisions of RSA Chapter 399-D.

The Department orders as follows:

1. The Respondents shall comply with RSA Chapter 399-D, and any rules or orders under RSA Chapter 399-D.
2. The Respondents shall not engage in the business of debt adjustment or provide debt settlement services in the State of New Hampshire or to persons located in this state without a license unless a member of the Firm becomes "admitted to the practice of law in this state" RSA 399-D:4, I.
3. The Respondents shall pay an administrative fine in the amount of \$25,000.³ See RSA 399-D:24.
4. This Consent Order may be revoked and the Department may pursue any and all remedies available under the law against the Respondents if the Department later finds that the Respondents knowingly or willfully withheld information.

³ Payment shall be in the form of a bank check or guaranteed funds made payable to the "State of New Hampshire."

5. This Consent Order is binding on all heirs, assigns, and/or successors in interest.
6. This Consent Order shall become effective upon the date the Commissioner of the Banking Department signs this Consent Order, provided that the Department has confirmed receipt of the payment referenced in Paragraph 3.
7. Once this Consent Order is in effect, the Department agrees not to seek any further reimbursement, refunds, penalties, fines, costs, or fees regarding the facts or allegations of violations related to the Respondents contained herein.
8. For any person or entity not a party to this Consent Order, this Consent Order does not create any private rights or remedies against the Respondents, create any liability for the Respondents, or limit the defenses of the Respondents to any other claims.

Recommended this 2nd day of April, 2013 by:

/s/
Emelia A.S. Galdieri
Hearings Examiner
State of New Hampshire Banking Department

Executed this 29th day of March, 2013 by:

/s/
Eric A. Rosen, Esq.

Executed this 29th day of March, 2013 by:

/s/
Eric A. Rosen, Esq.
Representative of Rosen & Winig, P.A.

SO ORDERED.

_____/s/_____
Glenn A. Perlow
Bank Commissioner
State of New Hampshire Banking Department

4/5/13
Date