

IN THE MATTER OF:

**NATIONAL RELIEF GROUP INC., and
BRIAN J. PACIOS**

Respondents.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: CFR-FY2010-361

**SUPPLEMENTAL SUMMARY ORDER FOR RESTITUTION
AND PENALTIES**

WHEREAS, the Office of the Commissioner of Financial Regulation, under the supervision of the Deputy Commissioner of Financial Regulation (the “Deputy Commissioner”), conducted an investigation into the credit services business activities of National Relief Group Inc. and Brian J. Pacios, (the “Respondents”); and

WHEREAS, as a result of that investigation, the Deputy Commissioner found evidence that Respondents engaged in acts or practices constituting a violation of a law over which the Commissioner has jurisdiction, namely that Respondents have violated various provisions of the Annotated Code of Maryland, including Commercial Law Article (“CL”), Title 14, Subtitle 19 (the Maryland Credit Services Businesses Act, hereinafter “MCSBA”), and Financial Institutions Article (“FI”), Title 11, Subtitles 2 and 3; and

WHEREAS, the Commissioner issued a Final Order to Cease and Desist (the “Final Order”) against Respondents on January 6, 2011, after determining that Respondents were in violation of the aforementioned provisions of Maryland law, and that it was in the public interest that Respondents cease and desist from engaging in credit services business activities with Maryland residents, homeowners and/or consumers (hereinafter “Maryland consumers”), including directly or indirectly offering, contracting to provide, or otherwise

engaging in, loan modification, loss mitigation, or similar services related to residential real property (hereinafter “loan modification services”) and ordering Respondents to pay restitution and monetary penalties; and

WHEREAS, the Commissioner issued a modified Final Order to Cease and Desist (the “Modified Final Order”) against Respondents on December 11, 2012, after receiving complaints from two (2) additional Maryland consumers; and

WHEREAS, the Commissioner has since received an additional complaint from one (1) Maryland Consumer regarding Respondents’ credit services business activities;

NOW, THEREFORE, the Commissioner has determined, for the reasons set forth below, that the Respondents should be ordered to pay additional restitution and penalties with respect to these additional consumer complaints.

1. The Commissioner hereby incorporates by reference the Summary Order to Cease and Desist (the “Summary Order”) issued in this matter on September 24, 2010 (attached hereto as Exhibit A) the Final Order issued in this matter on January 6, 2011 (attached hereto as Exhibit B), and the Modified Final Order issued in this matter on December 11, 2012 (attached hereto as Exhibit C).

2. In January 2012, the Commissioner’s Office received an additional complaint against Respondents from [REDACTED] (“Consumer A”). On April 12, 2012 Consumer A entered into a loan modification agreement with Respondents. Consumer A paid approximately \$3,500 in up-front fees to Respondents in exchange for which Respondents represented that they would be able to obtain a loan modification for Consumer A. Although Respondents collected \$3,500 in up-front fees, Respondents never obtained a loan modification for Consumer A.

4. As set forth more fully in the Summary Order, the Final Order, and the Modified Final Order, Respondents' actions pertaining to Consumer A constitute violations of the Maryland Credit Services Business Act ("MCSBA"), CL §14-1091, *et seq.* in the exact same manner as set forth in those previous Orders, thereby subjecting Respondents to the penalty provisions of the MCSBA and FI §§ 2-115(a) and (b).

WHEREFORE, having determined that an additional consumer was harmed by Respondents during the period covered by the Summary Order, the Final Order, and the Modified Final Order, and that immediate action is in the public interest, it is, by the Maryland Commissioner of Financial Regulation, hereby

ORDERED that Respondents shall **SHOW CAUSE** why the Commissioner should not enter a Final Supplemental Order for Restitution and Penalties; and it is

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from violating the aforementioned statutory provisions of the Annotated Code of Maryland, including, but not limited to, Title 14, Subtitle 19 of the Commercial Law Article (the Maryland Credit Services Businesses Act), and Title 11, Subtitles 2 and 3 of the Financial Institutions Article, and Title 7; and that Respondents should be assessed statutory monetary penalties and directed to make restitution for such violations; and it is further

ORDERED that all provisions of this Supplemental Summary Order for Restitution and Penalties (the "Supplemental Summary Order"), including all orders and notices set forth herein, shall also apply to all unnamed partners, employees, and/or agents of Respondents; and it is further

ORDERED that Respondents shall provide a copy of this Supplemental Summary Order to all unnamed partners, employees and/or agents of the Respondents;

FURTHERMORE,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI § 2-115, CL § 14-1911, and RP § 7-319.1, Respondents are entitled to a hearing before the Commissioner to determine whether this Supplemental Summary Order should be vacated, modified, or entered as a final order of the Commissioner; and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI § 2-115 and CL § 14-1911, this Supplemental Summary Order will be entered as a final order of the Commissioner if Respondents do not request a hearing within 15 days of the receipt of this Supplemental Summary Order; and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to Code of Maryland Regulations (“COMAR”) § 09.01.02.08, and State Government Article (“SG”) §§ 9-1607.1, 10-206.1, and 10-207, and in accordance with SG § 10-207(b)(4), individual Respondents are only permitted to request a hearing, and to appear at such hearing, on behalf of themselves, or through an attorney authorized to practice law in Maryland at Respondents’ own expense; and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to SG §§ 9-1607.1 and 10-206.1, and in accordance with SG § 10-207(b)(4), business entities are only permitted to request a hearing, and to appear at such hearing, through an attorney authorized to practice law in Maryland at Respondents’ own expense; and further,

RESPONDENTS ARE HEREBY NOTIFIED that any and all requests for a hearing in this matter must conform to the requirements stated above, must be made in the form of a signed, written request, and must be submitted to the following address:

Administrator
Enforcement Unit
Office of the Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202;

and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI § 2-115(b) and CL § 14-1911, as a result of a hearing, or of Respondents' failure to timely request a hearing in the manner described above, the Commissioner may, in the Commissioner's discretion, and in addition to taking any other action authorized by law, take the following actions: enter an order making this Supplemental Summary Order final; issue a penalty order against Respondents imposing a civil penalty up to \$1,000 for each violation of the MCSBA, up to \$1,000 for each violation of the FI § 2-114, and up to \$1,000 for each additional violation cited above; issue a penalty order against Respondents imposing a civil penalty up to \$5,000 for each subsequent violation of these laws; or may take any combination of the aforementioned actions against Respondents. The Commissioner may also enter a final order declaring, pursuant to CL §§ 14-1902 and 14-1907, that all loan modification services agreements made by Respondents with Maryland consumers are void and unenforceable, and that Respondents must refund to Maryland consumers all money and other valuable consideration that consumers paid to Respondents or to their partners or agents, that is in any way related to these agreements. In addition, pursuant to CL § 14-1912, as a result of Respondents' failure to comply with requirements imposed under the MCSBA, the Commissioner may also enter an order requiring Respondents to pay consumers a monetary award equal to any actual damages sustained by the consumers as a result of that failure, and, in instances of willful noncompliance under the MCSBA, an additional monetary award

equal to 3 times the total amount collected from the consumers. Additionally, pursuant to RP § 7-319.1(c) the Commissioner may enter an order directing Respondents to take affirmative action to correct the violations described herein, including the restitution of money or property to any person aggrieved by the violations.

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

4/23/2013
Date


By: Keisha Whitehall Wolfe
Acting Deputy Commissioner

IN THE MATTER OF:

**NATIONAL RELIEF GROUP INC., and
BRIAN J. PACIOS,**

Respondents.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: CFR-FY2010-361

SUMMARY ORDER TO CEASE AND DESIST

WHEREAS, the Commissioner of Financial Regulation (the “Commissioner”) undertook an investigation into the credit services business activities of National Relief Group Inc. (“National Relief Group”) and Brian J. Pacios, (collectively the “Respondents”); and

WHEREAS, as a result of that investigation, the Commissioner finds grounds to allege that Respondents violated various provisions of the Annotated Code of Maryland, including Commercial Law Article (“CL”), Title 14, Subtitle 19, (the Maryland Credit Services Businesses Act, hereinafter “MCSBA”), and Financial Institutions Article (“FI”), Title 11, Subtitles 2 and 3, and the Commissioner finds that action under FI §§ 2-114 and 2-115 is appropriate.

NOW, THEREFORE, the Commissioner has determined, for the reasons set forth below, that the Respondents are in violation of Maryland law, and that it is in the public interest that the Respondents immediately cease and desist from engaging in credit services business activities with Maryland residents, homeowners and/or consumers (hereinafter “Maryland consumers”), including directly or indirectly offering, contracting to provide, or

otherwise engaging in, loan modification, loss mitigation, or similar services related to residential real property (hereinafter “loan modification services”).

1. FI §§ 2-115(a) and (b) set forth the Commissioner’s authority to issue summary cease and desist orders, and to take additional actions for violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction (in addition to taking any other action permitted by law, and subject to a hearing or waiver of hearing), providing as follows:

(a) *Summary cease and desist orders.*- When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

(1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

(b) *Other authorized actions for violations.*- When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

(1) Issue a final cease and desist order against the person;

(2) Suspend or revoke the license of the person;

(3) Issue a penalty order against the person imposing a civil penalty up to the maximum amount of \$1,000 for a first violation and a maximum amount of \$5,000 for each subsequent violation; or

(4) Take any combination of the actions specified in this subsection.

2. FI §§ 2-114(a) and (b) set forth the Commissioner's general authority to order the production of information, as well as documents and records, while investigating potential violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction (which is in addition to the Commissioner's specific investigatory authority set forth in various other Maryland statutes and regulations). Thus, FI § 2-114(a)(2) provides that the Commissioner may "[r]equire ... a person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated." Further, pursuant to FI § 2-114(b), "the Commissioner or an officer designated by the Commissioner may," among other things, "take evidence, and require the production of books, papers, correspondence, memoranda, and agreements, or other documents."

3. In the present matter, in May 2010, the Commissioner began an investigation into the business activities of the Respondents as a result of a consumer complaint. Pursuant to the Commissioner's inquiry into Respondents' business activities, the Commissioner developed reasonable grounds to believe that Respondents have engaged in unlicensed credit services business activities with Maryland consumers in violation of various provisions of Maryland Law, including, but not limited to, the MCSBA and FI Title 11, Subtitles 2 and 3, and that the Respondents' business activities constituted other violations of the MCSBA. The legal and factual bases for these determinations are described below.

4. The MCSBA provides, pursuant to CL § 14-1902, that “[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not: (1) [r]eceive any money or other valuable consideration from the consumer, unless the credit services business has secured from the Commissioner a license under Title 11, Subtitle 3 of the Financial Institutions Article. . . .”

5. Pursuant to CL § 14-1903(b), “[a] credit services business is required to be licensed under this subtitle and is subject to the licensing, investigatory, enforcement, and penalty provisions of this subtitle and Title 11, Subtitle 3 of the Financial Institutions Article.”

6. Pursuant to FI § 11-302, “[u]nless the person is licensed by the Commissioner, a person may not: . . . (3) [e]ngage in the business of a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article.”

7. Pursuant to FI § 11-303, “[a] license under this subtitle shall be applied for and issued in accordance with, and is subject to, the licensing and investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law – Licensing Provisions.”

8. The MCSBA defines “*credit services business*” at CL § 14-1901(e); this provision provides, in part, as follows:

(1) “Credit services business” means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:

(i) Improving a consumer’s credit record, history, or rating or establishing a new credit file or record;

(ii) Obtaining an extension of credit for a consumer; or

(iii) Providing advice or assistance to a consumer with regard to either subparagraph (i) or (ii) of this paragraph.

9. CL § 14-1901(f) defines “*extension of credit*” as “the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes.”

10. CL § 14-1902 further provides, in pertinent part, as follows:

A credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not:

(4) Make or use any false or misleading representations in the offer or sale of the services of a credit services business;

(5) Engage, directly or indirectly, in any act, practice, or course of business which operates as a fraud or deception on any person in connection with the offer or sale of the services of a credit services business;

(6) Charge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer;

* * *

11. CL § 14-1903(a) addresses the scope of credit services contracts covered under MCSBA, providing as follows:

(a) *In general.* – Notwithstanding any election of law or designation of situs in any contract, this subtitle applies to any contract for credit services if:

(1) The credit services business offers or agrees to sell, provide, or perform any services to a resident of this State;

(2) A resident of this State accepts or makes the offer in this State to purchase the services of the credit services business; or

(3) The credit services business makes any verbal or written solicitation or communication that originates either inside or outside of this State but is received in the State by a resident of this State.

12. Pursuant to CL § 14-1903.1,

A person who advertises a service described in § 14-1901(e)(1) of this subtitle, whether or not a credit services

business, shall clearly and conspicuously state in each advertisement the number of:

- (1) The license issued under § 14-1903 of this subtitle; or
- (2) If not required to be licensed, the exemption provided by the Commissioner.

13. CL § 14-1904(a) provides that, “[b]efore either the execution of a contract or agreement between a consumer and a credit services business or the receipt by the credit services business of any money or other valuable consideration, the credit services business shall provide the consumer with a written information statement containing all of the information required under § 14-1905 of [the MCSBA].” CL § 14-1905(b) further requires a credit services business “to maintain on file for a period of 2 years from the date of the consumer’s acknowledgment a copy of the information statement signed by the consumer acknowledging receipt of the information statement.”

14. CL § 14-1905 indicates the specific terms which must be provided in the information statement, stating, in part, as follows:

(a) *In general.* – The information statement required under § 14-1904 of this subtitle shall include:

* * *

(5) A complete and detailed description of the services to be performed by the credit services business for or on behalf of the consumer, and the total amount the consumer will have to pay for the services.

* * *

(b) *Additional requirements of licenses.*— A credit services business required to obtain a license pursuant to § 14-1902 of this subtitle shall include in the information statement required under § 14-1904 of this subtitle:

(1) A statement of the consumer’s right to file a complaint pursuant to § 14-1911 of this subtitle;

(2) The address of the Commissioner where such complaints should be filed; and

(3) A statement that a bond exists and the consumer's right to proceed against the bond under the circumstances and in the manner set forth in § 14-1910 of this subtitle.

15. CL § 14-1906 discusses requirements for contracts between credit services businesses and consumers, providing as follows:

(a) *Requirements.*— Every contract between a consumer and a credit services business for the purchase of the services of the credit services business shall be in writing, dated, signed by the consumer, and shall include:

(1) A conspicuous statement in size equal to at least 10-point bold type, in immediate proximity to the space reserved for the signature of the consumer as follows:

"You, the buyer, may cancel this contract at any time prior to midnight of the third business day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right.";

(2) The terms and conditions of payment, including the total of all payments to be made by the consumer, whether to the credit services business or to some other person;

(3) A complete and detailed description of the services to be performed and the results to be achieved by the credit services business for or on behalf of the consumer, including all guarantees and all promises of full or partial refunds and a list of the adverse information appearing on the consumer's credit report that the credit services business expects to have modified and the estimated date by which each modification will occur; and

(4) The principal business address of the credit services business and the name and address of its agent in this State authorized to receive service of process.

(b) *Notice of cancellation form.*— The contract shall be accompanied by a form completed in duplicate, captioned "**NOTICE OF CANCELLATION**", which shall be attached to the contract and easily detachable, and which shall contain in at least 10-point bold type the following statement:

"NOTICE OF CANCELLATION"

You may cancel this contract, without any penalty or obligation, at any time prior to midnight of the third business day after the date the contract is signed.

If you cancel, any payment made by you under this contract will be returned within 10 days following receipt by the seller of your cancellation notice.

* * *

(c) *Copies of completed contract and other documents to be given to consumer.*— A copy of the completed contract and all other documents the credit services business requires the consumer to sign shall be given by the credit services business to the consumer at the time they are signed.

16. CL § 14-1907 provides, in part, as follows:

(a) *Breach of contract.*— Any breach by a credit services business of a contract under this subtitle, or of any obligation arising under it, shall constitute a violation of this subtitle.

(b) *Void contracts.*— Any contract for services from a credit services business that does not comply with the applicable provisions of this subtitle shall be void and unenforceable as contrary to the public policy of this State.

(c) *Waivers.*—

* * *

(2) Any attempt by a credit services business to have a consumer waive rights given by this subtitle shall constitute a violation of this subtitle.

17. CL § 14-1908 provides that, “[a] credit services business is required to obtain a surety bond pursuant to Title 11, Subtitle 3 of the Financial Institutions Article.” Further, CL § 14-1909 provides that, “[t]he surety bond shall be issued by a surety company authorized to do business in this State.”

18. CL § 14-1912 discusses liability for failure to comply with the MCSBA, providing as follows:

(a) *Willful noncompliance.*— Any credit services business which willfully fails to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure;

(2) A monetary award equal to 3 times the total amount collected from the consumer, as ordered by the Commissioner;

(3) Such amount of punitive damages as the court may allow; and

(4) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) *Negligent noncompliance.*— Any credit services business which is negligent in failing to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure; and

(2) In the case of any successful action to enforce any liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

19. Loan modification services generally include obtaining an extension of credit for consumers, namely obtaining forbearance or other deferrals of payment on consumers' mortgage loans. This includes any offered services intended as part of the loan modification process, or which are represented to consumers to be necessary for participating in a loan modification program. Under certain circumstances, loan modification services may involve improving a consumer's credit record, history, or rating or establishing a new credit file or record. Therefore, unless otherwise exempt, pursuant to CL §§ 14-1901(e) and 14-1901(f) persons providing loan modification services, in which they are offering forbearance services, loss mitigation services, and/or credit repair services, fall under the statutory definition of "credit services businesses," and are thereby subject to the licensing, investigatory, enforcement, and penalty provisions of the MCSBA.

20. The Commissioner's investigation determined that Respondent National Relief Group is an active California corporation operating out of Irvine, California. Further, the Commissioner's investigation revealed that National Relief Group engages in business activities with Maryland consumers involving Maryland residential real property, although it is not a registered business entity in the State of Maryland.

21. The Commissioner's investigation determined that Respondent Brian J. Pacios engages in business activities with Maryland consumers involving Maryland residential real property. Brian J. Pacios is the owner, director, officer, manager, employees and/or agent, and agent for service of process of National Relief Group.

22. The Commissioner's investigation revealed that, in September 2009, [REDACTED] ("Consumer A") entered into a loan modification agreement with Respondents. Consumer A paid approximately \$3,000 in up-front fees to Respondents in exchange for which Respondents represented that they would be able to obtain a loan modification for Consumer A. Although Respondents collected \$3,000 in up-front fees, Respondents never obtained a loan modification for Consumer A. Further, Consumer A requested a refund of the up-front fees, to which the Respondents have yet to provide a refund.

23. Pursuant to the Commissioner's authority to conduct investigations under FI § 2-114, the Commissioner issued a subpoena to Respondents on July 9, 2010, ordering them to produce by July 26, 2010 all documents in their control in any way related to their loan modification services provided to Maryland consumers. Respondents, in response to the subpoena, sent a letter to the Commissioner listing the names of two Maryland consumers whom they had "found" as of the date of the letter – Consumer A and a second Maryland consumer, [REDACTED], who had purportedly paid approximately \$3,000 in up-front fees to Respondents in exchange for loan modification services. Respondents have yet to produce the documents and information required by the subpoena. Accordingly, Respondents have failed to fully comply with the subpoena, and thus are in violation of FI § 2-114.

24. In the present matter, the Respondents are subject to the MCSBA, including its prohibition on engaging in credit services business activities without first being licensed under the MCSBA pursuant to CL § 14-1902(1), CL §14-1903(b), FI § 11-302, and FI § 11-303. However, at no time relevant to the facts set forth in this Summary Order to Cease and Desist (the “Summary Order”) have Respondents been licensed by the Commissioner under the MCSBA.

25. By representing that they could provide loan modification services, and by entering into agreements with Maryland consumers to provide loan modification services, Respondents have engaged in credit services business activities without having the requisite license. Respondents’ unlicensed loan modification activities thus constitute violations of CL § 14-1902(1), CL §14-1903(b), FI § 11-302, and FI § 11-303, thereby subjecting Respondents to the penalty provisions of the MCSBA.

26. Additionally, by collecting up-front fees prior to fully and completely performing all services on behalf of consumers, Respondents violated CL § 14-1902(6) of the MCSBA.

27. Further, Respondents made or used false or misleading representations in their sale of services to Maryland consumers, thereby violating CL § 14-1902(4), for example, when Respondents’ advertisements and other marketing materials claimed that they would obtain beneficial loan modifications for Maryland homeowners or return any fees that the consumers had paid, when in fact Respondents never obtained such beneficial modifications for Maryland consumers and never returned the up-front fees collected.

28. Respondents further violated the MCSBA through the following: they failed to obtain the requisite surety bonds, in violation of to CL §§ 14-1908 and 14-1909; they

failed to provide consumers with the requisite information statements, in violation of CL §§ 14-1904 and 14-1905; and Respondents failed to include all of the requisite contractual terms in their agreements with consumers as required under CL § 14-1906.

29. Further, as the agreements between Respondents and the consumers failed to comply with the specific requirements imposed by the MCSBA (as discussed above), pursuant to CL § 14-1907(b) all such contracts between Respondents and Maryland consumers are void and unenforceable as against the public policy of State of Maryland.

30. Additionally, by failing to obtain beneficial loan modifications or other forms of forbearance agreements for Maryland consumers which Respondents had agreed to provide, Respondents breached their contracts with Maryland consumers and/or breached the obligations arising under those agreements. Pursuant to CL § 14-1907(a), such breaches constitute *per se* violations of the MCSBA.

WHEREFORE, having determined that immediate action is in the public interest, and pursuant to the aforementioned provisions of the Annotated Code of Maryland, it is, by the Maryland Commissioner of Financial Regulation, hereby

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from engaging in any further credit services business activities with Maryland consumers, including contracting to provide, or otherwise engaging in loan modification services, or similar services with Maryland consumers; and it is

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from violating the aforementioned statutory provisions of the Annotated Code of Maryland, including, but not limited to, Title 14, Subtitle 19 of the Commercial Law Article (the Maryland Credit Services Businesses Act), and Title 11, Subtitles 2 and 3 of the Financial

Institutions Article; and that Respondents should be assessed statutory monetary penalties and directed to make restitution for such violations; and it is further

ORDERED that all provisions of this Summary Order, including all orders and notices set forth herein, shall also apply to all unnamed partners, employees, and/or agents of Respondents; and it is further

ORDERED that Respondents shall provide a copy of this Summary Order to all unnamed partners, employees and/or agents of the Respondents; furthermore,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI § 2-115 and CL § 14-1911, Respondents are entitled to a hearing before the Commissioner to determine whether this Summary Order should be vacated, modified, or entered as a final order of the Commissioner; and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI § 2-115 and CL § 14-1911, this Summary Order will be entered as a final order of the Commissioner if Respondents do not request a hearing within 15 days of the receipt of this Summary Order; and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to Code of Maryland Regulations (“COMAR”) § 09.01.02.08, and State Government Article (“SG”) §§ 9-1607.1, 10-206.1, and 10-207, and in accordance with SG § 10-207(b)(4), individual Respondents are only permitted to request a hearing, and to appear at such hearing, on behalf of themselves, or through an attorney authorized to practice law in Maryland at Respondents’ own expense; and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to SG §§ 9-1607.1 and 10-206.1, and in accordance with SG § 10-207(b)(4), business entities are only

permitted to request a hearing, and to appear at such hearing, through an attorney authorized to practice law in Maryland at Respondents' own expense; and further,

RESPONDENTS ARE HEREBY NOTIFIED that any and all requests for a hearing in this matter must conform to the requirements stated above, must be made in the form of a signed, written request, and must be submitted to the following address:

Jessica Wiener, Administrator
Enforcement Unit
Office of the Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202;

and further,

RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI § 2-115(b), as a result of a hearing, or of Respondents' failure to timely request a hearing in the manner described above, the Commissioner may, in the Commissioner's discretion, and in addition to taking any other action authorized by law, take the following actions: enter an order making this Summary Order final; issue a penalty order against Respondents imposing a civil penalty up to \$1,000 for each violation of the MCSBA, up to \$1,000 for each violation of the FI §§ 2-114, and up to \$1,000 for each additional violation cited above; issue a penalty order against Respondents imposing a civil penalty up to \$5,000 for each subsequent violation of these laws; or may take any combination of the aforementioned actions against Respondents. The Commissioner may also enter a final order declaring, pursuant to CL §§ 14-1902 and 14-1907, that all loan modification services agreements made by Respondents with Maryland consumers are void and unenforceable, and that Respondents must refund to Maryland consumers all money and other valuable consideration that consumers paid to Respondents, and if applicable to his partners, employees, and/or agents, that is in any way

related to these agreements. In addition, pursuant to CL § 14-1912, as a result of Respondents' failure to comply with requirements imposed under the MCSBA, the Commissioner may also enter an order requiring Respondents to pay consumers a monetary award equal to any actual damages sustained by the consumers as a result of that failure, and, in instances of willful noncompliance under the MCSBA, an additional monetary award equal to 3 times the total amount collected from the consumers.

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

9/24/10
Date


By: Mark Kaufman
Deputy Commissioner

IN THE MATTER OF:

NATIONAL RELIEF GROUP INC., and

BRIAN J. PACIOS,

Respondents.

BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION

Case No.: CFR-FY2010-361

FINAL ORDER TO CEASE AND DESIST

WHEREAS, the Commissioner of Financial Regulation (the "Commissioner") conducted an investigation into the credit services business activities of National Relief Group Inc. ("National Relief Group") and Brian J. Pacios, (collectively the "Respondents"); and

WHEREAS, as a result of that investigation, the Deputy Commissioner of Financial Regulation (the "Deputy Commissioner") found evidence to support that Respondents have engaged, and continue to engage, in acts or practices constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, namely that Respondents have violated various provisions of the Annotated Code of Maryland, including Commercial Law Article ("CL"), Title 14, Subtitle 19, (the Maryland Credit Services Businesses Act, hereinafter "MCSBA"), and Financial Institutions Article ("FI"), Title 11, Subtitles 2 and 3; and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist (the "Summary Order") against Respondents on September 24, 2010, after determining that Respondents were in violation of the aforementioned provisions of

Maryland law, and that it was in the public interest that Respondents cease and desist from engaging in credit services business activities with Maryland residents, homeowners and/or consumers (hereinafter "Maryland consumers"), including directly or indirectly offering, contracting to provide, or otherwise engaging in, loan modification, loss mitigation, or similar services related to residential real property (hereinafter "loan modification services"); and

WHEREAS, the Summary Order notified Respondents of, among other things, the following: that Respondents were entitled to a hearing before the Commissioner to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order would be entered as a final order if Respondents did not request a hearing within 15 days of the receipt of the Summary Order; and that as a result of a hearing, or of Respondents' failure to request a hearing, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an order making the Summary Order final, issue penalty orders against Respondents, issue orders requiring Respondents to pay restitution and other money to consumers, as well as take other actions related to Respondents' business activities; and

WHEREAS, the Summary Order was properly served on Respondents via First Class U.S. Mail and Certified U.S. Mail; and

WHEREAS, Respondents failed to request a hearing on the Summary Order within the fifteen (15) day period set forth in FI § 2-115(a)(2) and have not filed a request for a hearing as of the date of this Final Order to Cease and Desist (this "Final Order"); and

WHEREAS, the Commissioner has based his decision in this Final Order on the following determinations:

1. The MCSBA defines "*credit services business*" at CL § 14-1901(e); this provision provides, in part, as follows:

(1) "Credit services business" means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:

(i) Improving a consumer's credit record, history, or rating or establishing a new credit file or record;

(ii) Obtaining an extension of credit for a consumer; or

(iii) Providing advice or assistance to a consumer with regard to either subparagraph (i) or (ii) of this paragraph.

Additionally, CL § 14-1903(f) defines "*extension of credit*" as "the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes."

2. The activities of persons engaged in the business of offering or providing loan modification services customarily include obtaining extensions of credit for consumers, namely obtaining forbearance or other deferrals of payment on consumers' mortgage loans. This includes any offered services intended as part of the loan modification process, or which are represented to consumers to be necessary for participating in a loan modification program. Under certain circumstances, loan modification services may involve improving a consumer's credit record, history, or rating or establishing a new credit file or record. Therefore, unless otherwise exempt, pursuant to CL §§ 14-1901(e), 14-1903(a), and 14-1903(f), persons engaged in the business of offering or providing residential loan modification services, which include offering or providing extensions of credit to

consumers, fall under the statutory definition of “credit services businesses,” and are thereby subject to the licensing, investigatory, enforcement, and penalty provisions of the MCSBA.

3. The following relevant and credible evidence, obtained pursuant to the Commissioner’s investigation, was considered in the issuance of the Summary Order: Respondents’ standard documents for providing loan modification services for Maryland consumers; communications between Respondents and Maryland consumers; communications between Respondents and the Commissioner’s staff, statements by a Maryland consumer who had entered into a loan modification agreement with Respondents but for whom Respondents failed to obtain or even attempt to obtain a loan modification for the consumer; and the Commissioner’s licensing records. More particularly, this evidence supports the following findings:

a. Respondent National Relief Group is an active California corporation operating out of Irvine, California. Further, the Commissioner’s investigation revealed that National Relief Group engages in business activities with Maryland consumers involving Maryland residential real property, although it is not a registered business entity in the State of Maryland.

b. Respondent Brian J. Pacios engages in business activities with Maryland consumers involving Maryland residential real property. Brian J. Pacios is the owner, director, officer, manager, employees and/or agent, and agent for service of process of National Relief Group.

c. Respondents advertised and marketed to Maryland consumers that Respondents could obtain loan modifications for homeowners on their residential mortgages. Further, Respondents entered into agreements to provide loan modification

services, which included obtaining extensions of credit as defined by the MCSBA, for Maryland consumers on their residential mortgage loans.

d. In September 2009, [REDACTED] (“Consumer A”) entered into a loan modification agreement with Respondents. Consumer A paid approximately \$3,000 in up-front fees to Respondents in exchange for which Respondents represented that they would be able to obtain a loan modification for Consumer A. Although Respondents collected \$3,000 in up-front fees, Respondents never obtained a loan modification for Consumer A. Further, Consumer A requested a refund of the up-front fees, but the Respondents have yet to provide a refund.

e. During the course of the Commissioner’s investigation, on or about July 9, 2010, the Commissioner served a subpoena on Respondents ordering them to produce all documents in their control in any way related to their loan modification services provided to Maryland consumers by July 26, 2010. Respondents, in response to the subpoena, sent a letter to the Commissioner listing the names of two Maryland consumers whom they had “found” as of the date of the letter – Consumer A and a second Maryland consumer, [REDACTED] (“Consumer B”), who had purportedly paid \$3,000 in up-front fees to Respondents in exchange for loan modification services. Respondents have yet to produce the documents and information required by the July 9th subpoena.

f. Respondents engaged in willful conduct which was intended to deceive and defraud Maryland consumers, as referenced above, which demonstrated a complete lack of good faith and fair dealings by Respondents, and which breached any duties that Respondents owed to these consumers. Such conduct included, but was not limited to, the following:

(i). Respondents failed to perform those loan modification services for Maryland Consumer A that they promised to provide and for which they had collected an up-front fee;

(ii). Respondents purposely concealed this information when contacted by Maryland Consumer A who had entered into a loan modification agreement with Respondents by intentionally misrepresenting the progress of her loan modification.;
and

(iii). Finally, Respondents refused to provide a refund to Maryland Consumer A when a refund was due for lack of service.

4. In the present matter, Respondents are subject to the MCSBA, including its prohibition on engaging in credit services business activities without first being licensed under the MCSBA. *See* CL § 14-1902(1) (“[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not: (1) [r]eceive any money or other valuable consideration from the consumer, unless the credit services business has secured from the Commissioner a license under Title 11, Subtitle 3 of the Financial Institutions Article. . . .”); CL §14-1903(b) (“[a] credit services business is required to be licensed under this subtitle and is subject to the licensing, investigatory, enforcement, and penalty provisions of this subtitle and Title 11, Subtitle 3 of the Financial Institutions Article”); FI § 11-302 (“[u]nless the person is licensed by the Commissioner, a person may not: . . . (3) [e]ngage in the business of a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article”); and FI § 11-303 (“[a] license under this subtitle shall be applied for and issued in accordance with,

and is subject to, the licensing and investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law – Licensing Provisions”).

5. According to the Commissioner’s records, at no time relevant to the facts set forth in the Summary Order of September 24, 2010, or in the present Final Order, have the Respondents been licensed by the Commissioner under the MCSBA.

6. Respondents have engaged in credit services business activities without having the requisite license by advertising that they could provide loan modification services as described above, and by entering into contractual agreements with Maryland consumers to provide such services. Respondents’ unlicensed loan modification activities thus constitute violations of CL § 14-1902(1), CL §14-1903(b), FI § 11-302, and FI § 11-303, thereby subjecting Respondents to the penalty provisions of the MCSBA.

7. Additionally, by collecting up-front fees prior to fully and completely performing all services on behalf of consumers, Respondents violated CL § 14-1902(6) of the MCSBA (“[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not: . . . (6) [c]harge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer”).

8. Further, although Respondents made representations that they would obtain beneficial loan modifications for Maryland Consumer A, the Commissioner’s investigation supports a finding that Respondents never obtained the promised loan modification for this consumer; as such, Respondents violated CL § 14-1902(4) (“[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit

services business shall not: . . . (4) [m]ake or use any false or misleading representations in the offer or sale of the services of a credit services business”).

9. Respondents further violated the MCSBA through the following: they failed to obtain the requisite surety bonds, in violation of to CL §§ 14-1908 and 14-1909; they failed to provide consumers with the requisite information statements, in violation of CL §§ 14-1904 and 14-1905; and Respondents failed to include all of the requisite contractual terms in their agreements with consumers as required under CL § 14-1906.

10. By failing to obtain beneficial loan modifications for Maryland Consumer A which Respondents had agreed to provide, Respondents breached their contract with Maryland Consumer A and/or breached the obligations arising under that contract. Such breaches constitute *per se* violations of the MCSBA pursuant to CL § 14-1907(a) (“[a]ny breach by a credit services business of a contract under this subtitle, or of any obligation arising under it, shall constitute a violation of this subtitle”).

11. As the contract between Respondents and Consumer A failed to comply with the specific requirements imposed by the MCSBA (as discussed above), the loan modification contract between Respondents and Maryland Consumer A is void and unenforceable as against the public policy of the State of Maryland pursuant to CL § 14-1907(b) (“[a]ny contract for services from a credit services business that does not comply with the applicable provisions of this subtitle shall be void and unenforceable as contrary to the public policy of this State”).

12. The MCSBA prohibits fraud and deceptive business practices at CL § 14-1902(5), which provides as follows:

[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not: . . . (5) [e]ngage, directly or indirectly, in any act, practice, or course of business which operates as a fraud or deception on any person in connection with the offer or sale of the services of a credit services business.

13. CL § 14-1912 discusses liability for failing to comply with the MCSBA, providing as follows:

(a) *Willful noncompliance.*— Any credit services business which willfully fails to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure;

(2) A monetary award equal to 3 times the total amount collected from the consumer, as ordered by the Commissioner;

(3) Such amount of punitive damages as the court may allow; and

(4) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) *Negligent noncompliance.*— Any credit services business which is negligent in failing to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure; and

(2) In the case of any successful action to enforce any liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

14. Respondents engaged, directly or indirectly, in acts, practices, or other activities which operated as a fraud or deception on persons in connection with the offer or sale of the services of a credit services business, and thereby violated CL § 14-1902(5); such actions also constituted willful noncompliance with the MCSBA under CL § 14-1912(a). Respondents' fraudulent, deceptive, and willful conduct included the following: they failed

to perform those loan modification services for Maryland Consumer A which they promised to provide and for which they had collected up-front fees; Respondents purposely concealed this information when contacted by Maryland Consumer A who had already entered into a loan modification agreement with Respondents by intentionally misrepresenting the progress of the Consumer A's loan modification; and Respondents refused to provide a refund to Maryland Consumer A when such a refund was due for lack of service.

15. FI §§ 2-114(a) and (b) set forth the Commissioner's general authority to order the production of information, as well as documents and records, while investigating potential violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction (which is in addition to the Commissioner's specific investigatory authority set forth in various other Maryland statutes and regulations). Thus, for example, FI § 2-114(a)(2) provides that the Commissioner may "[r]equire ... a person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated." Further, pursuant to FI § 2-114(b), "the Commissioner or an officer designated by the Commissioner may," among other things, "take evidence, and require the production of books, papers, correspondence, memoranda, and agreements, or other documents or records which the Commissioner considers relevant or material to the inquiry."

16. Pursuant to the Commissioner's authority to conduct investigations under FI § 2-114, as discussed above, the Commissioner issued a subpoena to Respondents on July 9, 2010, ordering them to produce by July 26, 2010 all documents in their control in any way related to their loan modification services provided to Maryland consumers. However, Respondents failed to fully provide all the required information and documents by that date,

and in fact have not provided all the documents and information as of the date of this Final Order. Therefore, by failing to fully comply with the July 9th subpoena, Respondents are in violation of FI § 2-114.

NOW, THEREFORE, having determined that Respondents waived their right to a hearing in this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant CL §§ 14-1902, 14-1907, 14-1912, and FI § 2-115(b), it is by the Maryland Commissioner of Financial Regulation, hereby

ORDERED that the Summary Order issued by the Deputy Commissioner against Respondents on September 24, 2010, is entered as a final order of the Commissioner as modified herein, and that Respondents shall permanently **CEASE** and **DESIST** from engaging in credit services business activities with Maryland consumers, including contracting to provide, or otherwise engaging in, loan modification, loss mitigation, or similar services with Maryland consumers; and it is further

ORDERED that, pursuant to FI § 2-115(b), and upon careful consideration of (i) the seriousness of the Respondents' violations; (ii) the lack of good faith of Respondents, (iii) the history and ongoing nature of Respondents' violations; and (iv) the deleterious effect of Respondents' violations on the public and on the credit services businesses and mortgage industries, Respondents shall pay to the Commissioner a total civil money penalty in the amount of **FIVE THOUSAND DOLLARS (\$3,000)**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Penalty per Violation	x Number of Violations	= Penalty
<i>Unlicensed Activity in Violation of MCSBA</i>	\$1,000	2 Md. Consumer	\$2,000
<i>Charging Up-Front Fees in Violation of MCSBA</i>	\$1,000	2 Md. Consumer	\$2,000
<i>Failure to Comply with Summary Order in Violation of FI § 2-114</i>	\$1,000	1 Violations	\$1,000
		TOTAL	\$5,000

And it is further,

ORDERED that Respondents shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** within fifteen (15) days from the date of this Final Order; and it is further

ORDERED that, pursuant to CL § 14-1907(b), all loan modification agreements which Respondents entered into with Maryland consumers described herein, are void and unenforceable as contrary to the public policy of the State of Maryland; and it is further

ORDERED that, pursuant to CL §§ 14-1902, 14-1907, and 14-1912, Respondents shall pay restitution to each Maryland consumer with whom Respondents entered into loan modification agreements and collected up-front fees; and thus Respondents shall pay restitution of **THREE THOUSAND DOLLARS (\$3,000.00)** to Consumer B, with whom Respondents entered into a loan modification agreement, with the total amount of restitution owed to Consumer B equaling **THREE THOUSAND DOLLARS (\$3,000.00)**; and that


with respect to Maryland Consumer A described herein, Respondents' activities constituted willful noncompliance with the MCSBA, and pursuant to CL § 14-1912(a) Respondents shall pay restitution to the following Maryland consumer in an amount equal to three times the amount collected from this consumer, and thus Respondents shall pay a monetary award of **NINE THOUSAND DOLLARS (\$9,000.00)** to Consumer A, with whom Respondents entered into a loan modification agreement, with the total amount of the monetary award to Consumer A equaling **NINE THOUSAND DOLLARS (\$9,000.00)** (consisting of the \$3,000.00 up-front fee collected from Consumer A, multiplied by three); and it is further

ORDERED that Respondents shall pay the required restitution and monetary award to those consumers described herein within 30 days of this Final Order being signed. Respondents shall make payment by mailing to each consumer a check in the amount specified above via U.S. First Class Mail at the most recent address of that consumer known to the Respondents. If the mailing of a payment is returned as undeliverable by the U.S. Postal Service, Respondents shall promptly notify the Commissioner in writing for further instruction as to the means of the making of said payment. Upon the making of the required payments, the Respondents shall furnish evidence of having made the payments to the Commissioner within ninety (90) days of this Final Order being signed, which evidence shall consist of a copy of the front and back of the cancelled check for each payment; and it is further

ORDERED that Respondents shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address:
Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore,
Maryland 21202, Attn: Proceedings Administrator..

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

1/6/11
Date



Mark A. Kaufman
Commissioner

FINAL ORDER

DATE 12/11/12

COMMISSIONER OF
FINANCIAL REGULATION

V.

NATIONAL RELIEF
GROUP, INC.,
BRIAN J. PACIOS,

RESPONDENTS

* * * * *

BEFORE THE
COMMISSIONER OF
FINANCIAL REGULATION

CFR FILE NO.: CFR-FY2011-237
OAH FILE NO.: DLR-CFR-76A-11-24373

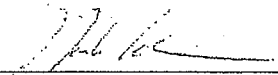
EXHIBIT
C

PROPOSED ORDER

The Proposed Decision of the Administrative Law Judge (the "ALJ"), issued on December 28, 2011 in the above captioned case, having been considered in its entirety, it is **ORDERED** by the Commissioner of Financial Regulation (the "Commissioner") this 14 of November, 2012 that the Proposed Decision shall be and hereby is adopted as a Proposed Order.

Pursuant to COMAR 09.01.03.09, Respondent has the right to file exceptions to the Proposed Order and present arguments to the Commissioner. Respondent has twenty (20) days from the postmark date of this Proposed Order to file exceptions with the Commissioner. COMAR 09.01.03.09A(1). The date of filing exceptions with the Commissioner is the date of personal delivery to the Commissioner or the postmark date on mailed exceptions. COMAR 09.01.03.09A(2).

Unless written exceptions are filed within the twenty (20)-day deadline noted above, this Order shall be deemed to be the final decision of the Commissioner.



Mark Kaufman
Commissioner of Financial Regulation

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION
v.
NATIONAL RELIEF GROUP, INC., and
BRIAN J. PACIOS,
RESPONDENTS

* BEFORE T. AUSTIN MURPHY,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH CASE No: DLR-CFR-76A-11-24373
* CFR FILE No: CFR-FY2011-237

* * * * *

PROPOSED DECISION

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
FINDINGS OF FACT
DISCUSSION
CONCLUSIONS OF LAW
RECOMMENDED ORDER

STATEMENT OF THE CASE

On January 6, 2011, the Maryland Commissioner of Financial Regulation (CFR or Commissioner), Department of Labor, Licensing and Regulation (DLLR), issued a Final Order to Cease and Desist (Order) to a corporation, National Relief Group, Inc. (NRG), and an individual Brian J. Pacios, Respondents. On June 14, 2011, the Commissioner referred the matter to the Office of Administrative Hearings (OAH) for a hearing and delegated to the OAH the authority to issue proposed findings of fact and conclusions of law, and a recommended order.

I held a hearing on August 24, 2011 and September 29, 2011 at the OAH in Hunt Valley, Maryland. Md. Code Ann., Fin. Inst. § 11-608 (2011). Jedd Bellman, Staff Attorney, Office of

the Attorney General, represented the Commissioner. Neither the Respondents, nor anyone authorized to represent any of them, appeared at the hearing.¹

Procedure in this case is governed by the Administrative Procedure Act, Md. Code Ann., State Gov't. §§ 10-201 through 10-226 (2009 & Supp. 2011), OAH's Rules of Procedure, Code of Maryland Regulations (COMAR) 28.02.01, the Office of the Secretary Regulations for hearings delegated to the OAH, and COMAR 09.01.03.

ISSUES

1. Did the Respondents engage in credit service business activities that subject them to the provisions of the Maryland Credit Services Business Act (MCSBA);
2. If so, did the Respondents engage in credit services business activities without first obtaining a license from the CFR in violation of Md. Code Ann., Com. Law § 14-1903(b)² and Md. Code Ann., Fin. Inst. § 11-302(b);
3. If the Respondents engaged in credit services business activities with Maryland consumers without first obtaining a license, are the Respondents exempt from complying with the licensing requirements of CL § 14-1903(b) and FI § 11-302(b);
4. If the Respondents are neither licensed nor exempt from licensure, did they, while engaged in credit services business activities, receive money or other valuable consideration in violation of CL § 14-1902(1);
5. If the Respondents are neither licensed nor exempt from licensure, did they, while engaged in credit services business activities, collect up-front fees prior to fully and completely performing all services in violation of CL § 14-1902(6);

¹ Notice to the Respondents, and their failure to appear, are discussed below.

² The Commercial Law Article will be referred to as CL and the Financial Institution Article will be referred to as FI hereafter.

6. Did the Respondents fail to provide Maryland consumers with the required information statements in connection with the sale of services of a credit services business in violation of CL §§ 14-1904(a) and 14-1905;
7. Did the Respondents fail to include required contractual terms in their agreements with Maryland consumers in violation of CL § 14-1906; and,
8. If the Respondents violated any of the sections cited above, what is/are the appropriate sanction(s)?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on behalf of the CFR:

- CFR #1 July 11, 2011 Notice of Hearing
- CFR #2 June 14, 2011 Letter of delegation to the Hon. Jana Corn Burch, Executive Administrative Law Judge, OAH, from Anne Balcer Norton, Deputy Commissioner, CFR
- CFR #3 Regular and certified mail copies of January 26, 2011 Notice of additional complaints and attached Summary Order to Cease and Desist, indicated delivered by the United States Postal Service on January 31, 2011 to Respondents.
- CFR #4 January 6, 2011 Final Order to Cease and Desist
- CFR #5 May 18, 2011 Investigator's Referral Memo
- CFR #6 Business Entity Information: NRG (California Secretary of State)
- CFR #7 Business Entity Information: SBP Financial Group, Inc. (SBP) (California Secretary of State)
- CFR #8 April 27, 2011 Complaint: [REDACTED] - with attachments
- CFR #9 April 11, 2011 Complaint: [REDACTED] - with attachments
- CFR #10 December 23, 2010 Complaint: [REDACTED] - with attachments
- CFR #11 December 8, 2010 Complaint: [REDACTED] - with attachments

CFR #12 December 6, 2010 Complaint: [REDACTED] – with attachments

CFR #13 January 20, 2011 Complaint of [REDACTED] – with attachments

No exhibits were offered on behalf of the Respondents, who were not present.

Testimony

Zenaida Velez-Dorsey, CFR Investigator, testified on behalf of the CFR. No testimony was presented on behalf of the Respondents.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

Background

1. At all times relevant, the Respondent Brian J. Pacios was a principal in several entities (corporations and limited liability companies including Respondent NRG) engaged in the credit services activities in Maryland. Among those entities was SBP.
2. Both Respondents, as well as SBP, engaged in the business of mortgage lending and/or brokering in Maryland. The business entities operated under similar-sounding names and trade names. *See* CFR #6-13.
3. The last business address in the Commissioner's records for the Respondents is: 16400 Pacific Coast Highway, Suite 215, Huntington Beach, California 92649. Subsequent notices were also sent to other addresses associated with Respondents, such as addresses from which SBP sent correspondence to the Complainants: 9400 Topanga Canyon Boulevard, Suite #110, Chatworth, CA 91311; and 3240 El Camino Real, Suite 400, Irvine, CA 92602.

██████████ needed to send in his paperwork again in addition to paystubs and bank statements.

11. ██████████ called Mr. Jackson again in October 2010 and was told that his credit card bills were too large and that a debt consolidation was necessary to proceed. ██████████ informed Mr. Jackson that his financial situation and credit card payments were the same when he originally applied for a modification in February 2010.
12. ██████████ was subsequently unable to reach Mr. Jackson or Mr. Washington who failed to return any phone calls.
13. Eventually, ██████████ was forced to file for Chapter 13 bankruptcy to prevent the above mentioned property from going into foreclosure.
14. The Respondents did nothing to assist ██████████ avoid foreclosure or to obtain a loan modification.

██████████

15. On March 20, 2010, Complainant ██████████ made the first payment of \$1,000.00 out of a total of \$3,500.00 in payments to NRG to assist her in avoiding foreclosure by means of a loan modification on one property, namely: ██████████

██████████

16. After ██████████ sent in her last payment for \$300.00, NRG ceased contact with ██████████

██████████

17. The Respondents did nothing to assist ██████████ avoid foreclosure or to obtain a loan modification.

28. After [REDACTED] sent in her last payment, NRG ceased regular contact with her and subsequently refused a refund requested by [REDACTED]
29. Eventually, [REDACTED] lost her property to foreclosure.
30. The Respondents did nothing to assist [REDACTED] avoid foreclosure or to obtain a loan modification.

All Complaints

31. The Respondents obtained money from the Complainants although neither was licensed as a credit services business as required by law.
32. The Respondents did not provide any of the Complainants with a credit service agreement, as required by law.
33. On January 26, 2011, April 20, 2011 and June 14, 2011, Ms. Zenaida Velez-Dorsey, one of CFR's investigators, sent letters to the Respondents, which were not answered. CFR #3.
34. During the investigation, Ms. Velez-Dorsey was unable to contact the Respondent Pacios by phone.

DISCUSSION

A. The Respondents' Failure to Appear

The Respondents consist of an individual and several inter-related corporations and limited liability companies. As noted above, neither the Respondents nor anyone representing them appeared at the hearings. I conclude that both Respondents failed to appear for the hearings despite adequate notice, for the following reasons.

First, there is no dispute that the Respondents' business address of record since at least April 2011 has been 16400 Pacific Coast Highway, Suite 215, Huntington Beach, California 92649. This address is currently reflected on the records of DLLR. Subsequent notices were also

sent to other addresses associated with Respondents, *i.e.*, the following addresses from which SBP sent correspondence to Complainants: 9400 Topanga Canyon Boulevard, Suite #110, Chatworth, CA 91311; and 3240 El Camino Real, Suite 400, Irvine, CA 92602.

Second, the OAH issued a Notice of Hearing (Notice) on July 11, 2011, and mailed it, by certified and regular mail, to the corporate and individual Respondents at the Pacific Coast Highway address. Attached to each Notice was a copy of the January 2011 Summary Order. *See* COMAR 09.01.02.06A. Additional Notices for the September 29, 2011 hearing were also sent to the Respondents at the Chatworth and Irvine, California addresses as well. Neither the certified nor regular mail copies of the Notices were returned as “unable to deliver” by the United States Postal Service. No request to the OAH for a postponement of the hearing was made by or on behalf of any Respondents.

I conclude from these facts that both Respondents had notice of the hearing and that it was appropriate to proceed in their absence. COMAR 09.01.02.07 and 09.01.02.09.

B. Applicable Law

1. Burden of Proof

The Commissioner, as the moving party on the charges, has the burden to prove by a preponderance of the evidence that the Respondents violated the statutes and regulation at issue. *See* Md. Code Ann., State Gov’t § 10-217 (2009); *Comm’r of Labor and Indus. v. Bethlehem Steel Corp.*, 344 Md. 17, 34 (1996).

2. The Commissioner’s Enforcement Powers—Generally

The CFR’s power to issue summary cease and desist orders is found in section 2-115(a) of the Financial Institutions Article, which provides in pertinent part as follows:

(a) When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner’s discretion issue,

without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

(1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

Md. Code Ann., Fin. Inst. § 2-115(a).

Pursuant to § 14-1907 of the Commercial Law Article, “[a]ny breach by a credit services business of a contract under [subtitle 19]...shall constitute a violation...” The Respondents did nothing on any of the Complainants’ behalf in spite of the fact that the Complainants paid fees to the Respondents

C. Complainants

Complainant [REDACTED] paid the Respondents \$2,500.00 to help avoid a foreclosure, which is a consumer credit service under the jurisdiction of the CRF, which licenses and regulates such entities. When the Complainant talked to the Respondents about the progress of the Respondents’ efforts, she was told not to worry. It is no surprise that the Complainant lost her property to foreclosure since the Respondents did nothing to avoid that result. The inaction on the Respondents’ part constitutes a breach of the contract between the Respondents and the Complainants. The evidence of the breach is substantial.

Complainants [REDACTED] and [REDACTED] also all paid Respondents in advance to help avoid foreclosures and testified at the hearing that they received similar evasive treatment by the Respondents. The Complainants paid Respondents \$3,000.00, \$3,500.00, \$3,000.00, \$3,000.00 and \$3,000.00, respectively. It is no surprise that Complainant [REDACTED] had to file for bankruptcy protection to avoid foreclosure,

and Complainants [REDACTED] and [REDACTED] lost their properties to foreclosure. The Respondents did nothing to avoid losses suffered by any of the complainants. The inaction on the Respondents' parts constitutes another breach of the contract between the Respondents and Complainants. The evidence of these breaches is substantial.

With the above evidence, the CFR also established that the Respondents violated Md. Code Ann., Com. Law § 14-1902(1) (Supp. 2011) when it received the money without securing a license to do so from the CFR. Md. Code Ann., Com. Law § 14-1902(5) (Supp. 2011). The Respondents took money from the Complainants and did nothing to assist them in obtaining a loan modification, despite promises to do so; moreover, the Respondents were prohibited from receiving fees before services had been rendered Md. Code Ann., Com. Law § 14-1902(6) (Supp. 2011) The evidence also established that the Respondents failed to provide the Complainants with a written information statement in violation of Md. Code Ann., Com. Law § 14-1904(a) (2005). Finally, the Respondents violated Md. Code Ann., Com. Law § 14-1906 (2005) because the Respondents sent no written contract.

D. Sanctions

The CFR's power to impose sanctions, subject to notice and a right to a hearing, is contained in section 14-1912 of the Commercial Law Article, which allows an award to the Complainant of the amount of actual damage sustained by the consumer and a monetary award equal to three times the total amount collected from the consumer, as ordered by the CFR.

In this case the sanctions are calculated as follows:

- Complainant [REDACTED] \$2,500.00, which was the amount paid by the Complainant, plus three times that amount, or \$7,500.00, for a total of \$10,000.00 awarded to Complainant [REDACTED]

- Complainant [REDACTED] \$3,000.00, which was the amount paid by the Complainant, plus three times that amount, or \$9,000.00, for a total of \$12,000.00 awarded to Complainant [REDACTED]
- Complainant [REDACTED] \$3,500.00, which was the amount paid by the Complainant, plus three times that amount, or \$10,500.00, for a total of \$14,000.00 awarded to Complainant [REDACTED]
- Complainant [REDACTED] \$3,000.00, which was the amount paid by the Complainant, plus three times that amount, or \$9,000.00, for a total of \$12,000.00 awarded to Complainant [REDACTED]
- Complainant [REDACTED] \$3,000.00, which was the amount paid by the Complainant, plus three times that amount, or \$9,000.00, for a total of \$12,000.00 awarded to Complainant [REDACTED]
- Complainant [REDACTED] \$3,000.00, which was the amount paid by the Complainant, plus three times that amount, or \$9,000.00, for a total of \$12,000.00 awarded to Complainant [REDACTED]

Additionally, pursuant to the Cease and Desist Order, the CFR seeks from the Respondents a \$1,000.00 fine to the CFR for the unlicensed activity in violation of the MCBSA for each consumer and \$1,000.00 for charging an up-front fee for each consumer. These fines are appropriate.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Respondents engaged in credit service business activities that subject them to the provisions of the MCSBA;

I further conclude that the Respondents engaged in credit services business activities with Maryland consumers without first obtaining a license required by CL § 14-1903(b) and FI § 11-302(b);

I further conclude that the Respondents, while engaged in credit services business activities, received money or other valuable consideration in violation of CL § 14-1902(1);

I further conclude that the Respondents collected up-front fees prior to fully and completely performing all services in violation of CL § 14-1902(6);

I further conclude that the Respondents failed to provide Maryland consumers with the required information statements in connection with the sale of services of a credit services business in violation of CL §§ 14-1904(a) and 14-1905;

I further conclude that the Respondents failed to provide a written agreement and failed to include required contractual terms in their agreements with a Maryland consumer in violation of CL § 14-1906; and,

I further conclude that the Respondents, having violated the sections cited above, are liable for actual damages and monetary awards payable to the Complainants and fines of \$12,000.00 payable to the CFR.

RECOMMENDED ORDER

I **RECOMMEND** that the Maryland Commissioner of Financial Regulation:

ORDER that the Respondents, and all of them, whether individuals or bodies corporate, cease and desist from engaging in the credit services business in Maryland;

ORDER that the Respondents pay to the Maryland Commissioner of Financial Regulation a civil penalty of \$12,000.00, calculated as follows:

- \$1,000.00 for the unlicensed activity concerning its credit services with a Maryland consumer for 6 consumers, for a total of \$6,000.00; and

- \$1,000.00 for charging a up-front fee to a Maryland consumer for 6 consumers, for a total of \$6,000.00;

ORDER that the Respondents pay to [REDACTED] the sum of \$10,000.00 for actual damages and a monetary award;

ORDER that the Respondents pay to [REDACTED] the sum of \$12,000.00 for actual damages and a monetary award;

ORDER that the Respondents pay to [REDACTED] the sum of \$14,000.00 for actual damages and a monetary award;

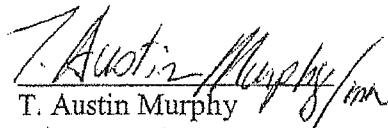
ORDER that the Respondents pay to [REDACTED] the sum of \$12,000.00 for actual damages and a monetary award;

ORDER that the Respondents pay to [REDACTED] the sum of \$12,000.00 for actual damages and a monetary award;

ORDER that the Respondents pay to [REDACTED] the sum of \$12,000.00 for actual damages and a monetary award; and that the Maryland Commissioner of Financial Regulation further

ORDER that the Maryland Commissioner of Financial Regulation's records and publications reflect this decision.

December 28, 2011
Date Decision Issued


T. Austin Murphy
Administrative Law Judge

TAM/fe
Doc# 128854

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION
v.
NATIONAL RELIEF GROUP, INC., and
BRIAN J. PACIOS,

* BEFORE T. AUSTIN MURPHY,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH CASE No: DLR-CFR-76A-11-24373
* CFR FILE No: CFR-FY2011-237

RESPONDENTS

* * * * *

FILE EXHIBIT LIST

I admitted the following exhibits on behalf of the CFR:

- CFR #1 July 11, 2011 Notice of Hearing
- CFR #2 June 14, 2011 Letter of delegation to the Hon. Jana Corn Burch, Executive Administrative Law Judge, OAH, from Anne Balcer Norton, Deputy Commissioner, CFR
- CFR #3 Regular and certified mail copies of January 26, 2011 Notice of additional complaints and attached Summary Order to Cease and Desist, indicated delivered by the United States Postal Service on January 31, 2011 to Respondents.
- CFR #4 January 6, 2011 Final Order to Cease and Desist
- CFR #5 May 18, 2011 Investigator's Referral Memo
- CFR #6 Business Entity Information: NRG (California Secretary of State)
- CFR #7 Business Entity Information: SBP Financial Group, Inc. (SBP) (California Secretary of State)
- CFR #8 April 27, 2011 Complaint: [REDACTED] - with attachments
- CFR #9 April 11, 2011 Complaint: [REDACTED] - with attachments
- CFR #10 December 23, 2010 Complaint: [REDACTED] - with attachments
- CFR #11 December 8, 2010 Complaint: [REDACTED] - with attachments
- CFR #12 December 6, 2010 Complaint: [REDACTED] - with attachments

CFR #13 January 20, 2011 Complaint of [REDACTED] — with attachments

No exhibits were offered on behalf of the Respondents, who were not present.