

IN THE MATTER OF:
CHOICE 1 MORTGAGE RELIEF, LLC

and
EDWARD B. TUNICK,

Respondents.

BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION

Case No.: CFR-FY 2013-0005

FINAL ORDER TO CEASE AND DESIST

Pursuant to Md. Code Ann., Fin. Inst. Art., § 2-115, and for the reasons stated below, Gordon M. Cooley, the Acting Commissioner of Financial Regulation of the Department of Labor, Licensing and Regulation of the State of Maryland, issues this Final Order to Cease and Desist to Choice 1 Mortgage Relief, LLC, and Edward B. Tunick.

The Summary Order to Cease and Desist (“Summary Order”) issued on December 8, 2014 is herein adopted and incorporated by reference.

Background.

1. As described more fully in the Summary Order, the Maryland Department of Labor, Licensing and Regulation, Office of the Commissioner of Financial Regulation (the “Agency”), in June 2012, began an investigation, as a result of a consumer complaint, into the business activities of Choice 1 Mortgage Relief, LLC and Edward B. Tunick (collectively, “Respondents”).

2. The Agency’s investigation revealed that Respondent Choice 1 Mortgage Relief, LLC operates out of offices in Langhorne, Pennsylvania, that it engaged in business activities with Maryland consumers involving Maryland residential property,

and that the company is not registered to do business in the State of Maryland with the State Department of Assessments and Taxation (“SDAT”).

3. The Agency’s investigation determined that Respondent Edward B. Tunick is an owner, director, officer, manager, employee and/or agent of Choice 1 Mortgage Relief, LLC.

4. The Agency’s investigation revealed that, in November 2011, [REDACTED] (“Consumer A”), who was more than 60 days in default on his residential mortgage, entered into a loan modification agreement with Respondents. Consumer A paid \$2,495.00 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 \$2,495.00 in up-front fees, Respondents never obtained a loan modification for Consumer A.

5. Acting Deputy Commissioner Keisha Whitehall Wolfe, as a result of the Agency’s investigation, found reasonable grounds to believe that Respondents engaged in unlicensed credit services business activities and loan modification activities, including mortgage assistance relief services,¹ with Maryland consumers in violation of

¹ At the time of the violation, in November 2011, the Credit Services Business Act applied to mortgage assistance relief services, which includes, *inter alia*, negotiating a modification of any term of a mortgage or loan on a dwelling. Effective July 1, 2013, the definition of “credit services business” under the Credit Services Business Act was amended to exclude “a mortgage assistance relief service provider regulated under Title 7, Subtitle 5 of the Real Property Article.” See 2013 Md. Laws Ch. 247; see also Md. Code Ann., Real Prop. Art., § 7-501 *et seq.* (Maryland Mortgage Assistance Relief Services Act). The 2013 amendment further provided: “This Act is not intended, and may not be construed, to have any effect on the authority of the Commissioner of Financial Regulation to regulate mortgage assistance relief service providers under Title 14, Subtitle 19 of the Commercial Law Article, or on any enforcement actions, including litigation, taken under that authority as it existed and based on actions that occurred before the effective date of this Act [July 1, 2013].” 2013 Md. Laws Ch. 247.

Maryland law, including but not limited to Maryland Annotated Code, 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 (Licensing, Consumer Loans and Installment Loans). She also determined that Respondents’ business activities constituted other violations of the MCSBA.

6. In particular, the Acting Deputy Commissioner found that, at no time relevant, were Respondents licensed by the Commissioner under the MCSBA. By representing that they could provide loan modification services, and by entering into agreements with Maryland consumers to provide loan modification services, Respondents engaged in credit services business activities without having the requisite license, in violation of CL § 14-1902(1), CL §14-1903(b), FI § 11-302, and FI § 11-303.

7. Additionally, by collecting up-front fees prior to performing all services on behalf of consumers, Respondents violated CL § 14-1902(6) of the MCSBA. Respondents also violated the MCSBA by failing to obtain the requisite surety bonds, in violation of CL §§ 14-1908 and 14-1909; by failing to provide consumers with the requisite information statements, in violation of CL §§ 14-1904 and 14-1905; and by failing to include all of the requisite contractual terms in their agreements with consumers, as required under CL § 14-1906.

8. 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.

9. 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), those breaches constitute per se violations of the MCSBA.

10. The Acting Deputy Commissioner also determined that, by entering into agreements to provide loan modification services with Maryland homeowners in default or foreclosure, Respondents were required to comply with the provisions of the Protection of Homeowners in Foreclosure Act (“PHIFA”), Md. Code Ann., Real Prop. Art. (“RP”), Title 7, Subtitle 3, and that Respondents’ business activities failed to comply with PHIFA.

11. In particular, Respondents violated RP § 7-307(2) by requiring Maryland homeowners to pay up-front fees to obtain a loan modification. Respondents, in violation of RP § 7-307(10), also induced Maryland homeowners to enter into foreclosure consulting agreements which lacked notices of rescission and related information required by RP §§ 7-305 and 7-306(a)(6), (b), and (c). Respondents also violated PHIFA when they breached the duty of reasonable care and diligence as required by RP § 7-309(b) and Md. Code Ann., Bus. Occ. & Prof. (BOP) Art., § 17-532(c)(vi).

12. The Acting Deputy Commissioner determined that immediate enforcement action was in the public interest and therefore that a summary action under FI §§ 2-114 and 2-115 was appropriate and issued the Summary Order against Respondents. *See also* RP § 7-319.1 (authorizing the Commissioner to require a person to cease and desist

from further violations of PHIFA and to order a person to take affirmative action to correct the violations, including making restitution).

13. The Summary Order notified Respondents of, among other things, the following: 1) Respondents were entitled to hearing before the Commissioner of Financial Regulation to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; 2) the Summary Order would be entered as a final order if the Respondents did not request a hearing within 15 days of the receipt of the Summary Order; and 3) as a result of a hearing or of Respondents' failure to request a hearing the Commissioner may, in his discretion and in addition to taking any other action allowed by law, enter an order making the Summary Order final, issue penalty orders against Respondents, and issue orders requiring Respondents to pay refunds and other monetary awards to Maryland consumers, as well as take other action related to Respondents' business activities.

14. The Summary Order was properly served on Respondents via first class mail and/or Certified U.S. Mail. Respondents failed to request a hearing in connection with the Summary Order.

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 to CL §§ 14-1907, 14-1911, 14-1912, FI § 2-115, and RP §7-319.1, it is by the Maryland Commissioner of Financial Regulation hereby:

ORDERED that the Summary Order is entered as a **FINAL ORDER** of the Commissioner;

FURTHER ORDERED that the Respondents shall permanently **CEASE and DESIST** from engaging in any further credit services business activities with Maryland consumers; that Respondents shall permanently **CEASE and DESIST** from engaging in any further foreclosure consultant activities and/or mortgage assistance relief services or similar services with Maryland consumers; and that Respondents shall permanently **CEASE and DESIST** from further violation of the Maryland laws identified herein;

FURTHER ORDERED that all provisions of this Final Order shall also apply to all named and unnamed partners, employees, and/or agents of Respondents;

FURTHER ORDERED that, pursuant to FI § 2-115(b) and upon consideration of the factors enumerated in FI § 2-115(c), Respondents shall pay to the Commissioner a total civil money penalty in the amount of Eight Thousand Dollars (\$8, 000.00). That civil money penalty is calculated as follows:

Prohibited Activity and Violation	Penalty per Violation	Number of Violations	Penalty
Unlicensed Activity in Violation of CL §§14-1902(1) and 14-1903 and FI §§11-302 and 11-303	\$1,000.00	1	\$1,000.00
Violation of CL §14-1902 (collecting up-front fees prior to performing all services)	\$1,000.00	1	\$1,000.00
Violation of CL §14-1908 and 14-1909 (failing to obtain surety bonds)	\$1,000.00	1	\$1,000.00
Violations of CL §§14-1904 and 14-1905 (failing to provide information statements)	\$1,000.00	1	\$1,000.00
Violation of CL §14-1906 (failing to include all requisite contractual terms in agreements)	\$1,000.00	1	\$1,000.00

Violation of RP § 7-307(2) (collecting up-front fees prior to performing all services)	\$1,000.00	1	\$1,000.00
Violation of RP §§ 7-305, and 7-306(a)(6), (b), and (c), and 7-307(10) (failing to include all requisite contractual terms in agreements, including notices of rescission, and thereby inducing homeowner to enter into agreements)	\$1,000.00	1	\$1,000.00
Violation of RP § 7-309(b) and BOP § 17-532(c)(vi) (breach of duty of reasonable care and diligence)	\$1,000.00	1	\$1,000.00
Total			\$8,000.00

FURTHER ORDERED that Respondents shall pay the Commissioner, by cashier’s check or certified check made payable to the “Commissioner of Financial Regulation,” the amount of \$8,000.00 within twenty (20) days from the date of this Final Order;

FURTHER ORDERED that, because Respondents are in violation of the Maryland Credit Services Business Act, any and all loan modification services agreements made by Respondents with Maryland consumers are void and unenforceable pursuant to CL § 14-1907;

FURTHER ORDERED that, pursuant to CL § 14-1912 and RP § 7-319.1, as Respondents’ activities constituted noncompliance with MSCBA and PHIFA, Respondents shall pay the consumer a monetary award equal the amount illegally

collected from the consumer; and therefore the Respondents shall pay Consumer A the monetary award of \$ 2,495.00;

FURTHER ORDERED that Respondents shall be and hereby are jointly and severally liable for the payment of penalties and monetary awards under this Final Order;

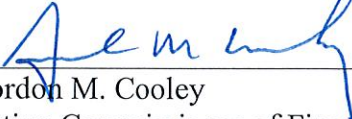
FURTHER ORDERED that Respondents shall pay the required monetary award to the consumer identified above within thirty (30) days of the date of this Final Order. Respondents shall make payment by mailing to the consumer a check in the amount specified above via First Class Mail, postage prepaid, at the most recent address of the consumer known to the Respondents. If mailing is returned as nondeliverable, Respondents shall promptly notify the Commissioner in writing for further instruction as to the means of making said payment. Upon make the required payment, the Respondents shall furnish a copy of the front and back of the cancelled check for the payment to the Commissioner as evidence of having made payment, within sixty (60) days of the date of this Final Order;

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 N. Calvert Street, Suite 402, Baltimore, MD 21202, Attention: Proceedings Administrator;

FURTHERED ORDERED that, notwithstanding the imposition of civil penalties herein, the Commissioner reserves the right to refer any and all of these violations to the State's Attorney for consideration of criminal prosecution pursuant to CL § 14-1915.

5/18/15
Date

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION



Gordon M. Cooley
Acting Commissioner of Financial Regulation