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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, CONSUMER FINANCE )  
BUREAU, )

Docket No. 2009-9-10

Complainant, )

**ORDER TO CEASE AND DESIST**

vs. )

NATIONAL FORECLOSURE RELIEF, )  
INC., a Nevada corporation, )

Respondent. )  
\_\_\_\_\_ )

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department), pursuant to the Idaho Collection Agency Act, Idaho Code § 26-2221 *et seq.* (the Act), hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to § 26-2244(1) of the Act and § 67-5247 of the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*, requiring NATIONAL FORECLOSURE RELIEF, INC. to immediately cease and desist from violating the Act, to include engaging in unlicensed debt or credit counseling activity in Idaho.

## RESPONDENT

1. NATIONAL FORECLOSURE RELIEF, INC. (the Respondent) was formed on May 8, 2006 as a Nevada corporation. The Respondent uses several different addresses for the location of its business. The address listed by the Respondent with the Nevada Secretary of State's Office is 1505 East Seventeenth, Suite 207, Santa Ana, California 92705. The California Secretary of State lists the Respondent's address as 1505 East Seventeenth, Suite 217, Santa Ana, California 92705. In a communication with an Idaho customer, the Respondent listed its business address as 10120 S. Eastern Ave., Suite 200, Henderson, Nevada 89052. Another address that may be associated with the Respondent is 1117 Desert Lane, #1743, Las Vegas, Nevada 89102, which is the address of a company that includes in its business services receipt of mail for other companies. The Nevada Secretary of State's Office lists David Ealy as the Respondent's President/Director, Todd Lemkau as a director, and Hugo Tapia as the Respondent's Treasurer/Secretary/Director.

2. On February 2, 2009, the Federal Trade Commission (FTC) filed a lawsuit against the Respondent and David Ealy, its President/Director; Hugo Tapia, its Treasurer/Secretary/Director; and Chele Stone, a/k/a Chele Media, whom the FTC alleges was a director of the Respondent between approximately May of 2006 and May of 2007. The FTC's complaint alleges that the Respondent violated the federal FTC Act by engaging in misrepresentations of the company's services to consumers.

3. The Department has never issued to the Respondent any license under the Act, including specifically a license to engage in residential mortgage loan modification services, which services fall within the definition of debt or credit counseling under the Act.

### FACTUAL ALLEGATIONS

4. In or around November of 2007, S.M. and C.M., a married couple residing in Idaho, received in their mail an advertisement from the Respondent. Around that time, S.M. and C.M. had been experiencing financial problems due to S.M.'s illness. They had fallen behind in their mortgage payments which were \$745 per month, and had begun to receive foreclosure notices in the mail. In response to the Respondent's advertisement, S.M. and C.M. contacted the Respondent at the telephone number listed on the Respondent's advertisement, and requested assistance with avoiding foreclosure on their residence. The Respondent's representative, Russ Fazio, informed S.M. and C.M. that the Respondent's program was guaranteed to help them avoid foreclosure within 30 days of enrollment in the Respondent's program and payment to the Respondent of the fees it required.

5. On or about November 12, 2007, the Respondent faxed several documents to S.M. and C.M., one of which was a form authorizing the Respondent to communicate with the couple's mortgage lender. One of the documents informed S.M. and C.M. of the Respondent's fees for its services, which included a \$1,500 upfront fee and a \$375 "Re-instatement Processing" fee. Another document was an authorization for the Respondent to electronically debit moneys from S.M.'s and C.M.'s bank account. The documents included a representation by the Respondent that its program included negotiating a repayment plan with a customer's lender.

6. S.M. and C.M. decided that they would use the Respondent's services, and signed and returned to the Respondent the form authorizing the Respondent to communicate with their mortgage lender, and the authorization form for the Respondent to debit moneys from their bank account.

7. After receiving the documents from S.M. and C.M., the Respondent debited from S.M. and C.M.'s bank account the amount of \$1,875, which included the \$1,500 upfront fee and the \$375 "Re-instatement Processing" fee.

8. After receiving notification from the Respondent that they had been "accepted" into the Respondent's program, the Respondent informed S.M. and C.M. that they needed to begin making monthly payments of \$1,200 to the Respondent. S.M. and C.M. were informed by the Respondent that a portion of the \$1,200 would be forwarded to S.M.'s and C.M.'s mortgage lender, and that the remaining amount would be applied toward additional fees due the Respondent. S.M. and C.M. never received a breakdown from the Respondent as to how much of the \$1,200 monthly payment would be applied toward their mortgage payment and how much consisted of additional fees to the Respondent.

9. In or around December of 2007, S.M. and C.M. informed the Respondent that they were continuing to receive the foreclosure notices. Around that same time, S.M. and C.M. contacted their mortgage lender to inquire whether it had been in contact with the Respondent. The mortgage lender informed S.M. and C.M. that it had been contacted by the Respondent, but did not provide details of that contact. S.M. and C.M. were unable to learn from that contact with their lender what arrangements, if any, had been made by the Respondent to satisfy the lender's requirements for their payments on their mortgage loan.

10. The Respondent debited \$1,200 from S.M. and C.M.'s bank account for the months of January, February, and March of 2008. Nevertheless, S.M. and C.M. continued to receive foreclosure notices from their mortgage lender.

11. Because the foreclosure notices still continued to arrive in their mail, during the period between January through March of 2008, S.M. and C.M. again contacted the Respondent, whose representative told them that the foreclosure notices were a mistake and instructed them to ignore such notices. S.M. and C.M. followed that instruction, believing that the \$1,200 payments being debited monthly from their bank account were satisfying their lender's requirements for payment on their mortgage.

12. In or around the end of March 2008, S.M. and C.M. again contacted their mortgage lender to confirm that it had received the payments that were supposed to have been sent by the Respondent. The mortgage lender informed S.M. and C.M. that it had not received any payments from the Respondent. S.M. and C.M. subsequently instructed their bank to stop the automatic \$1,200 payments being debited by the Respondent. They again attempted to contact the Respondent, but by this time the Respondent no longer returned their phone messages or accepted their calls.

13. In or around April 2008, S.M. and C.M. received documents from an Idaho attorney informing them that their residence had been foreclosed on. At around that same time, S.M. and C.M. were served with eviction papers by their county sheriff. S.M. and C.M. were subsequently evicted from their residence which they had owned for the previous twenty-three (23) years.

14. On January 28, 2009, the Department received a complaint from S.M. and C.M. outlining their dealings with the Respondent, as set forth above, and commenced an investigation concerning S.M. and C.M.'s dealings with the Respondent, which revealed the facts alleged above.

## CONCLUSIONS OF LAW AND VIOLATIONS

### *UNLICENSED DEBT OR CREDIT COUNSELING IN IDAHO*

15. The allegations set forth in paragraphs 1 through 14 above are fully incorporated herein by this reference.

16. Idaho Code § 26-2223(1) provides as follows, in pertinent part:

**Collection agency, debt counselor, credit counselor, or credit repair organization – License required.** – No person shall without complying with the terms of this act and obtaining a license from the director:

(1) Operate as a collection agency, debt counselor, credit counselor, or credit repair organization in this state.

...

17. Idaho Code § 26-2222(9) defines “debt counselor” or “credit counselor” as any person engaged in any of the activities set forth in Idaho Code § 26-2223(7).

18. The activities described in § 26-2223(7) include the following:

...engag[ing] or offer[ing] to engage in this state in the business of providing counseling or other services to debtors in the management of their debts, or contracting with the debtor to effect the adjustment, compromise, or discharge of any account, note or other indebtedness of the debtor.

19. The mortgage loan modification and related services the Respondent offered and sold to S.M. and C.M., as described above, fall within the definition of debt counseling or credit counseling pursuant to §§ 26-2222(9) and 26-2223(7) of the Act. The Respondent’s acts of engaging or offering to engage in such activities while it failed to hold the required license under the Act, constituted violations of Idaho Code § 26-2223(1).

## DIRECTOR’S AUTHORITY

20. Idaho Code § 26-2244(1) provides that whenever it appears to the Director that it is in the public interest, he may order any person to cease and desist from acts, practices, or omissions which constitute a violation of the Act.

21. Idaho Code § 67-5247(3) authorizes the Director to issue an order that is effective when issued, should he find that an immediate danger to the public health, safety, or welfare to of Idaho residents requires immediate action.

**ORDER**

The Director, having reviewed the foregoing, good cause being shown, the public interest being served thereby, and the Respondent's violations of the Act requiring immediate action to protect Idaho residents,

NOW, THEREFORE, the Director HEREBY FINDS that the Respondent has violated the Idaho Collection Agency Act as set forth above.

Pursuant to Idaho Code §§ 26-2244(1) and 67-5247, IT IS HEREBY ORDERED that the Respondent and its agents and employees immediately CEASE AND DESIST from any further debt or credit counseling activities in Idaho, to include the offer or sale of residential mortgage loan modification services and related services; from any other conduct under the Act for which a license from the Director is required; and from any other violations of the Act.

This ORDER is EFFECTIVE UPON ISSUANCE.

**IT IS SO ORDERED.**

DATED this 20th day of April, 2009.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
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GAVIN M. GEE, Director

## NOTICE

The Respondent is HEREBY NOTIFIED that this ORDER TO CEASE AND DESIST is a final order of the Director.

The Respondent may file a motion for reconsideration or request for hearing concerning this final order within fourteen (14) days of the service date of this order. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

Michael Larsen  
Consumer Finance Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

A copy of the motion for reconsideration or request for a hearing shall also be served on the Department's counsel in this matter, A. René Martin, Deputy Attorney General, at the following address:

A. René Martin  
Deputy Attorney General - Lead  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

The Department will dispose of a motion for reconsideration within twenty-one (21) days of the receipt of a motion for reconsideration, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Idaho Rules of Administrative Procedure of the Attorney General (IRAP) at IDAPA 4.11.01.740.02.a. Should the Respondent make a timely request for a hearing, the Department shall schedule a hearing within the twenty-one (21) day time period.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal to the district court by filing a petition in the district court of the county in which:



- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

See IDAPA 04.11.01.740.02.b.

An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration or schedule a hearing, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. See IDAPA 04.11.01.740.02.c.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 21 day of April, 2009, I served a true and correct copy of the foregoing ORDER TO CEASE AND DESIST and NOTICE upon the following by the designated means:

National Foreclosure Relief, Inc.  
1505 East 17<sup>th</sup> Street, Suite 217  
Santa Ana, CA 92705

- U.S. mail, postage prepaid
- Certified mail
- Facsimile: 714-242-9740
- Electronic Mail

National Foreclosure Relief, Inc.  
1505 E. 17<sup>th</sup> Street, Suite 207  
Santa Ana, CA 92705

- U.S. mail, postage prepaid
- Certified mail
- Facsimile
- Electronic Mail

National Foreclosure Relief, Inc.  
10120 S. Eastern Ave., Suite 200  
Henderson, NV 89052

- U.S. mail, postage prepaid
- Certified mail
- Facsimile
- Electronic Mail

  
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