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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. 2009-9-12
)	
Complainant,)	
)	
vs.)	ORDER DENYING APPLICATION
)	FOR A MORTGAGE BROKER
)	LICENSE
APS NORTHWEST IDAHO LLC, dba)	
HOMEMODIFIER, an Idaho Limited)	
Liability Company,)	
)	
Respondent.)	
_____)	

The Director of the Idaho Department of Finance (Director), pursuant to the Idaho Collection Agency Act (the ICAA), Idaho Code § 26-2221 *et seq.*, and the Idaho Residential Mortgage Practices Act, (the IRMPA) Idaho Code § 26-31-101 *et seq.*, hereby finds as follows:

**I
FINDINGS**

1. APS Northwest Idaho LLC, dba HomeModifier, an Idaho limited liability company (Respondent) was formed on March 19, 2009. The company's business address is 1616 East Seltice Way, Post Falls, Idaho 83854.

2. Respondent's primary business activity is attempting to obtain modifications of mortgage obligations for consumers who have defaulted on their home mortgages or are facing foreclosure of their home.

3. Respondent has engaged in the business of mortgage loan modification in Idaho since November of 2008.

4. On April 22, 2009, Respondent submitted to the Idaho Department of Finance, Consumer Finance Bureau (Department) an application for licensure under the Idaho Collection Agency Act. At the time, licensure under the Idaho Collection Agency Act was required before a person could lawfully engage in the business of mortgage modification in the state of Idaho. Since July 1, 2009, prior to engaging in such activity, persons are required to obtain a mortgage broker license under the Idaho Residential Mortgage Practices Act. In view of this change in the law, since July 1, 2009, the Department has treated Respondent's application as one seeking a mortgage broker license.

5. In Respondent's license application submitted on April 22, 2009, Respondent indicated that there were three individuals who were members/partners of the company. Those individuals are Clint Ty Paulsen, Travis Wayne Smith, and Randy Paul Allen.

6. On April 28, 2009, Respondent's license application was placed in a "pending" status due to multiple deficiencies.

7. On May 20, 2009, after receiving information that Respondent was conducting mortgage loan modification business in Idaho without a license as required by law, the Department sent an e-mail to the Respondent stating: "HomeModifier.com Must be Licensed to Operate in Idaho."

8. On July 28, 2009, a supervising examiner for the Department conducted an investigation of Respondent's activities at Respondent's office located at 1616 East Seltice Way, Post Falls, Idaho. One of the purposes of the investigation was to determine the extent to which Respondent had engaged in loan modification activity in Idaho without a license, as required by Idaho law.

9. As a result of its investigation and based on information Respondent had previously provided to the Department, the Department confirmed that Respondent had entered into loan modification agreements with and opened loan modification accounts for twenty-nine (29) Idaho residents. Respondent's agreements with the twenty-nine (29) Idaho residents were entered into between the dates of November 1, 2008 and July 16, 2009. Of the twenty-nine (29) agreements entered into with Idaho residents during the foregoing time period, one (1) agreement was signed subsequent to a change in the licensing laws governing this matter which occurred on July 1, 2009.

10. On September 5, 2009, Clint Ty Paulsen, one of the three members/partners of Respondent, placed a call to a Department examiner investigator. In that phone conversation, among other things, Mr. Paulsen informed the examiner/ investigator that:

- a. HomeModifier had no operating capital to continue its operations;
- b. Most employees had left the business due to the fact that there were not sufficient funds to cover payroll;
- c. Mr. Paulsen's two partners in the business had left to pursue other opportunities;
- d. HomeModifier had between ten (10) and twelve (12) active Idaho consumer accounts; and

- e. The three partners (members) of the company were discussing the possibility of a bankruptcy filing.

II CONCLUSIONS

11. During the time period between November 2008 and June 2009, Respondent's mortgage modification activities in Idaho were subject to the ICAA.

12. During the time period referenced in paragraph 11 above, Idaho Code § 26-2223 governed Respondent's activities. It 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.

...

(7) Engage or offer 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.

13. 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).

14. The activities described in Idaho Code §§ 26-2223(1) and 26-2223(7), as set forth above, encompass the mortgage loan modification and related services engaged in by Respondent during the time period of November 2008 through June 2009.

15. Respondent's acts of engaging in or offering to engage in mortgage loan modification and related activities in Idaho during the time period of November 2008 through June 2009 constitute engaging in debt counseling or credit counseling under the ICAA without a license, in violation of Idaho Code §§ 26-2223(1) and 26-2223(7).

16. On and after July 1, 2009, Respondent's mortgage modification activities in Idaho were subject to the IRMPA.

17. The IRMPA, at Idaho Code § 26-31-203(2), provides that "[n]o person, except a person exempt under section 26-31-202, Idaho Code, shall engage in mortgage brokering activities or mortgage lending activities without first obtaining a license from the department in accordance with this part."

18. The IRMPA's definition of "mortgage brokering activities" includes "engaging in loan modification activities on behalf of a borrower." Idaho Code § 26-31-201(5).

19. Respondent's acts of engaging in loan modification activities on behalf of borrowers on or after July 1, 2009 without first obtaining a license as required by the IRMPA constitute violations of Idaho Code § 26-31-203(2).

20. The IRMPA, at Idaho Code § 26-31-206(2)(a) provides that an application for a mortgage broker license may be denied if the Director finds:

The financial responsibility, character and fitness of the license applicant, or of the officers and directors thereof, if the applicant is a corporation, partners thereof if the applicant is a partnership, members or managers thereof if the applicant is a limited liability company and individuals designated in charge of the applicant's places of business, are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this part;

21. The information Mr. Paulsen provided to the Department on September 4, 2009, establishes that Respondent lacks the financial responsibility to operate the business honestly and fairly within the purposes of the IRMPA. Further, two of the three members of the limited liability company who are identified in Respondent's license application are no longer with the company.

22. The IRMPA, at Idaho Code § 26-31-206(2)(f) provides that an application for a mortgage broker license may be denied if the Director finds that "[t]he applicant or any partner,

officer, director, manager, member, employee or agent of the applicant has violated this chapter or any rule promulgated or order issued under this chapter and pertinent to this part.”

23. Respondent’s engaging in the business of mortgage loan modification without a license subsequent to July 1, 2009 establishes that Respondent has violated the IRMPA.

24. The IRMPA, at Idaho Code § 26-31-206(g) provides that an application for a mortgage broker license may be denied if the Director finds that “[t]he applicant or any partner, officer, director, manager, member, employee or agent of the applicant has violated any state or federal law, rule or regulation pertaining to the financial services industry.”

25. Respondent’s engaging in the business of mortgage loan modification without a license between the dates of November 2008 through June 2009 establishes that Respondent violated a state law pertaining to the financial services industry, the ICAA.

26. Based on the foregoing, the following order is appropriate and in the public interest.

ORDER

NOW, THEREFORE, PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT, IDAHO CODE § 26-31-101 *ET SEQ.*, IT IS HEREBY ORDERED THAT RESPONDENT’S APPLICATION FOR A MORTGAGE BROKER LICENSE IS DENIED.

Respondent is hereby notified that the foregoing ORDER DENYING APPLICATION FOR A MORTGAGE BROKER LICENSE is a final order of the Director. Pursuant to Idaho Code § 67-5246, Respondent may file a motion for reconsideration or request for a hearing of this Order within fourteen (14) days of the issuance of this Order. The motion for reconsideration or request for a hearing shall be served on:

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

A copy of such motion for reconsideration or request for a hearing shall also be served on the Department's counsel, Joseph B. Jones, Deputy Attorney General, at the same address. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

27. If Respondent timely files a motion for reconsideration, the Department will dispose of such motion within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law, pursuant to Idaho Code § 67-5246(4).

28. If Respondent timely files a request for hearing, Respondent will be notified of the date, time, and place of the hearing, as well as the name of the presiding officer. At the hearing, the Respondent will be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. Respondent may also be represented by legal counsel at its own expense.

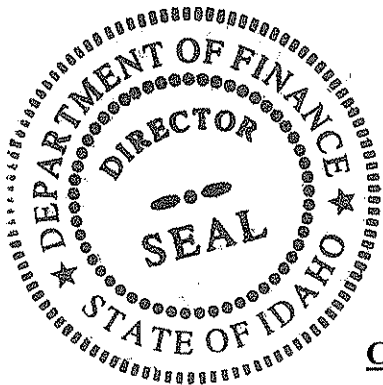
29. Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal from such order to the district court by filing a petition in the district court of the county in which:

- a. a hearing was held;
- b. the final agency action was taken;
- c. the party seeking review of the order resides; or
- d. the real property or personal property that was the subject of the agency action is located.


30. An appeal must be filed within twenty-eight (28) days: (a) of the issuance of this Order, (b) of the issuance of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. Idaho Code § 67-5273(2). The filing of an appeal to the district court does not itself stay the effectiveness of enforcement of the order being appealed.

IT IS SO ORDERED.

DATED this 17th day of SEPTEMBER, 2009.



STATE OF IDAHO
DEPARTMENT OF FINANCE


GAVIN M. GEE
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of September, 2009, I caused a true and correct copy of the foregoing ORDER DENYING APPLICATION FOR A MORTGAGE BROKER LICENSE to be served upon the following by the designated means:

APS Northwest Idaho LLC,
dba HomeModifier
Attn: Clint Paulsen
1616 E. Seltice Way
Post Falls, Idaho 83854

- U.S. mail, postage prepaid
- certified mail
- facsimile (208) 777-7772
- overnight delivery

M. White
Paralegal