

IN THE MATTER OF:

**JEFFREY A SMITH LAW GROUP
a/k/a JAS LAW GROUP
a/k/a JAS LEGAL TEAM**

**JEFFREY A. SMITH, and
KIMBERLY McCARTY**

Respondents

**BEFORE THE COMMISSIONER OF
FINANCIAL REGULATION**

Case No. CFR-FY2014-0042

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, hereinafter the “Commissioner,” issues this Final Order to Cease and Desist to Jeffrey A. Smith Law Group, a/k/a JAS Law Group, a/k/a JAS Legal Team, Jeffrey A. Smith, and Kimberly McCarty.

The Summary Order to Cease and Desist (“Summary Order”) issued on November 12, 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 October, 2013, began an investigation, as a result of a consumer complaint, into the business activities of Jeffrey A. Smith Law Group, a/k/a JAS Law Group, a/k/a JAS Legal Team, Jeffrey A. Smith, and Kimberly McCarty (collectively, “Respondents”).
2. The Agency’s investigation revealed that Respondent Jeffrey A. Smith Law Group, a/k/a JAS Law Group, a/k/a JAS Legal Team, is a purported law firm operating out

of offices located in Port St. Lucie, Florida. Further, the Agency's investigation revealed that Respondent Jeffrey A. Smith Law Group, a/k/a JAS Law Group, a/k/a JAS Legal Team, engages in business activities with Maryland consumers involving Maryland residential real property, although it has 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 Jeffrey A. Smith is the owner of Jeffrey A. Smith Law Group, a/k/a JAS Law Group, a/k/a JAS Legal Team. Respondent Jeffrey A. Smith is a Florida state barred attorney who engaged in business activities involving Maryland consumers, but is not, nor has he ever been, licensed to practice law in the State of Maryland.¹
4. The Agency's investigation determined that Kimberly McCarty represented herself, in correspondence with Consumer A as the "Director of Negotiations" for the Jeffrey A. Smith Law Group, a/k/a JAS Law Group, a/k/a JAS Legal Team.
5. The Agency's investigation revealed that, in February 2013, [REDACTED] ("Consumer A"), entered into a loan modification agreement with Respondents. Consumer A paid \$2,300.00 in up-front fees to Respondents in exchange for which Respondents represented that they would be able to obtain a loan modification for

¹ According to information received since the issuance of the Summary Order and from the website of the Florida Bar, at www.floridabar.org, Jeffrey Anak Smith was suspended for 91 days, effective March 20, 2014, and placed on probation for three years, in Case Nos. SC13-770 & SC13-646. He was ordered to pay restitution in the amount of \$62,300 to 26 clients and to participate in arbitration with approximately 40 other clients. The website reports that between 2010 and 2012, Smith engaged in an improper course of conduct involving loan modification matters, resulting in numerous complaints, that he failed to supervise non-lawyer employees assigned to work on the cases and that he failed to diligently represent and communicate with clients regarding their loan modifications.

Consumer A. Although Respondents collected \$2,300.00 in up-front fees, Respondents never obtained a loan modification for Consumer A.

6. 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,² with Maryland consumers in violation of 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.
7. 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

² At the time of the alleged violation, in February 2013, the Credit Services Business Act applied to mortgage assistance relief services, which included, *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.

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.

8. 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. 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.
9. 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.
10. 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.
11. The Acting Deputy Commissioner determined that action under FI §§ 2-114 and 2-115 was appropriate and issued the Summary Order against Respondents.
12. 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.

13. The Summary Order was properly served on Respondents via first class mail and 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, and FI § 2-115, 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 mortgage assistance relief 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 Five Thousand Dollars. 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 §§14-1905 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 requisite information statements)	\$1,000.00	1	\$1,000.00
Violation of CL §14-1907 (breached contract with consumer by not obtaining loan modification)	\$1,000.00	1	\$1,000.00
Total			\$5,000.00

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 Five Thousand Dollars (\$5,000.00) 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(a), as Respondents' activities constituted willful noncompliance with MSCBA, Respondents shall pay the consumer a monetary award equal to three times the amount illegally collected from the consumer; and therefore the Respondents shall pay [REDACTED] the monetary award of Six Thousand Nine Hundred Dollars (\$ 6,900.00 = 3 times \$2,300);

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;

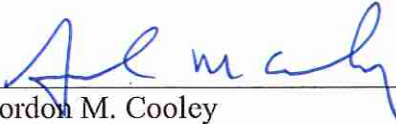
FURTHER ORDERED that Respondents shall pay the required monetary award to the consumer identified above within thirty (30) days of the date of this Final Order. Respondents shall make payment by mailing to the consumer a check in the amount specified above via First Class Mail, postage prepaid, and at 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.

4/8/15
Date



Gordon M. Cooley
Acting Commissioner of Financial Regulation