

IN THE MATTER OF:

**LINCOLN HARDSHIP RELIEF d/b/a
LINCOLN HARDSHIP RELIEF, INC.,**

LINCOLN HARDSHIP CORP.,

**AHMAD JOHN AFZAL a/k/a JOHN
ALEXANDER a/k/a LINCOLN HARDSHIP
RELIEF, and**

KRIS PENNINGTON,

Respondents.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: CFR-FY2012-029

FINAL ORDER TO CEASE AND DESIST

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 Lincoln Hardship Relief d/b/a Lincoln Hardship Relief, Inc. (“LHR”), Lincoln Hardship Corp. (“LHC”), Ahmad John Afzal d/b/a Lincoln Hardship Relief, and Kris Pennington, (collectively the “Respondents”); and

WHEREAS, as a result of that investigation, the Deputy Commissioner found evidence to support that Respondents have engaged in acts or practices constituting a violation of a law over which the Commissioner of Financial Regulation (the “Commissioner”) has jurisdiction, namely that Respondent has violated various provisions of the Annotated Code of Maryland, including Real Property Article (“RP”), Title 7, Subtitle 3 (Protection of Homeowners in Foreclosure Act, hereinafter “PHIFA”); and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist (the “Summary Order”) against Respondents on September 4, 2012, 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 foreclosure consulting activities with Maryland residents, homeowners and/or consumers (hereinafter “Maryland consumers”), including directly or indirectly offering, contracting to provide, or otherwise engaging in the forensic auditing of residential mortgages in default, loss mitigation, foreclosure consulting, or similar services related to residential real property (hereinafter “foreclosure consulting 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 Annotated Code of Maryland, Financial Institutions Article (“FI”), § 2-115(a)(2), and RP § 7-319.1, 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. Under PHIFA, (specifically RP § 7-301(i)), the term “*homeowner*” is defined as “the record owner of a residence in default or a residence in foreclosure, or an individual occupying the residence under a use and possession order issued under Title 8, Subtitle 2 of the Family Law Article.” In turn, pursuant to RP § 7-301(j), the term “*residence in default*” refers to homeowner-occupied Maryland residential real property “on which the mortgage is at least 60 days in default,” while pursuant to RP § 7-301(k), “*residence in foreclosure*” refers to homeowner-occupied Maryland residential real property “against which an order to docket or a petition to foreclose has been filed.”

2. Pursuant to RP § 7-301(c), a “*foreclosure consultant*” is defined as a person who:

(1) Solicits or contacts a homeowner in writing, in person, or through any electronic or telecommunications medium and directly or indirectly makes a representation or offer to perform any service that the person represents will:

(i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a foreclosure sale;

(ii) Obtain forbearance from any servicer, beneficiary or mortgagee;

(iii) Assist the homeowner to exercise a right of reinstatement provided in the loan documents or to refinance a loan that is in foreclosure and for which notice of foreclosure proceedings has been published;

(iv) Obtain an extension of the period within which the

homeowner may reinstate the homeowner's obligation or extend the deadline to object to a ratification;

(v) Obtain a waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in default or contained in the mortgage;

(vi) Assist the homeowner to obtain a loan or advance of funds;

(vii) Avoid or ameliorate the impairment of the homeowner's credit resulting from the filing of an order to docket or a petition to foreclose or the conduct of a foreclosure sale;

(viii) Save the homeowner's residence from foreclosure;

(ix) Purchase or obtain an option to purchase the homeowner's residence within 20 days of an advertised or docketed foreclosure sale; or

(x) Arrange for the homeowner to become a lessee or renter entitled to continue to reside in the homeowner's residence after a sale or transfer; or

(2) Systematically contacts owners of residences in default to offer foreclosure consulting services.

3. Unless otherwise exempt, the provisions of PHIFA apply to, *inter alia*, activities in which a person or business entity solicits, offers, sells, provides, or enters into an agreement to provide, residential mortgage forensic auditing services (a/k/a foreclosure consulting, and similar services) pertaining to homeowner-occupied Maryland residential real property which is in default or in foreclosure.

4. The following relevant and credible evidence, obtained pursuant to the Deputy Commissioner's investigation, was considered in the issuance of the Summary Order: Respondents' standard documents for providing foreclosure consulting services for Maryland consumers; communications between Respondents and Maryland consumers; statements by Maryland consumers who had entered into foreclosure consulting agreements with Respondents but for whom Respondents failed to perform such services; and the

Commissioner's investigatory records. More particularly, this evidence supports the following findings:

a. Respondent LHR is a dissolved California corporation operating out of offices located in Santa Ana, California and Houston, Texas. LHR engaged in business activities with Maryland consumers involving Maryland residential real property, although it was not a registered business entity in the State of Maryland.

b. Respondent LHC is an active California corporation operating out of offices located in Santa Ana, California. LHC engaged in business activities with Maryland consumers involving Maryland residential real property, although it was not a registered business entity in the State of Maryland.

c. Respondents Ahmad John Afzal and Kris Pennington engaged in business activities involving Maryland consumers. Ahmad John Afzal and Kris Pennington are the owners, directors, officers, managers, employees and/or agents of LHR and/or LHC. Further, Lincoln Hardship Relief is the alter ego/fictitious name of Ahmad John Afzal and/or Kris Pennington.

d. In February 2011, [REDACTED] ("Consumer A"), who was in default on her Maryland residential mortgage loan, entered into a foreclosure consulting agreement with Respondents. Consumer A paid approximately \$990.00 in up-front fees to Respondents in exchange for which Respondents represented that they would conduct a forensic audit of Consumer A's residential mortgage loan. Although Respondents collected \$990.00 in up-front fees, Respondents never produced a forensic audit for Consumer A. Further, Consumer A requested a refund of the up-front fees, to which the Respondents have yet to provide a refund.

5. The Deputy Commissioner's investigation revealed that the business activities of Respondents are subject to PHIFA. By entering into agreements with Maryland homeowners in default or in foreclosure to provide mortgage forensic auditing services pertaining to homeowner-occupied Maryland residential real property, Respondents acted as "foreclosure consultants" under PHIFA (as that term is defined at RP § 7-301(c)), as they had entered into "foreclosure consulting contracts" with homeowners for the provision of "foreclosure consulting services" (as those terms are defined under RP §§ 7-301(d) and (e), respectively). As such, Respondents are required to comply with all provisions of PHIFA applicable to foreclosure consultants.

6. Respondents failed to comply with the requirements of PHIFA. First, the Respondents violated RP § 7-307(2) by requiring Consumer A to pay up-front fees prior to successfully completing a forensic audit of Consumer A's residential mortgage loan.

7. Respondents also violated PHIFA by inducing Consumer A to enter into a foreclosure consulting agreement which lacked the notices of rescission and related information required under RP §§ 7-305 and 7-306(a)(6), (b), and (c), and thus Respondents violated RP § 7-307(10) ("[a] foreclosure consultant may not . . . [i]nduce or attempt to induce any homeowner to enter into a foreclosure consulting contract that does not comply in all respects with [PHIFA])."

8. Respondents further violated PHIFA when they breached the duty of reasonable care and diligence required under RP § 7-309(b) and BO&P § 17-532(c)(vi), including, but not limited to, the following conduct: they failed to perform those foreclosure consulting services for Consumer A which they promised to provide and for which they had collected an up-front fee; and Respondents purposely concealed this information when

contacted by Consumer A, who had already entered into a foreclosure consulting agreement with Respondents, by intentionally misrepresenting the progress of the forensic audit of Consumer A's residential mortgage loan.

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 RP § 7-307, RP § 7-309, RP § 7-319.1, 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 4, 2012, is entered as a final order of the Commissioner as modified herein, and that Respondents shall permanently **CEASE** and **DESIST** from engaging in any further foreclosure consultant activities with Maryland consumers, including contracting to provide, or otherwise engaging in the forensic auditing of residential mortgages in default, foreclosure consulting, or similar services with Maryland consumers; and it is further

ORDERED that, pursuant to FI § 2-115(b) and RP § 7-319.1, and upon careful consideration of (i) the seriousness of the Respondents' violations; (ii) the lack of good faith of Respondents, (iii) the history and 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 **\$2,000.00**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Penalty per Violation	x Number of Violations	= Penalty
<i>Charging Up-Front Fees in Violation of PHIFA</i>	\$1,000	1 Md. Consumer	\$1,000
<i>Breaching the Duty of Reasonable Care and Diligence in Violation of PHIFA</i>	\$1,000	1 Md. Consumer	\$1,000
		TOTAL	\$2,000

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 **\$2,000.00** within fifteen (15) days from the date of this Final Order; and it is further


ORDERED that, pursuant to RP § 7-319.1(c), Respondents shall pay restitution to Consumer A with whom Respondents entered into a foreclosure consultant agreement and collected up-front fees; and thus Respondents shall pay **\$990.00** to Consumer A; and it is further

ORDERED that Respondents shall pay the required monetary award pursuant to RP § 7-319.1(c) to Consumer A within 30 days of this Final Order being signed. Respondents shall make payment by mailing a check to Consumer A in the amount specified above via U.S. First Class Mail at the most recent address of Consumer A known to the Respondents. If the mailing of the 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 payment, the

Respondents shall furnish evidence of having made the payment to the Commissioner within sixty (60) 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.

2/19/13
Date



Mark A. Kaufman
Commissioner of Financial Regulation