

**IN THE MATTER OF:**

**PRESTIGE FINANCIAL SERVICES a/k/a  
PRESTIGE FINANCIAL CENTRE d/b/a  
MY RIGHT RATE,**

**DAVID E. ARELLANEZ,**

**JOSEPH SANCHEZ, and**

**KEVIN FRIEDMAN,**

**Respondents.**

**BEFORE THE MARYLAND**

**COMMISSIONER OF**

**FINANCIAL REGULATION**

**CFR-FY-2012-021**

**FINAL ORDER**

**WHEREAS**, the Commissioner of Financial Regulation (the “Commissioner”) undertook an investigation into the business activities of the following: Prestige Financial Services, a/k/a Prestige Financial Centre d/b/a My Right Rate (“Prestige”), David E. Arellanez (“Arellanez”), Joseph Sanchez (“Sanchez”), and Kevin Friedman (“Friedman”), (collectively, the “Respondents”), as well as of other persons not subject to this Final Order; and

**WHEREAS**, as a result of that investigation, the Deputy Commissioner of Financial Regulation (the “Deputy Commissioner”) found evidence to support that Respondents have engaged in acts or practices constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, namely that Respondents have violated various provisions of the Annotated Code of Maryland, including Financial Institutions Article (“FI”), Title 11, Subtitle 5 (the Maryland Mortgage Lender Law, or “MMLL”), FI Title 11, Subtitle 6 (the Maryland Mortgage Originators Law, or “MMOL”), Real Property Article (“RP”) Title 7, Subtitle 4 (the Maryland Mortgage Fraud Protection Act, or “MMFPA”), Commercial Law

Article (“CL”) Title 14, Subtitle 19 (the Maryland Credit Services Business Act, or “MCSBA”), and FI Title 11, Subtitles 2 and 3, as well as violating Maryland law prohibiting the commission of acts resulting in fraud and/or theft.

**WHEREAS**, the Deputy Commissioner issued a Summary Order to Cease and Desist (the “Summary Order”) on June 7, 2013, which was amended by Amended Summary Order to Cease and Desist (the “Amended Order”) on October 3, 2013. The Summary Order and the Amended Order together are hereinafter the “Orders”. When referred to herein, “Respondents” means only Prestige, Arellanez, Sanchez and Friedman. The Orders having been issued after determining that Respondents were in violation of the aforementioned provisions of Maryland law, and the public welfare required that the Respondents immediately cease and desist from originating, brokering, lending, mitigating, or engaging in any other activities involving Maryland mortgage loans or otherwise pertaining to the mortgage industry in Maryland, as well as engaging in credit services business activities and/or foreclosure consulting activities with Maryland residents, homeowners and/or consumer (hereinafter “Maryland consumers”), including directly or indirectly offering, contracting to provide, or otherwise engaging in, loan modification, loss mitigation, foreclosure consulting or similar services related to Maryland residential real property (hereinafter “loan modification services”); and

**WHEREAS**, the Orders notified Respondents of, among other things, the following: that Respondents were entitled to a hearing before the Commissioner to determine whether the Summary Order, and the Amended Order, should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order and the Amended Order would be entered as a final order if Respondents did not request a hearing within fifteen days of the receipt of the

Summary Order and the Amended Order; and that as a result of a hearing, or of Respondents' failure to request a hearing on either the Summary Order or the Amended Order, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an order making the Orders 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 and the Amended Order were properly served on Respondents via First Class U.S. Mail; and

**WHEREAS**, Respondents failed to request a hearing on the Summary Order and the Amended Order within the fifteen day period set forth in the Summary Order and the Amended Order, and as provided for and in compliance with FI §2-115(a)(2), and have not filed a request for a hearing as of the date of this Final Order; and

**WHEREAS**, the Commissioner has based his decision in this Final Order on the following determinations:

1. Relevant and credible evidence regarding Respondents obtained pursuant to the Commissioner's investigation, including: communications between Respondents and the Commissioner; communications between Respondents and Maryland consumers; Respondents' standard documents for providing mortgage brokering, loan origination, and credit services; statements by Maryland consumers who had entered into such aforementioned agreements with Respondents in which Respondents engaged in a scheme involving both theft and fraud, public records, and the Commissioner's licensing records. More particular, this evidence supports the following findings:

a. That Arellanez, Sanchez, and Friedman engaged in mortgage related business activities in the State of Maryland involving Maryland residential real property.

b. That Arellanez, Sanchez and Friedman are owners, directors, officers, managers, employees and/or agents of Prestige Financial. Prestige Financial is not registered to do business in Maryland.

c. That the Respondents engaged in unlicensed mortgage origination and mortgage brokering activities in perpetration of a mortgage fraud scheme which involved the following:

i. That in October of 2010, [REDACTED] (together “Consumers A”) entered into an agreement with the Respondents to obtain a mortgage loan to refinance real property located in Grasonville, Maryland. Consumers A, at the direction of the Respondents, completed a loan application for a mortgage refinance, which application they then gave to the Respondents.

ii. That Respondents pulled the credit reports of Consumers A using Friedman’s status as a mortgage originator for Western Mortgage Co.

iii. That subsequent to the submission of the loan application, the Respondents informed Consumers A that they were approved for the loan and that Consumers A were required to pay \$1,763.49 to Respondents in order to obtain the loan. Consumers A paid the required amount to Respondents via wire transfer on or about November 3, 2010;

iv. That Respondents never submitted Consumers A’s loan application to any lender, nor did they ever provide any of the loan origination and/or mortgage brokering services for which they had contracted to provide Consumers A;

v. That Respondents have refused to refund the \$1,763.49 they collected from Consumers A;

vi. That Respondents' activities discussed above constitute a theft and/or a fraud upon Maryland consumers, and Consumers A in particular, and that such theft and/or fraud was conducted through a mortgage fraud scheme;

vii. That at all times relevant to the alleged conduct described herein, the Respondents have not been duly licensed under either the MMLL or the MMOL. That by advertising and contracting with Maryland consumers to perform mortgage brokering and/or loan origination services, including processing loan applications, Respondents acted as an unlicensed mortgage lender and/or an unlicensed mortgage loan originator;

viii. That at all times relevant to the alleged conduct described herein, the Respondents have not been duly licensed under the MCSBA; and

ix. That Respondents did not show a duty of good faith and fair dealing in their communications and transaction with Consumers A in violation of COMAR 09.03.06.20(A) and COMAR 09.03.09.04(A). Such conduct included but was not limited to, the following:

(A) Respondents failed to perform the loan origination service, i.e. the procuring of a refinance mortgage and/or credit services for Consumers A that Respondents promised to provide, and for which Respondents had collected up-front fees;

(B) Respondents purposely concealed this information when contacted by Consumers A who had entered into agreements with Respondents by intentionally misrepresenting the progress or status of those services for which Consumers A had contracted

with Respondents. In fact, Respondents had not even submitted Consumers A's loan application to any lender;

(C) Finally, Respondents refused to provide a refund of the up-front fee which they collected from Consumers A, when a refund was due for lack of service.

2. Respondent acted as a mortgage broker without being duly licensed. Respondents' activity included advertising and contracting with Maryland consumers to perform mortgage brokering services. The MMLL defines "mortgage broker" at FI §11-501(i) which provides as follows:

(i) *Mortgage broker.* - "Mortgage broker" means a person who:

(1) For a fee or other valuable consideration, whether received directly or indirectly, aids or assists a borrower in obtaining a mortgage loan; and

(2) Is not named as a lender in the agreement, note, deed of trust, or other evidence of the indebtedness.

3. According to the Commissioner's records, at no time relevant to the facts set forth in the Summary Order, the Amended Order, or this Final Order, have Respondents been duly licensed under FI Title 11 Subtitle 5. It is a violation of the MMLL to engage in unlicensed mortgage brokering activity. FI §11-504; *see also* FI §11-501(j) & (k).

4. Respondents acted as mortgage loan originators without being duly licensed. Respondents' activities included contracting with Maryland consumers to perform mortgage loan origination services, and by taking Maryland consumers' loan applications. The MMOL defines "mortgage loan originator" at FI §11-601(q) which provides in part, as follows:

(1) "Mortgage loan originator" means an individual who for compensation or gain, or in the expectation of compensation or gain:

(i) Takes a loan application, or

(ii) Offers or negotiates terms of a mortgage loan.

5. According to the Commissioner's records, as not time relevant to the facts set forth in the Summary Order, the Amended Order, or in this Final Order, have Respondents been duly licensed under FI Title 11 Subtitle 6. It is a violation of the MMOL to engage in unlicensed mortgage origination activity. FI §11-602(b); *see also* FI §11-603(a) (for a "licensee to act as a mortgage loan originator, "he/she must be "acting within the scope of employment with ... (1) [a] mortgage lender... or (2) [a] person who is exempt from licensing as a mortgage lender.")

6. Respondents committed mortgage fraud. Mortgage fraud is defined under Maryland law as including "[k]nowingly making any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a ... borrower." RP §7-401(d); *see also* §7-402 (prohibiting mortgage fraud). Mortgage fraud is a violation of the MMLL and the MMOL. *See* FI §11-517(a)(3) (authorizing the Commissioner to suspend or revoke a mortgage lender license where a licensee "in connection with any mortgage loan or loan application transaction ... (i) [c]omits any fraud; (ii) [e]ngages in any illegal or dishonest activities, or (iii) [m]isrepresents or fails to disclose any material facts to anyone entitled to that information"), FI §11-615(a)(3) (authorizing the Commissioner to suspend or revoke a license where a licensee "in connection with any mortgage loan or loan application transaction ... (i) [c]omits any fraud; (ii) [e]ngages in any illegal or dishonest activities, or (iii) [m]isrepresents or fails to disclose any material facts to anyone entitled to that information"); *see also* FI §§11-517(c) and 11-615(c) (authorizing the Commissioner to enforce the MMLL and the MMOL respectively, and regulations adopted thereunder by imposing sanctions, including an order to: (i) cease and desist, (ii) take affirmative action to correct a violation, and (iii) impose a civil penalty not to exceed \$5,000),

7. Respondents committed mortgage fraud by making misstatements and misrepresentations to Consumers A with the intent to defraud Consumers A. Respondents misstated and misrepresented that they could and would arrange a mortgage refinance for Consumers A. Further, Respondents committed mortgage fraud when they falsely represented to Consumers A that they had already been approved for said loan, when in fact, Respondents had not contacted any lenders on Consumers A's behalf. Respondent intended that Consumers A rely on these misstatements, misrepresentations and omissions as evidenced by the fact that Respondents took up-front fees in the amount \$1,763.49 from Consumers A for services which Respondents had not and never did perform on Consumers A's behalf.

8. That Respondents committed theft of property. Respondents willfully and/or knowingly obtained/exerted unauthorized control over Maryland consumers' property, and/or through deception intended to deprive those consumers of their property. Respondents converted Maryland consumers' funds to their own use by receiving and then refusing to return these funds obtained through fraudulent means. This dishonest and illegal activity in connection with mortgage transactions is a violation of the MMLL and the MMOL. See FI §11-517(a)(3); FI §11-517(c); FI §11-615(a)(3); FI §11-615(c).

9. That Respondents are subject to the MSCBA, including its prohibition on engaging in credit services business activities without first being licensed. The MCSBA defines "*credit services business*" at CL §14-1901(e); this provision provides, in part, as follows:

(1) "Credit services business" means any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that such person can or will sell, provide, or perform, any of the following services in return for the payment of money or other valuable consideration:



- (i) Improving a consumer's credit record, history, or rating or establishing a new credit file or record;
- (ii) Obtaining an extension of credit for a consumer; or
- (iii) Providing advice or assistance to a consumer with regard to either subparagraph (i) or (ii) of this paragraph.

Additionally, CL §14-1901(f) defines "*extension of credit*" as "the right to defer payment of debt or to incur debt and defer its payments, offered or granted primarily for personal, family, or household purposes." However, at no time relevant to the facts set forth in the Summary Order, the Amended Order or this Final Order have Respondents been licensed by the Commissioner under the MSCBA.

10. That by representing that they could assist Consumers A in obtaining a refinance of their mortgage loan, and by entering into agreements with Maryland consumers to provide these services, Respondents have engaged in credit services business activities without having the requisite license. Respondents' unlicensed credit services business activities thus constitute violations of the MCSBA. *See* CL §14-1902(1) ("[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit service business shall not: (1) [r]eceive any money or other valuable consideration from the consumer, unless the credit services business has secured from the Commissioner a license under Title 11, Subtitle 3 of the Financial Institutions Article..."); CL §14-1903(b) ("[a] credit services business is required to be licensed under this subtitle and is subject to the licensing, investigatory, enforcement, and penalty provisions of this subtitle and Title 11, Subtitle 3 of the Financial Institutions Article"), FI §11-302 ("[u]nless in the business of credit services business as defined under Title 14, Subtitle 19 of the Commercial law Article"); and FI §11-303 ("[a] license under this subtitle shall be applied for and issued in accordance with and is subject to, the licensing and

investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law –Licensing Provisions”).

11. That by collecting up-front fees prior to fully and completely performing all services on behalf of Consumers A, Respondents violated CL §14-1902(6) of the MCSBA (“[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not: ... (6) [c]harge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer”).

12. Further, although Respondents made representations that they would obtain a mortgage refinance loan for Consumers A, the Commissioner’s investigation supports a finding that Respondents never obtained the promised mortgage refinance; as such Respondents violated CL§14-1902(4) (“[a] credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not ... (4) [m]ake or use any false or misleading representations in the offer or sale of the services of a credit services business”).

13. That Respondents further violated the MCSBA through the following: in their credit service advertisements, they failed to clearly and conspicuously state their MCSBA license number, or their exemption from licensing, in violation of CL §14-1903.1; they failed to obtain the requisite surety bonds, in violation of CL §§14-1908 and 14-1909; they failed to provide consumers with the requisite information statements in violation of CL §§14-1904 and 14-1905; and Respondents failed to include all of the requisite contractual terms in their agreements with consumers as required under CL §14-1906.

14. That as the agreements between Respondents and Consumers A failed to comply with the specific requirements imposed by the MCSBA (as discussed above), all such contracts between Respondents and Maryland consumers, including Consumers A, are void and unenforceable as against the public policy of the State of Maryland pursuant to CL §14-1907(b) (“[a]ny contract for services from a credit services business that does not comply with the applicable provisions of this subtitle shall be void and unenforceable as contrary to the public policy of this State”).

15. That by failing to obtain a mortgage refinancing for Maryland consumers, a credit service which Respondents had agreed to provide, Respondents breached their contracts with Consumers A and/or breached the obligations arising under those agreements. Such breaches constitute per se violations of the MCSBA pursuant to CL §14-1907(a) (“[a]ny breach by a credit services business of a contract under this subtitle, or of any obligation arising under it, shall constitute a violation of this subtitle”).

16. The MCSBA prohibits fraud and deceptive business practices at CL §14-1902, which provides as follows:

A credit services business, its employees, and independent contractors who sell or attempt to sell the services of a credit services business shall not:

(4) Make or use any false or misleading representations in the offer or sale of the services of a credit services business;

(5) Engage, directly or indirectly, in any act, practice, or course of business which operates as a fraud or deception on any person in connection with the offer or sale of the services of a credit services business;

(6) Charge or receive any money or other valuable consideration prior to full and complete performance of the services that the credit services business has agreed to perform for or on behalf of the consumer;

\* \* \*

17. CL § 14-1912 discusses liability for failure to comply with the MCSBA, providing as follows:

(a) *Willful noncompliance.*— Any credit services business which willfully fails to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure;

(2) A monetary award equal to 3 times the total amount collected from the consumer, as ordered by the Commissioner;

(3) Such amount of punitive damages as the court may allow; and

(4) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) *Negligent noncompliance.*— Any credit services business which is negligent in failing to comply with any requirement imposed under this subtitle with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure; and

(2) In the case of any successful action to enforce any liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

18. Respondents engaged directly or indirectly, in acts, practices or other activities which operated as a fraud or deception on persons in connection with the offer or sale of the services of a credit services business, and thereby violated CL §14-1902(5); such actions also constituted willful noncompliance with the MCSBA under CL §14-1912(a). Respondents' fraudulent, deceptive and willful conduct included the following: They failed to procure the mortgage loan refinancing / credit service for Consumers A, which they contracted to do, and for which they had collected up-front fees and refused to provide a refund to Consumers A when such refund was due for lack of service.

**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 FI §11-517(c), FI §11-615(c), CL §§14-902, 14-1912, 14-1915, and FI §2-115(b) and RP §§ 7-401, 7-402 it is, by the Maryland Commissioner of Financial Regulation, HEREBY

**ORDERED** that the Summary Order to Cease and Desist issued by the Deputy Commissioner against Respondents on June 7, 2013 and the Amended Summary Order to Cease and Desist issued on October 3, 2013 are entered as a Final Order of the Commissioner, as modified herein and Respondents shall permanently CEASE AND DESIST from engaging in any of the following: any and all activities which constitute a mortgage lending business as defined in FI §11-501(k), including acting as a mortgage broker as defined under FI §11-501(i) or as a mortgage lender as defined under FI §11-501(j); as a mortgage loan originator as defined in FI §11-601(q); or in any other way acting as a mortgage lender, broker or originator in the State of Maryland or with Maryland consumers, either by acting directly or indirectly through other individuals or business entities; and it is further

**ORDERED** that all Respondents shall permanently CEASE AND DESIST from engaging in any further credit services business activities with Maryland consumers, including contracting to provide, or otherwise engaging in, loan mitigation, loan negotiation, credit repair or similar services with Maryland consumers; and it is further

**ORDERED** that, pursuant to FI §11-517(c), FI § 11-615(c) and FI § 2-115(b), and upon careful consideration of: (i) the seriousness of the Respondents' violations; (ii) the lack of good faith of Respondents, (iii) the history and ongoing nature of Respondents' violations; and (iv) the

deleterious effect of Respondents' violations on the public and on the mortgage industry, Respondents shall pay to the Commissioner a total civil penalty in the amount of Six Thousand and 00/100 Dollars (\$6,000), which consists of the following:

<i>Prohibited Activity and Violation</i>	<b>Civil Penalty per Violation</b>	<b>x Number of Violations</b>	<b>= Penalty</b>
<i>Unlicensed Mortgage Broker Activity in Violation of FI Title 11 Subtitle 5</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Committing Mortgage Fraud &amp; Dishonest &amp; Illegal Conversion Of Funds( FI §11-517(c))</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Unlicensed Mortgage Loan Originator Activity in violation Of FI Title 11 Subtitle 6</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Committing Mortgage Fraud &amp; Dishonest &amp; Illegal Conversion of Funds (FI §11-615)</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Unlicensed Activity in Violation of MCSBA</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Charging Up-Front Fees in Violation of MCSBA</i>	<i>\$1,000</i>	<i>1 Violation</i>	<i>\$1,000</i>
<i>Total</i>			<i>\$6,000</i>

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 \$6,000 within fifteen (15) days from the date of this Final Order; and it is further

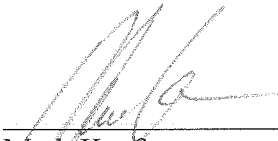
**ORDERED** that pursuant to CL §14-1907(b), all loan modification and/or credit repaid agreements that Respondents entered into with Maryland consumers, and specifically Consumers A, are void and unenforceable as contrary to the public policy of the State of Maryland; and it is

**ORDERED** that, pursuant to CL §§ 14-1902, 14-1907 and 14-1912, Respondents shall pay restitution to Consumers A with whom Respondents entered into a loan modification agreement; and that as Respondents' activities constituted willful noncompliance with the MCSBA, pursuant to CL § 14-1912(a) Respondents shall pay to Consumer A, an amount equal to \$5,290.47 which is equal to three times the amount collected from this consumer, and it is further

**ORDERED** that Respondents shall pay the required monetary award pursuant to CL §14-1912(a) to Consumer A within 30 days of this Amended Final Order being signed. Respondents shall make payment by mailing to Consumer A a check 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 Amended Final Order being signed, which evidence shall consist of a copy of the front and back of the cancelled check for the 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: Administrator, Enforcement Unit.

6/17/14  
Date

  
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Mark Kaufman  
Commissioner of Financial Regulation