

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of Jason McCallum,
Justin McCallum, Chad Buchanan, and
Save My Home USA Co., Inc.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came before Administrative Law Judge Manuel J. Cervantes (ALJ) on May 5, 2011, at 1:30 p.m., at the Office of Administrative Hearings (OAH), pursuant to a Notice and Order for Hearing and Order to Show Cause, filed March 10, 2011.

Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Department of Commerce (Department). None of the Respondents appeared after due notice. On May 11, 2011, the ALJ received the Department's written motion for a default recommendation. The record closed on May 25, 2011, upon the lapse of Respondent's last day for filing a response.

STATEMENT OF ISSUE

1. Did Respondents engage in unlicensed loan modification activities in at least 118 instances, thereby repeatedly violating Minn. Stat. § 58.04, subds. 1 and 3 (2010)?
2. Did Respondents habitually fail to complete the tasks it was paid in advance to perform, thereby repeatedly demonstrating untrustworthiness and incompetence in violation of Minn. Stat. § 58.12, subd. 1(b)(2)(v) (2010)?
3. Did Respondents advertise a money back guarantee, yet routinely failed to provide refunds on services not rendered despite written and oral requests, thereby repeatedly demonstrating untrustworthiness and incompetence and engaging in fraudulent, deceptive, coercive and dishonest practices in violation of Minn. Stat. § 58.12, subd. 1(b)(2)(iv)(v) (2010)?
4. Did Respondents fail to disclose to each customer the percentage of customers who actually received a loan modification during the 12-month period ending 10 business days before the date of the contracts in question were signed or while charging advance fees, thereby violating Minn. Stat. § 58.16, subd. 2(a)(6) (2010)?
5. Did Respondents fail to respond to questions, concerns, and inquiries made by its customers who had paid advance fees and then disconnect its phone lines

without notice, thereby demonstrating untrustworthiness and incompetence in violation of Minn. Stat. § 58.12, subd. 1(b)(2)(v) (2010)?

6. Did Respondents charge and collect a fee prior to fully performing each and every service the Respondents were contracted to perform, thereby repeatedly violating Minn. Stat. § 325N.04(1) (2010)?

7. Were Respondents subject to administrative actions in Maryland and Michigan, thereby subjecting Respondents to disciplinary action in other states in violation of Minn. Stat. § 58.12, subd. 1(b)(2)(vii) (2010)?

Based on the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Respondents are not licensed by the Department in any capacity. Respondents Jason McCallum, Justin McCallum and Chad Buchanan are all owners and officers of Respondent Save My Home USA Co., Inc. Respondents have been known to operate under the following: Save My Home USA; Savemyhomeusa; and 2MM, LLC.

2. The Department conducted an investigation of Respondents and learned that Respondents contacted approximately 118 Minnesota residents who paid advanced fees, totaling \$289,020 for loan modification services.

3. On August 25, 2010, the Department sent an administrative subpoena to Respondents at their last known address. No response was received. The telephone lines used by Respondents have been disconnected. It does not appear that the company is doing any more business in Minnesota at this time.

4. As part of its loan modification program, the Respondents offered and advertised a money back guarantee to its customers if the loan was not successfully modified. Upon information and belief, of the customers who did not receive a loan modification, no one received a refund despite the fact that many requested refunds. The following is a table of 23 customers interviewed by the Department concerning the Respondents' business activities.

Customer	Fee Paid to SMH	Received Loan Modification	Refund Requested	Refund Received
J.B.	\$2,995	N	Y	N
L.B.	\$2,995	N	Y	N
C.B.	\$2,100	N	Y	N
M.&L.B.	\$2,100	N	Y	N
J.B.	\$2,300	N	Y	N
A.&R.B.	\$3,990	N	Y	N
B.B.	\$3,095	N	Y	N

Customer	Fee Paid SMH to	Received Loan Modification	Refund Requested	Refund Received
C.C.	\$2,395	N	Y	N
J.C.	\$2,000	N	N	N
B.D.	\$2,200	Y	N/A	N/A
T.D.	\$2,395	N	Y	N
P.D.	\$2,000	N	Y	N
J.D.	\$1,000	N	Y	N
J.F.	\$1,895	N	Y	N
K.F.	\$3,990	N	Y	N
S. & M.J.	\$2,995	N	Y	N
M.G.	\$2,995	N	Y	N
A.G.	\$1,500	N	Y	N
M.G.	\$2,500	N	Y	N
T.H.	\$2,500	N	Y	N
D.H.	\$2,000	N	Y	N
L.G.	\$2,095	N	Y	N
J.S.	\$2,995	N	Y	N

Only one of the 23 customers listed above received a loan modification.

6. Numerous customers who paid an advance fee stated that prior to the completion of their loan modification services, Respondents' phone lines were disconnected without notice.

7. The Respondents have been the subject of administrative actions in Michigan and Maryland for unlicensed loan modification activities.

Based on these Findings of Fact, the ALJ makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 58.12.

2. The Notice and Order for Hearing, Order for Prehearing Conference, Order to Show Cause, and Statement of Charges was proper, and the Department has complied with all relevant procedural legal requirements.

3. Pursuant to Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. Upon default, the allegations and claims set forth in the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause, and Statement of Charges may be taken as true or deemed proved without further evidence.

4. Based upon the facts set forth in the Statement of Charges, enumerated above, Respondents violated Minn. Stat. § 58.04, subds. 1 and 3, by engaging in unlicensed loan modification activities in at least 118 instances.

5. Based upon the facts set forth in the Statement of Charges enumerated above, Respondents violated Minn. Stat. § 58.12, subd. 1(b)(2)(v), by habitually failing to complete the tasks it was paid in advance to perform, thereby repeatedly demonstrating untrustworthiness and incompetence.

6. Based upon the facts set forth in the Statement of Charges enumerated above, Respondents violated Minn. Stat. § 58.12, subd. 1(b)(2)(iv)(v), by advertising a money back guarantee, yet routinely failing to provide refunds on services not rendered despite written and oral requests, thereby repeatedly demonstrating untrustworthiness and incompetence and engaging in fraudulent, deceptive, coercive, and dishonest practices.

7. Based upon the facts set forth in the Statement of Charges enumerated above, Respondents violated Minn. Stat. § 58.16, subd. 2(a)(6), by failing to disclose to each customer the percentage of customers who actually received a loan modification during the 12-month period ending 10 business days before the date of the contracts in question were signed or while charging advance fees.

8. Based upon the facts set forth in the Statement of Charges enumerated above, Respondents violated Minn. Stat. § 58.12, subd. 1(b)(2)(v), by failing to respond to questions, concerns, and inquiries made by its customers who had paid advance fees and then , without notice, disconnected its phone lines thereby demonstrating untrustworthiness and incompetence.

9. Based upon the facts set forth in the Statement of Charges enumerated above, Respondents violated Minn. Stat. § 325N.04(1), by charging and collecting a fee prior to fully performing each and every service the Respondents were contracted to perform.

10. Based upon the facts set forth in the Statement of Charges enumerated above, Respondents violated Minn. Stat. § 58.12, subd. 1(b)(2)(vii), by being the subject of administrative actions in Maryland and Michigan.

11. This Order is in the public interest.

Based upon these Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge recommends that the Commissioner of Commerce discipline, censure, and/or impose an appropriate civil penalty against

Respondents Jason McCallum and Justin McCallum, Chad Buchanan, and Save My Home USA Co., Inc.

Dated: June 14 2011

/s/ Manuel J. Cervantes
MANUEL J. CERVANTES
Administrative Law Judge

Reported: No Digital Recording

NOTICE

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Michael Rothman, Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101 (651) 296-6025 to learn about the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the Report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.