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Mortgage Lending Division

BEFORE THE APPEALS OFFICER

FILED
SEP 20 2011
APPEALS OFFICE

In the Matter of the Contested
Industrial Insurance Claim of:

AMERICA'S SOLUTIONS INC DBA AMSO,
Roslynn Phoenix aka Roslynn Phoenix-Myrick
Respondent.

Appeal No: 84157-SDL

DECISION AND ORDER

This matter came on for hearing before Appeals Officer, **SHIRLEY D LINDSEY, Esq.**, on September 16, 2011. Respondent Roslynn Phoenix aka Roslynn Phoenix-Myrick appeared in proper person. The State of Nevada, department of Business and Industry, Division of Mortgage Lending (hereinafter the division) was represented by Deputy Attorney General Kali Fox Miller, Esq.

The Respondent appealed a January 25, 2011 Order to Cease and Desist, Notice of intent to Impose Fine, Notice of Intent to Order Restitution and Notice of Right to Request Hearing by which the division sought to impose an administrative fine of \$10,000.00, investigative fees of \$1,940.00, attorneys fees and ordered restitution in the amount of \$1,000.00..

The hearing was conducted pursuant to NRS Chapter 233B, NRS and all applicable administrative regulations.

Following a review of the evidence and consideration of the testimony of the witnesses and arguments of counsel, the Appeals Officer renders the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. In the fall of 2009 Alan Taylor and Timothy Chedester, each and individually, received word of mouth referrals to Roslyn Phoenix-Myrick for assistance in modifying the

1 terms of there home loan. Taylor had a first and second loan and Wells Fargo was one of his
2 creditors. Caldwell Banker was a creditor of Timothy Chedester

3 2. Both Alan Taylor and Timothy Chedester contacted Roslynn Phoenix-Myrick and
4 were scheduled to meet with her at 1919 S. Jones Blvd., Suite E-1, Las Vegas. NV 89146

5 3. Alan Taylor met with Roslyn Phoenix between June of 2009 and June of 2010 to
6 obtain assistance in obtaining a modification of his home loan held by Wells Fargo.

7 4. Timothy Chedester met with Roslyn Phoenix-Myrick between June 2009 and April
8 2010 to obtain assistance in obtaining a modification of his home loan with Caldwell Banker.

9 5. Both Alan Taylor and Timothy Chedester had made efforts to obtain modification of
10 their home loans prior to meeting with Roslyn Phoenix-Myrick

11 6. By way of a check dated November 13, 2009 Alan Taylor wrote a check for one
12 thousand dollars (\$1,000.00) made payable to RLM. That check was processed on November
13 24, 2009. At the evidentiary hearing held on September 16, 2011 Alan Taylor credibly testified
14 that he made the check payable to RLM at the request of Roslynn Phoenix-Myrick.

15 7. By way of a check dated November 13, 2009 Timothy Chedester wrote a check for
16 five hundred dollars (\$500.00) made payable to RLM. At the evidentiary hearing held on
17 September 16, 2011 Timothy Chedester credibly testified that he made the check payable to
18 RLM at the request of Roslynn Phoenix-Myrick.

19 8. On November 16, 2009 a deposit of five thousand five hundred fifty dollars
20 (\$5,550.00) was deposited into the account of R.L.M. Services. On November 23, 2009 a
21 deposit of four thousand eight hundred nine-teen dollars (\$4,819.00) was deposited into the
22 account of R.L.M. Services. On November 30, 2009 a deposit of seven thousand four hundred
23 dollars (\$7,400.00) was deposited into the account of R.L.M. Services. That account was
24 opened by Richard Myrick in 2008.

25 9. Roslynn Phoenix had the surname Myrick added to her name for personal reasons;

1 there is no familial relationship between Roslynn Phoenix-Myrick and Richard Myrick

2 9. On December 6, 2010 Tim Chedester faxed Roslynn Phoenix-Myrick (702) at 202-
3 2276 and inquired about the status of his loan modification.

4 10. On December 18, 2009 documents were faxed from (702) 202-2276 with a fax
5 cover sheet for AMSO located at 1919 S. Jones Blvd. Ste. E-1, Las Vegas NV 89146. The
6 faxed document was a Third Party Authorization Agreement allowing Roslynn Phoenix or
7 Kevin Phoenix (her son) to obtain Alan Taylor' s loan information from Wells Fargo. On
8 December 23, 2009 Wells Fargo Home Mortgage sent correspondence to Alan Taylor advising
9 that it had received authority to speak with Roslynn Phoenix regarding his loan.

10 11. On February 22, 2010 America' s Solution Inc. filed articles of incorporation with
11 the Nevada secretary of State identifying Roslynn Phoenix-Myrick as the sole officer, director
12 and registered agent.

13 10. On February 26, 2010 Roslynn Phoenix-Myrick filed a Certificate of Business:
14 Fictitious Firm Name with the Clark County clerk indicating that America' s Solution Inc. was
15 doing business under the fictitious name of AMSO.

16 In April 2010 Tim Chedester was offered a loan modification from his lender and
17 Roslynn Phoenix-Myrick notarized the paperwork for him.

18 11. In 2010 AMSO moved to 2001 South Jones Blvd., Suite F, Las Vegas NV 89146.

19 12. After the move AMSO had the telephone number and fax number (and logo on its
20 fax cover sheet) as the entity Alan Taylor and Timothy Chedester had met Roslynn Phoenix-
21 Myrick at in 2009.

22 13. On May 24, 2010 Wells Fargo sent an e-mail to " Roslynn" at
23 amso@rocketmail.com asking for Alan Taylor' s TD Ameritrade account statement from
24 January 2010 to April 2010.

25 14. In June of 2010 Alan Taylor brought his TD Ameritrade statements for March and
26
27
28

1 April 2010 to Roslynn Phoenix-Myrick at the AMSO office located at 2001 South Jones Blvd.,
2 Suite F, Las Vegas NV 89146.

3 15. On June 9, 2010 Roslynn Phoenix-Myrick transmitted Alan Taylor' s TD
4 Ameritrade statements for March and April 2010 to Wells Fargo.
5

6 16. At the evidentiary hearing held on September 16, 2011 Roslyn Phoenix-Myrick
7 testified that the only discussions she had with Alan Taylor and Timothy Chedester were about
8 the possible short sale of their respective homes. I do not find her testimony to be credible.

9 17. At the evidentiary hearing held on September 16, 2011 Tim Chedester credibly
10 testified that in 2010 his lender called him and advised that he was " days from foreclosure"
11 and that Roslynn Phoenix-Myrick called the lender, provided the lender with proof of his
12 current employment and was able to negotiate a modification of his loan with his lender.
13

14 18. At no time referenced herein was Roslynn Phoenix Myrick licensed under NRS
15 chapter 645F as a loan modification consultant, a foreclosure consultant or to contact a creditor
16 on behalf of a home owner or to delay or postpone the time of a foreclosure sale.

17 19. At no time referenced herein was Roslynn Phoenix Myrick exempt from the
18 provision of NRS/NAC chapter 645F.

19 20. Roslynn Phoenix Myrick offered to contact the creditors of Alan Taylor and
20 Timothy Chedester for compensation consisting of the checks they made payable to RLM at her
21 request in November of 2009.
22

23 21. Any Finding of Fact which may be deemed a Conclusion of Law shall be so
24 considered.
25

26 CONCLUSIONS OF LAW

27 1. In 2009 the Nevada legislature adopted legislation requiring a foreclosure consultant,
28 loan consultant or covered service provider to be license (AB 152 codified in NRS 645F.300-
645F.540) and delegated the duty of adopting regulations for said licensure to the commissioner

1 of mortgage lending.

2 2. The Commission of Mortgage lending adopted the regulations for licensure of
3 foreclosure consultants effective August 25, 2009.

4 3. Roslynn Phoenix-Myrick contacted Wells Fargo on behalf of Alan Taylor for the
5 purpose of modifying the terms of his home loan agreement in violation of NRS chapter 645.
6

7 4. Roslynn Phoenix Myrick contacted Caldwell Banker on behalf of Tim Chedester for
8 the purpose of modifying the terms of his home loan agreement in violation of NRS chapter
9 645.

10 5. Any Conclusion of Law which may be deemed a Finding of Fact shall be so
11 considered.

12 **ORDER**

13 **It is hereby ordered that the Division's January 25, 2011 Cease and Desist Order is**
14 **Affirmed.**

15 **It is further Ordered that Respondents are jointly and severally liable for an administrative**
16 **fine in the sum of Ten Thousand Dollars (\$10,000.00);**

17 **It is further ordered that Respondents are jointly and severally liable for restitution to the**
18 **complainants herein in the sum of One Thousand Dollars (\$1,000.00) to the complainant Alan**
19 **Taylor and the sum of Five Hundred dollars (\$500.00) to the complainant Timothy Chedester.**

20 **It is further ordered that Respondents are jointly and severally liable for the Division's**
21 **investigation and other costs and attorney's fees in the sum of One Thousand Nine Hundred Forty**
22 **Dollar (\$1,940.00).**

23 **IT IS SO ORDERED** this 20th day of September, 2011.

24 
25 **SHIRLEY D LINDSEY, ESQ.**
26 **APPEALS OFFICER**

27 **NOTICE: Pursuant to NRS 233B.130, should any party desire to appeal this final**
28 **determination of the Appeals Officer, a Petition for Judicial Review must be filed with the**
District Court within 30 days after service by mail of this decision.