

FILED

FEB 04 2010

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

~~Division of Consumer Affairs~~

**IN THE MATTER OF AN INVESTIGATION
BY THE NEW JERSEY DIVISION OF
CONSUMER AFFAIRS**

Administrative Action
No. Z-DA-0900012

of

**JOSEPH MCILVAINE
d/b/a QUANTUM LOSS MITIGATION SERVICES,**

Respondent(s)

**FINAL ORDER
ON DEFAULT**

This matter was opened by the Division of Consumer Affairs, Office of Consumer Protection (the "Division"), as an investigation of whether Joseph McIlvaine d/b/a Quantum Loss Mitigation Services ("you" or the "Respondent"), operating from 42 Deerfield Circle in Sewell, NJ 08080, advertised, sold or offered for sale debt adjuster services without being licensed to conduct such services as required by N.J.S.A. 17:16G-1 et seq., thus violating the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (the "CFA"). The information reviewed included a solicitation ("Solicitation") concerning a service in which you acted as an intermediary between a debtor and a creditor to renegotiate or modify loan terms.

Pursuant to N.J.S.A. 17:16G-2a, no person other than a nonprofit social service agency or nonprofit consumer credit counseling agency shall act as a debt adjuster. Moreover, pursuant to N.J.S.A. 17:16G-2b, it is unlawful for any nonprofit social service agency or non profit consumer credit counseling agency to act as a debt adjuster without first obtaining a license from the Commissioner of the New Jersey Department of Banking and Insurance ("DOBI"). This statute defines debt adjuster to be a person who either (a) acts or offers to act for consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor, or (b) who, to that end, receives money or other property from the debtor, or on behalf of the debtor, for payment to, or distribution among, the creditors of the debtor. See N.J.S.A. 17:16G-1.c. A diligent search has revealed that Respondent is not licensed as a debt adjuster.

N.J.S.A. 56:8-2 prohibits the act, use or employment by any person of any unconscionable commercial practice in connection with the sale or advertisement of merchandise, which includes the advertisement, offering and sale of debt adjustment services. The advertisement and sale of services by a person without being licensed to conduct such services constitutes an unconscionable commercial practice in violation of the CFA.

A review of the Solicitation demonstrates that Respondent had engaged in an unconscionable commercial practice and violated the CFA by selling debt adjustment services without being licensed as a debt adjuster. These CFA violations provide the basis for the Director of the Division to assess penalties, pursuant to N.J.S.A. 56:8-13, order payment of investigative costs and attorneys fees and costs of suit, pursuant to N.J.S.A. 56:8-11 & 19, order restoration of fees unlawfully acquired, N.J.S.A. 56:8-15, and order you to cease and desist from engaging in this unlawful activity, N.J.S.A. 56:8-18.

A Notice of Violation was issued to Respondent on December 18, 2009, setting forth the findings of fact and conclusions of law above. An Investigator's certification with exhibits was attached to the Notice of Violation, establishing the factual basis for the charges.

Respondent was offered the opportunity to be heard on these charges. Respondent failed to reply within the fifteen (15) days as allowed by the terms of the Notice of Violation and, thus, the charges are deemed uncontested and true.

Accordingly, IT IS on this 4th day of February, 2010 ORDERED:

1. Respondent shall cease and desist from advertising, offering and selling debt adjustment services.
2. Respondent shall pay the Division of Consumer Affairs the sum of \$5,000.00 as a civil penalty, pursuant to N.J.S.A. 56:8-13. Payment shall be made by a certified check, attorney trust account check or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and shall be delivered to the following address:

Attention: Supervisor
Case Management Tracking Unit
New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, New Jersey 07101

3. Payment shall be made within ten(10) days of issuance of this Final Order.
4. Failure to pay any penalties within the time allowed will result in the filing of a Certificate of Debt.
5. Any subsequent violation of this Order may subject Respondent to additional penalties of up to \$25,000.00 penalty, pursuant to N.J.S.A. 56:8-18.
6. This Order constitutes a final agency action and shall be effective upon filing and is a public document subject to the New Jersey Open Public Records Act.

DIVISION OF CONSUMER AFFAIRS

BY:



Sharon M. Joyce, Acting Director
New Jersey Division of Consumer Affairs