

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE NO. 012CV013285

STATE OF NORTH CAROLINA, *ex rel.*
Roy Cooper, Attorney General,

Plaintiff,

v.

KENNETH CARL MCCURD and TANYA
LOUISA WILSON, individually, and doing
business as "LENDER EXCHANGE."

Defendants.

CONSENT JUDGMENT

FILED
2013 JUL -9 AM 9:48
WAKE COUNTY, N.C. S.D.

THIS CAUSE came on before the undersigned judge for entry of a consent judgment.

The Court, with the consent of the parties, finds as follows:

1. The Court has jurisdiction over the parties and subject matter.
2. The State filed its Complaint in this cause on September 21, 2012. In its Complaint, the State has alleged that the defendants have engaged in violations of North Carolina's Debt Adjusting Act, N.C. Gen. Stat. § 14-423, *et seq.*, by, among other actions, collecting illegal advance fees from distressed homeowners for foreclosure assistance and mortgage loan modification services. Pursuant to N.C. Gen. Stat. § 14-425, violations of the Debt Adjusting Act also constitute unfair and deceptive practices in violation of N.C. Gen. Stat. § 75-1.1.
3. The North Carolina Debt Adjusting statute, N.C. Gen. Stat. § 14-423, *et seq.*, prohibits the practice of debt adjusting in this State. Included within the definition of debt

adjusting is the practice of “foreclosure assistance” or “debt settlement” where fees are charged “in advance of the debt settlement having been completed or in advance of all the services agreed to having been rendered in full.” A violation of the Debt Adjusting statute is a criminal misdemeanor, N.C. Gen. Stat. § 14-424. The statute, N.C. Gen. Stat. § 14-425, also authorizes the Attorney General to obtain injunctive relief, consumer refunds, and attorneys’ fees.

4. The defendants agreed to the terms of a Consent Order which was entered by this Court on December 6, 2012, in resolution of the State’s Motion for a Preliminary Injunction. Said Consent Order restrained the defendants, *inter alia*, from offering debt adjusting or loan modification services in this State and from collecting advance fees for such services in violation of North Carolina law.

5. The defendants represent that they have permanently ceased the operation of any loan modification services, foreclosure assistance services, or any other debt adjusting services, that they have closed down all such operations in North Carolina, and that the defendants have minimal assets with which to pay all the State’s claims.

6. From the affidavits and record in this case, the State has made a sufficient showing to support its allegations and the entry of this judgment. The defendants consent to the entry of the judgment to voluntarily and fully resolve the matter without any admission of intentional wrongdoing or violation of the law in the conduct of their business in North Carolina.

BASED ON THE FOREGOING and the record herein, the Court concludes that good and sufficient cause exists for entry of this Consent Judgment and permanent injunction pursuant to N.C. Gen. Stat. §§ 14-425 and 75-14.

IT IS THEREFORE ORDERED that the defendants, their officers, members, agents, employees, and all persons acting in concert with them are permanently enjoined from:

- (1) Advertising, soliciting, or offering any debt adjusting services, including loan modification services or foreclosure assistance services, or any other debt relief services to North Carolina residents or from within the State of North Carolina;
- (2) Entering into contracts, soliciting, collecting, or receiving fees or other consideration from North Carolina residents or from within the State of North Carolina for any debt adjusting services, including loan modification services or foreclosure assistance services, or any other debt relief services;
- (3) Collecting or receiving advance fees or other consideration from North Carolina residents or from within the State of North Carolina for debt adjusting services, including loan modification services or foreclosure assistance services, or any other debt relief services;
- (4) Engaging in unfair or deceptive practices in the offering or conduct of any services related to debt adjusting, loan modification, foreclosure assistance, or any debt relief services; and
- (5) Engaging in any of the foregoing activities or practices set forth in paragraphs (1) through (4) above, whether directly or indirectly, individually, or in affiliation with any other parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff State of North Carolina, pursuant to N.C. Gen. Stat. §§ 14-425, 75-1.1 and 75-15.1, shall have and recover of the defendants Kenneth Carl McCurd and Tanya Louisa Wilson, jointly and severally, the principal sum of four thousand dollars (\$4,000.00) for consumer restitution, education and enforcement purposes in the discretion of the Attorney General. Priority in the payment of

restitution shall be given to those consumers who filed complaints with the Attorney General's Office or submitted affidavits in this cause.

The principal sum of four thousand dollars (\$4,000) shall be paid as follows: (1) two thousand dollars (\$2,000) on or before September 15, 2013; and (2) two thousand dollars (\$2,000) on or before January 31, 2014. Such payment shall be made to the North Carolina Department of Justice, and sent to counsel for the State as follows:

M. Lynne Weaver
Assistant Attorney General
North Carolina Department of Justice
P.O. Box 629
Raleigh, NC 27602

IT IS FURTHER ORDERED that if the defendants default or fail to make the foregoing required payments on or before the specified dates, or if any defendant engages in a material violation of the injunctive provisions of this Consent Judgment, a Confession of Judgment shall be entered against one or both defendants in the amount of fifty-eight thousand dollars (\$58,000.00). Such Confession of Judgment will not be filed unless a defendant materially violates any injunctive provision of this Consent Judgment, or the defendants fail to tender the sum of four thousand dollars (\$4,000.00) as ordered by this Consent Judgment.

This the 5 day of July, 2013.


Superior Court Judge

State of North Carolina ex rel. Roy Cooper, Attorney General v. Kenneth Carl McCurd and Tanya Louisa Wilson, d/b/a "Lender Exchange" 12 CV 13285 (Wake County)

CONSENTED TO:

STATE OF NORTH CAROLINA
ATTORNEY GENERAL ROY COOPER

By: M. Lynne Weaver 7/2/13
M. Lynne Weaver Date
Assistant Attorney General

KENNETH CARL McCURD, individually, and d/b/a "LENDER EXCHANGE"

[Signature] 6-25-2013
Kenneth Carl McCurd Date

TANYA LOUISA WILSON, individually, and d/b/a "LENDER EXCHANGE"

Tanya Louisa Wilson 6-28-13
Tanya Louisa Wilson Date

Counsel for Defendants:

[Signature] 06/28/13
Pamela A. Hunter, Esq. Date
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