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Date of Examination: May 9, 2001

License: 5902-MB, 5903-MHL, 6082-SM

Name of Licensee: Financial Resources & Assistance of the Lakes Region

Address: 15 Northview Drive

Meredith, NH 03253

GENERAL

Type of Examination: First Mortgage Banker / Broker

Second Mortgage Home Loan Lender

Small Loans

Exact location of office: From Concord take 93 north to exit 23 (Route 104 east). Route 104 ends at a set of traffic lights, junction Route 3. Take a left at these lights. Northview drive is on the left approximately ¾ of a mile from the lights. The licensee is located at the end of Northview drive, a dead end street. The building is beside a commercial radio station antenna.

Office Hours: 9:00 am to 5:00 pm

Describe briefly the general plan of operation: Licensee is a locally owned first and second mortgage brokerage business. The company also is licensed as a first mortgage banker and has a small loan license. Licensee states that it has several out-of-state locations that are licensed in the corresponding states. The major portion of the loans brokered is sub-prime.

Loans originated by licensee in the last calendar year from the Annual Report.

No. 125 $12,422,812

QUESTION AIRE TO BE ANSWERED BY THE EXAMINER

Portfolio of loans owned on this examination date at this location.

No. **0** **$ 0**

Licensee states that no first mortgage residential loans are owned in New Hampshire.

Loans serviced from this location on examination date.

No. **0** **$ 0**

Licensee states that no first mortgage residential loans are serviced in New Hampshire.

Does the licensee operate through an agent or other representative?

Yes. License states that it employs "1099" contracted individuals as loan originators.

Has the licensee violated any rule of the Banking Department?

Yes. See below.

Are there any suits pending against the licensee with regard to its New Hampshire lending activity?

Yes. Licensee states that 2 suits regarding commercial lending are pending and 1 situation regarding residential lending that may become a suit.

Does the lender make VA and FHA loans?

No.

If so, estimate percentage, based on number of loans of its business in such loans.

VA **0.00%** FHA **0.00%** Other **100.00%**

Has licensee received any form of notice of violation, complaint of cease and desist order form the New Hampshire Banking Department?

No.

LICENSE

Principal office License

Yes, as a First Mortgage Banker / Broker, Second Mortgage Home Loan Lender, and Small Loans.

Branch office License

No.

Is the license conspicuously posted in the office?

Yes.

Where?

Licenses are posted on the wall in the receptionist area to the left of the front entrance.

Is this person or company required to hold a mortgage banker and/or broker license?

A mortgage broker license is required. Licensee indicates that the majority of loans are closed in the correspondent lenders' names. There was no indication noted of loans closed in the licensee's name.

Is licensee a subsidiary of a bank or bank holding company?

No.

List the name and address of bank or bank holding company:

N/A.

Does the licensee operate from other locations in this state?

No.

If so, list locations:

N/A.

Is the address on the license the current address of the licensee?

Yes.

If not, has a location amendment been made by the Banking Department?

N/A.

Has there been a change in the trade or corporate name?

No.

Has there been a change in ownership of the business?

No.

Were any loans located that appear to be exempt under the provisions of RSA 397-A: 4?

There were no loans noted of those reviewed.

RECORDS

Are records and file of the licensee adequate to permit an examination to determine if the licensee is complying with the provisions of RSA 397-A?

No. Numerous closing documents are not maintained with the correspondent files. The licensee was able to procure copies of the required documents through the corresponding closing agent.

Where are records and file maintained?

Records and files are maintained at the principal location in Meredith, NH.

Were adequate loan payment records available at this office?

N/A. Licensee does not service the loans.

If not, how can we obtain such records?

N/A. Licensee does not service the loans.

Are copies of paid vendor invoices available for expenses incurred on the behalf of borrowers?

N/A. Licensee states that expenses are p.o.c. and paid directly by the borrower or through the closing agent.

INTEREST

Are charges computed on the unpaid loan balance?

N/A. Licensee does not service loans.

What are the current rates of interest being charged?

See rate sheets of correspondent lenders for various products offered. Rates change frequently. Contract rates ranged from a low of 7.38% to a high of 14.06% for those loans reviewed. Annual Percentage Rates were estimated rates. (Licensee has maintained the estimated Truth in Lending only disclosure in corresponding files.)

Attach a rate sheet if available.

See rate sheets located in work-papers.

Did your calculation of charges disclose any overcharges?

Yes. License up-charges for credit reports.

Were overcharges corrected during the examination?

No. Licensee charges $75.00 for credit report at closing.

List case giving account number, name of borrower, rate of periods covering these overcharges and amount of overcharge:

All loans reviewed contain this overcharge. Licensee states that this is the pattern and practice of the company. Average cost of a credit report is $12.50, an overcharge of $62.50 per loan.

Is the borrower required to pay closing fee for examination of title, recording fee, appraisal fee and legal fee?

Yes.

If so, are these fees reasonable, in your opinion?

No. The closing agent for 16 of the loans reviewed (73%) collected approximately $700 attorney's fees, $65 for copy fees, $170 for "title insurance commission", $40 for overnight courier, and $75 for fax, phone or wire for each loan closed. Recording fees and appraisal fees appeared to be reasonable.

When paid out of the proceeds of the loan, are the attorney and appraisal bills a part of the files?

No. Invoices are not maintained in the files of the licensee. Licensee states that the closing agent maintains invoices.

Does the lender provide for prepayment penalties in the loan documentation?

There were prepayment penalties noted in various loans. Licensee is not the lender of record, therefore cannot dictate the terms of the prepayment penalty.

If so, what rate, percentage or amount is currently in use?

N/A.

What is the order of application of mortgage payments?

N/A. Licensee does not service loans.

Is simple interest used?

N/A. Licensee does not service loans.

Does license compute interest to the date of payment or to a stated due date.

N/A. Licensee does not service loans.

Is interest computed on a 360-day or 365 day basis?

N/A. Licensee does not service loans.

Are prepayments applied in conformity with RSA 397-A: 15, I?

N/A. Licensee does not service loans.

Does licensee pay interest on mortgage escrowed funds, including construction funds escrowed at closing on single family houses?

N/A. Licensee does not service loans.

When is interest credited or paid to borrowers?

N/A. Licensee does not service loans.

What is the rate of interest?

N/A. Licensee does not service loans.

What types of "Other Charges" are collected by the lender at loan origination, closing or during servicing?

At origination: Licensee states that only a rate lock fee that ranges from .5% to 1% at the time of the lock, non-refundable, credited at closing or returned if the loan is declined.

At closing: Points, if any, credit report fee, prepaid interest, tax service fee, courier fee, flood certification fee, document preparation fee, attorney fee, title insurance cost, recording fee, real estate transfer tax, if applicable, commitment fee, PMI, if required, and up to three reserves, if required, for taxes, insurance and PMI.

PROCEDURE

Is a written disclosure of estimated charges given applicant?

Yes, in the form of the required Good Faith Estimate.

Are such charges considered to be reasonable by the examiner?

No. Licensee fails to disclose Yield Spread Premiums, Mortgage Broker Fees (paid by lender p.o.c).

Are interest rates considered to be reasonable when compared with rates charged by other licensees?

Yes, see rate sheets located in work papers.

On origination, is more than 31 days of prepaid interest collected from a borrower?

There was no indication noted in those loans reviewed.

Does this licensee use the standard form of:

conventional mortgage	**Yes, for those loans reviewed.**
open-end Mortgage	**N/A**
FHA	**N/A**
VA	**N/A**
Other	**N/A**

Are closings made at an attorney's office?

Yes.

If not, where are closings made?

All loans reviewed were closed by either an attorney's office or a title company.

If closings are not at an attorney's office, does an attorney prepare necessary legal papers?

Licensee's states corresponding lenders prepare the legal papers except for the HUD-1 and the legal description, which are prepared by the attorney.

Are all closings properly handled?

Yes, for those files reviewed.

Are all files complete at time of closing?

Yes, except for the recording of the mortgage and the issuance of the title insurance.

Does the licensee retain any or all loans it originates under this chapter in its own loan portfolio?

Licensee states that no loans originated by the licensee are retained.

Does the licensee, upon request, provide borrower with a receipt for mortgage payments stating the following:

(a) Date of payment
(b) Amount paid
(c) Amount applied to principal
(d) Amount applied to interest?
(e) Signature or stamp of lender or his Representative?

N/A. Licensee does not service loans.

Has the licensee foreclosed on any borrower since the last examination?

Licensee reports no foreclosure in the past eighteen months.

What is the licensee's policy on open-end loans that are paid in full with regard to the discharge of the mortgage lien?

N/A. Licensee does not offer open-end loans.

Does the mortgagee provide every borrower a discharge, upon payment in full, which conforms to RSA 379:7 I.

Yes, for those loan files reviewed.

Who is responsible for recording the discharge of the mortgage?

Licensee indicates lender of record is responsible for handling the recording of the discharge.

INSURANCE

List the type of insurance written on mortgage loans by this licensee:

Licensee indicates that 10, 15, 20, & 30-year level term life insurance is offered through an affiliated insurance agency.

MISCELLANEOUS

List the loan repayment plan in use as of the examination date:

Regular monthly payments with a fixed rate interest and full amortization with either a fixed or adjustable interest rate. Balloon payment loans are also available.

Is the manager aware of the requirements regarding company response to consumer complaints?

Licensee indicates that management is aware of the requirements.

If special arrangements need to be made for a regular examination, list instruction below:

Examinations should be arranged in advanced via first day entry letter directed to Mr. Scott Farah, President.

Interest on Escrow Accounts will now change on August 1 and February 1st each year. Have you informed the manager as to the procedure to obtain the correct and current interest rate on escrow account? (See RSA 384:16-e).

N/A. Licensee does not service loans. Licensee indicates that management is aware of the procedure.

If this company does not maintain a New Hampshire office, does it have any branch office located outside of the state of New Hampshire that require a license under RSA 379-A: 1, II(b) (1)?

N/A. Licensee maintains a New Hampshire office.

Does the licensee appear to be operating its business in a lawful, honest and fair manner and in the public interest?

Licensee appears to operate in the most profitable manner for the company.

Does the licensee have an inordinate number of consumer complaints lodged against it?

No. There is only one complaint on file, received February of 1999, as of the exam date.

Does the licensee have a disproportionate number of loans that were processed but never closed?

No. Licensee states that approximately 90% of the loans are closed.

If the licensee offers interest rate locks, does it require a deposit to lock the rate?

Licensee does not lock rates, correspondent lender issues the rate lock. Licensee does require a deposit to lock a rate.

If so, under what circumstances does it not return the deposit if the loan does not close?

Deposit is not returned if loan is cleared and borrower refuses to close.

Are a disproportionately high number of loans with rate locks not being closed for whatever reason?

No.

Is there any evidence to indicate the licensee is taking prepaid fees from applicants it knows have little or no chance of being approved for a loan?

No. There was no indication noted of any up front fees.

Does the licensee appear to financially sound and in a position to withstand sudden rises in interest rates?

No.

Is the licensee operating in a financially prudent manner avoiding undue exposure with respect to interest rate risk volatility?

Yes.

VIOLATIONS

Detail any violations of law, rules or standard business practice:

1. The licensee does not properly disclose the yield-spread premium on the Good Faith Estimate in violation of RESPA, Appendix A. It is the position of the Banking Department that this premium is a mortgage broker fee and must be disclosed in the "800" section of the Good Faith Estimate and correspondingly on the HUD 1. Although the lender funds the yield-spread premium at closing, it is a fee paid by the borrower over the life of the loan. The fee is "built" into the contract rate of the loan resulting in a higher rate to the borrower. This fee is considered a cost to the borrower to obtain credit and must be disclosed per the guidelines of RESPA. This fee must be disclosed in the "800" section pursuant to RESPA, Pt. 3500, Appendix A which states in part "Lines 808

– 811 are used to list additional items payable in connection with the loan including a CLO Access fee, *a mortgage broker fee,*" (*Emphasis added*).

2. The files pertaining to refinances were missing the required "Right of Rescission" disclosure. Licensee stated that the disclosure is maintained in the files of the closing agent. RSA 397-A: 11 states in part "The licensee shall maintain such records as will enable the banking department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted pursuant to it." Regulation Z, 12 C.F.R. 226.23 allows for the consumer to the right of rescission on those "credit transaction(s) in which a security interest is or will be retained in a consumer's principal dwelling." Paragraph (f) of this section exempts certain transactions, which indicates that a refinance secured by the borrowers principal dwelling is subject to the allowance for a right of rescission.

3. The loan files reviewed indicate that the licensee "up-charges" various pass-through fees. It was noted that it is the pattern and practice of the licensee to charge $75.00 for a credit report, which the industry indicates the cost is between $2.50 to $15.00 per report. It was stated to the examiner that a credit report is ordered for each application received. A fee for credit reports is charged only if the loan is closed. The excess fee charged is used to offset the reports ordered in which the loan does not close. This constitutes a violation of 3500.14 (c) and section 8(b) of RESPA which states in part "No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than services actually performed."

4. The Truth in Lending disclosures that were reviewed incorrectly disclosed the amount financed, the amount of the finance charge, and the annual percentage rates. It was stated to the examiner that these disclosures were the preliminary disclosures and were estimates. A number of these disclosures were not designated as estimates pursuant to Regulation Z, 12 C.F.R. 226.17 (c) (2)(i) which states in part "If any information

necessary for an accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available at the time the disclosure is provided to the consumer, *and shall state clearly that the disclosure is an estimate." (Emphasis added.)*

COMMENTS, RECOMMENDATIONS AND CONCLUSIONS

Financial Resources & Assistance of the Lakes Region, Inc is not in compliance with various state and federal laws concerning loans secured by real property as stated above. The licensee fails to conduct its business in accordance with the intent and purpose of the First Mortgage Bankers statute, RSA 397-A and the Federal Laws that govern mortgage lending.

Kimothy C. Griffin
Bank Examiner