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|----|----------------------------------------|-------------------------------------|
| 1 | In re the Matter of: |) Case No.: 10-182 |
| | |) |
| 2 | State of New Hampshire Banking |) |
| | |) |
| 3 | Department, |) |
| | |) |
| 4 | Petitioner, |) Order to Show Cause and Cease and |
| 5 | and |) Desist |
| | |) |
| 6 | Residential Home Funding Corp., David |) |
| | |) |
| 7 | P. Stein, Julio Salazar, Roberto Lupi, |) |
| | |) |
| 8 | Thomas Marinaro, Zachary Sanford, and |) |
| | |) |
| 9 | James Jackson, |) |
| | |) |
| 10 | Respondents |) |

11 NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST ("ORDER")

12 1. This Order commences an adjudicative proceeding under the provisions
13 of RSA Chapter 397-A (including RSA 397-A:17, I and II, RSA 397-A:18, I and
14 II, and RSA 397-A:20, IV) and RSA Chapter 541-A.

15 2. The Commissioner may impose administrative penalties of up to \$2,500
16 for each violation. RSA 397-A:21, IV and V.

17 3. Respondents could be assessed a fine and penalty in an amount not to
18 exceed \$25,000.00 for each violation or failure to comply with the
19 requirements of the S.A.F.E. Mortgage Licensing Act of 2008. RSA 397-A:17,
20 IX.

21 RESPONDENTS

22 4. Residential Home Funding Corp. ("Respondent RHF") is a corporation
23 formed in the State of New York on December 7, 2000 and registered to
24 conduct business in New Hampshire with the New Hampshire Secretary of State
25 on January 5, 2007 under the required trade name of "RHF Funding Co.".

1 Respondent RHF is a Person (RSA 397-A:1, XVIII).

2 5. Respondent RHF currently maintains its principal office location in
3 White Plains, New York and previously the principal office was located in
4 Briarcliff Manor, New York.

5 6. Respondent RHF has been licensed as a Mortgage Banker with the New
6 Hampshire Banking Department ("Department") since April 20, 2009.

7 7. David P. Stein ("Respondent Stein) is a 25% owner and the Chief
8 Operating Officer of Respondent RHF. Respondent Stein is a Direct Owner (RSA
9 397-A:1, VI-a), Principal (RSA 397-A:1, XIX), Person (RSA 397-A:1, XVIII),
10 and a Control Person (RSA 397-A:1, V-a).

11 8. Department records indicate that Respondent Stein applied for a New
12 Hampshire mortgage loan originator license on March 24, 2011 and has been
13 sponsored by Respondent RHF since September 24, 2008.

14 9. Julio Salazar ("Respondent Salazar") is a 25% owner and the Chief
15 Financial Officer of Respondent RHF. Respondent Salazar is a Direct Owner
16 (RSA 397-A:1, VI-a), Principal (RSA 397-A:1 XIX), Person (RSA 397-A:1,
17 XVIII), and a Control Person (RSA 397-A:1,V-a).

18 10. Roberto Lupi ("Respondent Lupi") is a 25% owner, the Chief Executive
19 Officer, and Secretary of Respondent RHF. Respondent Lupi is a Direct Owner
20 (RSA 397-A:1, VI-a), Principal (RSA 397-A:1 XIX), Person (RSA 397-A:1,
21 XVIII), and a Control Person (RSA 397-A:1, V-a).

22 11. Thomas Marinaro ("Respondent Marinaro") is a 25% owner and the
23 President of Respondent RHF. Respondent Marinaro is a Direct Owner (RSA 397-
24 A:1, VI-a), Principal (RSA 397-A:1 XIX), Person (RSA 397-A:1, XVIII), and a
25 Control Person (RSA 397-A:1, V-a).

1 12. Zachary Sanford ("Respondent Sanford") was a licensed New Hampshire
2 mortgage loan originator from April 27, 2009 through January 1, 2010, but
3 was sponsored by Respondent RHF from February 27, 2009 through June 21,
4 2010. Respondent Sanford was the acting Branch Manager of the unlicensed
5 Bedford, New Hampshire branch office location, although the Department never
6 received official notification of Respondent Sanford's position as Branch
7 Manager. Respondent Sanford is a Person (RSA 397-A:1, XVIII) and a Mortgage
8 Loan Originator (RSA 397-A:1, XVII)

9 13. James Jackson ("Respondent Jackson") is an unlicensed New Hampshire
10 Mortgage Loan Originator. Respondent Jackson is a Person (RSA 397-A:1,
11 XVIII) and Mortgage Loan Originator (RSA 397-A:1, XVII).

12 14. The above named Respondents are hereby collectively known as
13 "Respondents".

14 **RIGHT TO REQUEST A HEARING**

15 15. Respondents have a right to request a hearing on this Order. A hearing
16 shall be scheduled not later than ten (10) days after the Commissioner
17 receives the Respondent's written request for a hearing. Respondents may
18 request a hearing and waive the ten (10) day hearing requirement. The
19 hearing shall comply with RSA Chapter 541-A, RSA 397-A:17, I, and II, and
20 RSA 397-A:18, I and II.

21 16. If any person fails to request a hearing within thirty (30) days of
22 receiving this Order, then such person shall be deemed in default, and the
23 Order shall, on the thirty-first (31st) day, become permanent, all
24 allegations may be deemed true, and shall remain in full force and effect
25 until modified or vacated by the Commissioner for good cause shown. RSA 397-

1 A:17, I and II, and RSA 397-A:18, I and II.

2 17. A default may result in administrative fines as described in
3 Paragraphs 2 and 3 above.

4 STATEMENT OF ALLEGATIONS

5 18. In September 2008, Respondent RHF filed an application for a Mortgage
6 Banker license with the Department. Respondent RHF answered "no" to the MU1
7 disclosure question C(2) which asks "In the past 10 years, has any State or
8 Federal regulatory agency or foreign financial regulatory authority found
9 the entity or a control affiliate to have been involved in a violation of a
10 financial services-related regulation(s) or statute(s)?" Respondent RHF
11 amended its answer to MU1 disclosure question C(2) to "yes" on May 26, 2009,
12 thirty six (36) days after receiving its New Hampshire Mortgage Banker
13 license from the Department. On July 6, 2009, Respondent RHF provided a
14 letter to the Department that explained Respondent RHF filed late financial
15 statements in the State of New York in 2005, which resulted in a Settlement
16 Agreement on November 2, 2005. Respondent RHF stated that the matter was not
17 disclosed on its application for licensure because "the principals had
18 forgotten about the incident," which violates RSA 397-A:5, I.

19 19. Respondent RHF's July 6, 2009 letter also notified the Department of a
20 May 13, 2009 Consent Agreement and Order with the State of Pennsylvania for
21 originating loans from unlicensed branch offices in Pennsylvania.
22 Respondents (excluding Respondents Sanford and Jackson) failed to notify the
23 Department of the change to its application information on record within
24 thirty (30) days from the date of the event that required the filing of an
25 amendment, in violation of RSA 397-A:10, IV.

1 20. In November 2009, Examiners identified loan activity performed by
2 Respondent RHF at an unlicensed branch office located at 15 Constitution
3 Drive in Bedford, NH. Respondent RHF has never held a branch office license
4 in the State of New Hampshire. A branch office license application was
5 submitted on October 28, 2009 for a location at 20 Trafalgar Sq., Suite 425
6 in Nashua, NH. The application was withdrawn without licensure by Respondent
7 RHF on September 17, 2010. A branch office license application was never
8 submitted for any other location. Examiners found fifteen (15) loans were
9 originated at the unlicensed Bedford branch office location, in violation of
10 RSA 397-A:3, IV.

11 21. Eleven (11) of the 15 total mortgage loans referenced in Paragraph 20
12 above were originated by Respondent Sanford, a licensed New Hampshire
13 Mortgage Loan Originator. The other four (4) mortgage loans were originated
14 by three unlicensed Mortgage Loan Originators hired by Respondent RHF in
15 violation of RSA 397-A:3, III.

16 22. Respondent Jackson originated one (1) of the 4 mortgage loans
17 referenced in Paragraph 21 above as an unlicensed New Hampshire Mortgage
18 Loan Originator in violation of RSA 397-A:3, II.

19 23. Three (3) of the 4 loans that were originated by unlicensed New
20 Hampshire Mortgage Loan Originators ultimately closed and were funded. Three
21 (3) New Hampshire consumers (Consumer A, B, and C) each paid Respondent RHF
22 for commissions Respondent RHF forwarded to unlicensed Mortgage Loan
23 Originators in the amounts of \$2,647.13, \$735.91, \$597.60 respectively, in
24 violation of RSA 397-A:16, IV.

25 24. Respondent RHF provided loan documents to Consumer B that indicated

ORDER

27. I hereby find as follows:

a. Pursuant to RSA 397-A:17, I, the facts as alleged above, if true, show Respondents are operating or have operated in violation of RSA Chapter 397-A and form the legal basis for this Order;

b. Pursuant to RSA 397-A:20, VI, this Order is necessary and appropriate to the public interest and for the protection of consumers and consistent with the purpose and intent of New Hampshire banking laws;

c. The Department finds pursuant to RSA 397-A:17, II and RSA 397-A:18, II, reasonable cause to issue an order to cease and desist; and

d. Pursuant to RSA 397-A:17 and RSA 397-A:18, if Respondents fail to respond to this Order and/or defaults then all facts as alleged herein are deemed as true.

28. Accordingly, it is hereby ORDERED that:

a. Respondents shall cease and desist from violating RSA Chapter 397-A and rules or orders thereunder;

b. Respondents shall show cause why Respondent RHF's New Hampshire Mortgage Banker license should not be revoked;

c. Respondents shall show cause why an administrative fine of up to a maximum of \$2,500.00 per violation should not be imposed as follows:

(1). Respondent RHF:

Violation #1: Omitting to state a material fact on the New Hampshire mortgage banker application (RSA 397-A:5, I) (1 count);

Violation #2: Failure to update information on file with

1 the Commissioner (RSA 397-A:10, IV) (1 count);

2 Violation #3: Conducting mortgage activities on New
3 Hampshire residential properties from an unlicensed branch
4 office (RSA 397-A:3, IV) (15 counts);

5 Violation #4: Employing unlicensed Mortgage Loan
6 Originators (RSA 397-A:3, III) (3 counts);

7 Violation #5: Destroying business records (RSA 397-A:11,
8 IV) (1 count);

9 Violation #6: Failure to supervise employees and branch
10 offices (RSA 397-A:6, I) (15 counts);

11 (2). Respondent Stein (as Direct Owner, Principal, and control
12 person):

13 Violation #1: Omitting to state a material fact on the New
14 Hampshire mortgage banker application (RSA 397-A:5, I) (1
15 count);

16 Violation #2: Failure to update information on file with
17 the Commissioner (RSA 397-A:10, IV) (1 count);

18 Violation #3: Conducting mortgage activities on New
19 Hampshire residential properties from an unlicensed branch
20 office (RSA 397-A:3, IV) (15 counts);

21 Violation #4: Employing unlicensed Mortgage Loan
22 Originators (RSA 397-A:3, III) (3 counts);

23 Violation #5: Destroying business records (RSA 397-A:11,
24 IV) (1 count);

25 Violation #6: Failure to supervise employees and branch

1 offices (RSA 397-A:6, I) (15 counts);

2 (3). Respondent Salazar (as Direct Owner, Principal, and
3 control person):

4 Violation #1: Omitting to state a material fact on the New
5 Hampshire mortgage banker application (RSA 397-A:5, I) (1
6 count);

7 Violation #2: Failure to update information on file with
8 the Commissioner (RSA 397-A:10, IV) (1 count);

9 Violation #3: Conducting mortgage activities on New
10 Hampshire residential properties from an unlicensed branch
11 office (RSA 397-A:3, IV) (15 counts);

12 Violation #4: Employing unlicensed Mortgage Loan
13 Originators (RSA 397-A:3, III) (3 counts);

14 Violation #5: Destroying business records (RSA 397-A:11,
15 IV) (1 count);

16 Violation #6: Failure to supervise employees and branch
17 offices (RSA 397-A:6, I) (15 counts);

18 (4). Respondent Lupi (as Direct Owner, Principal, and control person):

19 Violation #1: Omitting to state a material fact on the New
20 Hampshire mortgage banker application (RSA 397-A:5, I) (1
21 count);

22 Violation #2: Failure to update information on file with
23 the Commissioner (RSA 397-A:10, IV) (1 count);

24 Violation #3: Conducting mortgage activities on New
25 Hampshire residential properties from an unlicensed branch

1 office (RSA 397-A:3, IV) (15 counts);

2 Violation #4: Employing unlicensed Mortgage Loan
3 Originators (RSA 397-A:3, III) (3 counts);

4 Violation #5: Destroying business records (RSA 397-A:11,
5 IV) (1 count);

6 Violation #6: Failure to supervise employees and branch
7 offices (RSA 397-A:6, I) (15 counts);

8 (5). Respondent Marinaro (as Direct Owner, Principal, and
9 control person):

10 Violation #1: Omitting to state a material fact on the New
11 Hampshire mortgage banker application (RSA 397-A:5, I) (1
12 count);

13 Violation #2: Failure to update information on file with
14 the Commissioner (RSA 397-A:10, IV) (1 count);

15 Violation #3: Conducting mortgage activities on New
16 Hampshire residential properties from an unlicensed branch
17 office (RSA 397-A:3, IV) (15 counts);

18 Violation #4: Employing unlicensed Mortgage Loan
19 Originators (RSA 397-A:3, III) (3 counts);

20 Violation #5: Destroying business records (RSA 397-A:11,
21 IV) (1 count);

22 Violation #6: Failure to supervise employees and branch
23 offices (RSA 397-A:6, I) (15 counts);

24 (6). Respondent Sanford (as a Mortgage Loan Originator):

25 Violation #1: Made untrue statement of a material fact on

1 a loan application (RSA 397-A:2, VI) (1 count);

2 (7). Respondent Jackson (as a Mortgage Loan Originator):

3 Violation #1: Engaged in residential mortgage loan
4 activity without a New Hampshire Mortgage Loan Originator
5 license (RSA 397-A:3, II) (1 Count);

6 Violation #2: Omitted to state a material fact on a loan
7 application (RSA 397-A:2, VI) (1 count);

8 d. In addition to Paragraph 28c. above, Respondent Jackson shall
9 show cause why a fine in an amount not to exceed \$25,000.00 for each
10 violation or failure to comply with the requirements of the S.A.F.E.
11 Mortgage Licensing Act of 2008 should not be imposed as follows:

12 (1). Respondent Jackson:

13 Violation #1: Failure to be licensed as a Mortgage Loan
14 Originator in accordance with the S.A.F.E. Mortgage
15 Licensing Act of 2008 (NH RSA 397-A:17, IX) (1 Count);

16 e. Respondents shall show cause why reimbursement to Consumers A,
17 B, and C in the amounts of \$2,647.13, \$735.91, and \$597.60, respectively
18 should not be made; and

19 f. Nothing in this Order:

20 (1). shall prevent the Department from taking any further
21 administrative and legal action as necessary under New Hampshire law; and

22 (2). shall prevent the New Hampshire Office of the Attorney General
23 from bringing an action against the above named Respondents in any New
24 Hampshire superior court, with or without prior administrative action by the
25 Commissioner.

1 **SO ORDERED.**

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3 _____ /s/

Dated: May 13, 2011

3 Robert A. Fleury,
4 Deputy Bank Commissioner

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