

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-008
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 4 State of New Hampshire Banking))
)
 5 Department,))
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 6 Petitioner,))
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 7 and))
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 8 Mortgage Lenders Network USA Inc))
))
 9 And Mitchell Heffernan,))
))
 10 Owner/President/CEO,
 11 Respondents

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13 Motion to Amend

14 I. The staff of the Banking Department, State of New Hampshire (hereinafter
15 referred to as the "Department") alleges the following facts:

- 16 1. Respondent Mortgage Lenders Network USA Inc. (MLN) is licensed as a
 17 mortgage banker doing business as Lenders Network and has held a license
 18 with the Department since at least 1997.
- 19 2. Respondent's principal office is currently located at 213 Court St.
 20 Middletown, CT 06457.
- 21 3. Respondent Mitchell Heffernon is the owner, Chief Executive Officer and
 22 President of Respondent MLN.
- 23 4. The Commissioner issued an Order to Show Cause and Cease and Desist
 24 Order against both Respondents on January 19, 2007.
- 25 5. In further review of Respondent MLN it was discovered that James E.
 Pedrick is a 20 percent owner of the entity as well as its Executive
 Vice-President and Sales Director.

1 6. In such a position Mr. Pedrick would be expected to be knowledgeable on
2 New Hampshire Banking Laws in the conduct of his business.

3 7. In such a position Mr. Pedrick directly or indirectly controls
4 Respondent MLN in their compliance with New Hampshire laws, or lack
5 thereof.

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7 II. The staff of the Banking Department, State of New Hampshire alleges the
8 following issues of law:

9 1. The Banking Department ("Department"), has jurisdiction over the
10 licensing and regulation of persons engaged in first mortgage banker /
11 broker activities pursuant to NH RSA 397-A:3.

12 2. RSA 397-A:21 IV provides that any person who, either knowingly or
13 negligently, violates any provision of RSA 397-A, may upon hearing, and
14 in addition to any other penalty provided for by law, be subject to
15 suspension, revocation, or denial of any registration or license, or an
16 administrative fine not to exceed \$2,500, or both. Each of the acts
17 specified shall constitute a separate violation, and such
18 administrative action or fine may be imposed in addition to any
19 criminal penalties or civil liabilities imposed by New Hampshire
20 banking laws. Respondents are subject to revocation and/or
21 administrative fines for violations of RSA 397-A.

22 3. RSA 397-A:21 V provides that every person who directly or indirectly
23 controls a person liable under this section, every partner, principal
24 executive officer, or director of such person, who materially aids in
25 the acts constituting the violation, either knowingly or negligently,
may, upon notice and opportunity for hearing, and in addition to any
other penalty provided for by law, be subject to suspension,
revocation, or denial of an registration or license, including the

1 forfeiture of any application fee, or the imposition of an
2 administrative fine not to exceed \$2,500, or both. Each of the acts
3 specified shall constitute a separate violation, and such
4 administrative action or fine may be imposed in addition to any
5 criminal penalties or civil liabilities imposed by New Hampshire
6 banking laws. James E. Pedrick is subject to administrative fines for
7 violations of RSA 397-A.

8 4. Pursuant to RSA 397-A:17 the commissioner may issue an order requiring a
9 person to whom any license has been granted or any person under the
10 commissioner's jurisdiction to show cause why the license should not be
11 revoked, suspended, or penalties imposed, or both, for violations of this
12 chapter. Pursuant to RSA 397-A:17 I(k) respondent MLN is subject to
13 license revocation for engaging in dishonest or unethical practices in
14 the conduct of the business of making or collecting mortgage loans.

15 5. Pursuant to RSA 397-A:18 the banking department may issue a cease and
16 desist order against any licensee or person who it has reasonable cause
17 to believe is in violation of the provisions of this chapter or any rule
18 or order under this chapter.

19 **RELIEF REQUESTED**

20 The staff of the Banking Department requests the Commissioner take the
21 following action:

- 22 1. Find as fact the allegations contained in section I of the Statement of
23 Allegations of this petition.
- 24 2. Make conclusions of law relative to the allegations contained in section
25 II of the Statement of Allegations of this petition.
3. Amend the previously issued order consistent with the proposed amended
order attached to include James E. Pedrick.
4. Take such other administrative and legal actions as are necessary for

