

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-126
)
 3 State of New Hampshire Banking)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Mortgage Dreams, LLC, Christopher)
)
 8 Tremblay, and Julie-Ann Tremblay,)
)
 9 Respondents)

10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions
12 of RSA Chapter 397-A and RSA Chapter 541-A.

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 397-A:17, the Banking Department of the State of New
15 Hampshire (hereinafter the "Department") has the authority to issue an order
16 to show cause why license revocation and penalties for violations of New
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, the Department has the authority to issue a
19 complaint setting forth charges whenever the Department is of the opinion
20 that the licensee or person over whom the Department has jurisdiction is
21 violating or has violated any provision of RSA Chapter 397-A, or any rule or
22 order thereunder.

23 Pursuant to RSA 397-A:20,IV the Commissioner may issue, amend, or
24 rescind such orders as are reasonably necessary to comply with the
25 provisions of the Chapter.

1 Pursuant to RSA 397-A:21, the Commissioner has the authority to
2 suspend, revoke or deny any license and to impose administrative penalties
3 of up to \$2,500.00 for each violation of New Hampshire banking law and
4 rules.

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
6 that is or may be an unfair or deceptive act or practice under RSA 358-A and
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
9 Commissioner may hold hearings relative to such conduct and may order
10 restitution for a person or persons adversely affected by such conduct.

11 **NOTICE OF RIGHT TO REQUEST A HEARING**

12 The above named Respondents have the right to request a hearing on
13 this Order to Show Cause, as well as the right to be represented by counsel
14 at each Respondent's own expense. All hearings shall comply with RSA 541-A.
15 Any such request for a hearing shall be in writing, and signed by the
16 Respondent or the duly authorized agent of the above named Respondent, and
17 shall be delivered either by hand or certified mail, return receipt
18 requested, to the Banking Department, State of New Hampshire, 53 Regional
19 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
20 10 days of the Department's receipt of the request. If the Respondent fails
21 to appear at the hearing after being duly notified, such person shall be
22 deemed in default, and the proceeding may be determined against the Respondent
23 upon consideration of the Order to Show Cause, the allegations of which may be
24 deemed to be true.

25 If any of the above named Respondents fails to request a hearing within

1 30 calendar days of receipt of such order or reach a formal written and
2 executed settlement with the Department within that time frame, then such
3 person shall likewise be deemed in default, and the orders shall, on the
4 thirty-first day, become permanent, and shall remain in full force and effect
5 until and unless later modified or vacated by the Commissioner, for good cause
6 shown.

7 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

8 The Staff Petition dated July 2, 2009 (a copy of which is attached
9 hereto) is incorporated by reference hereto.

10 **ORDER**

11 WHEREAS, finding it necessary and appropriate and in the public
12 interest, and consistent with the intent and purposes of the New Hampshire
13 banking laws; and

14 WHEREAS, finding that the allegations contained in the Staff Petition,
15 if proved true and correct, form the legal basis of the relief requested;

16 It is hereby ORDERED, that:

- 17 1. Respondent Mortgage Dreams, LLC ("Respondent Mortgage
18 Dreams") shall show cause why penalties in the amount of
19 \$7,500.00 should not be imposed against it;
- 20 2. Respondent Julie-Ann Tremblay ("Respondent J. Tremblay")
21 shall show cause why penalties in the amount of \$7,500.00
22 should not be imposed against her;
- 23 3. Respondent Christopher Tremblay ("Respondent C. Tremblay")
24 shall show cause why penalties in the amount of \$7,500.00
25 should not be imposed against him;

1 4. The above named Respondents shall show cause why, in addition
2 to the penalties listed in Paragraphs 1 through 3 above, the
3 remaining unpaid \$835.00 portion of the examination fee for
4 the August 2006 examination should not be paid to the
5 Department;

6 5. The above named Respondents shall show cause why, in addition
7 to the penalties listed in Paragraphs 1 through 4 above, the
8 \$3,400.00 examination fee for the February 2008 examination
9 should not be paid to the Department;

10 6. The above named Respondents shall show cause why, in addition
11 the penalties listed in Paragraphs 1 through 5 above, the
12 remaining unpaid \$825.00 portion of the fee for the late
13 filing of the financial statement should not be paid to the
14 Department;

15 7. Respondents shall be jointly and severally liable for the
16 above amounts alleged in Paragraphs 1 through 6 above;

17 8. The above named Respondents shall show cause why, in addition
18 to the penalties listed in Paragraphs 1 through 7 above,
19 Respondent Mortgage Dreams' license should not be revoked.

20 It is hereby further ORDERED that:

21 9. Along with the administrative penalties listed for the above
22 named Respondents, the outstanding sum of \$5,060.00 shall be
23 immediately paid; and

1 State of New Hampshire Banking Department

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 7 Mortgage Dreams, LLC, Christopher)
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 8 Tremblay, and Julie-Ann Tremblay,)
)
 9 Respondents)

10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent Mortgage Dreams, LLC (hereinafter "Respondent
15 Mortgage Dreams") was licensed as a Mortgage Broker from at
16 least 2005 (with an amended license date of June 19, 2007) until
17 its license expired on December 31, 2007. It has been licensed
18 under its second license from January 28, 2008 until its
19 licensed expired on December 31, 2008.
- 20 2. Respondent Christopher Tremblay (hereinafter "Respondent C.
21 Tremblay") was the 50% owner of and control person for
22 Respondent Mortgage Dreams, when licensed by the Department.
- 23 3. Respondent Julie-Ann Tremblay (hereinafter "Respondent J.
24 Tremblay") was the 50% owner, Chief Executive Officer and
25 control person for Respondent Mortgage Dreams, when licensed by

1 the Department.

2 **2006 Examination**

3 **Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):**

4 4. Paragraphs 1 through 3 are hereby realleged as fully set forth
5 herein.

6 5. The Department conducted an examination of Respondent Mortgage
7 Dreams on August 14, 2006, while Respondent Mortgage Dreams was
8 still licensed with the Department under its first license.

9 6. On June 25, 2007, the Department mailed the report of examination
10 and invoice for \$1,535.00 to Respondent Mortgage Dreams, via U.S.
11 Mail Certified Return Receipt requested, which Respondents
12 received on July 5, 2007.

13 7. On October 3, 2007, the above named Respondents submitted one
14 payment in the amount of \$700.00, which currently leaves a
15 balance of \$835.00.

16 8. To date, no further payments have been made to pay off the
17 remaining examination fee balance of \$835.00 for the 3.07 day
18 examination.

19 **2008 Examination**

20 **Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):**

21 9. Paragraphs 1 through 8 are hereby realleged as fully set forth
22 herein.

23 10. The Department conducted an examination of Respondent Mortgage
24 Dreams on February 25, 2008, while Respondent Mortgage Dreams was
25 still licensed with the Department with its second license.

1 11. On September 24, 2008, the Department mailed the report of
2 examination and invoice for \$3,400.00 to Respondent Mortgage
3 Dreams, via U.S. Certified Mail Return Receipt requested, which
4 Respondents received on September 26, 2008.

5 12. On March 25, 2009, the above named Respondents submitted one
6 payment in the amount of \$235.00, which currently leaves a
7 balance of \$3,165.00.

8 13. To date, no further payments have been made to pay off the
9 remaining examination fee balance of \$3,165.00 for the 6.8 day
10 examination.

11 **Violation of RSA 397-A:13, IV Failure to Pay Late Penalty Owed for Late**

12 **Filing of Financial Statement(1 Count):**

13 14. Paragraphs 1 through 13 are hereby realleged as fully set forth
14 herein.

15 15. Respondent Mortgage Dreams' financial statement was due on or
16 before March 31, 2008.

17 16. Respondent Mortgage Dreams was still licensed at the time its
18 financial statement filing was due to the Department.

19 17. The Department received Respondent Mortgage Dreams' financial
20 statement on May 19, 2008 (49 days late), which generated a fine
21 of \$1,225.00 (\$25.00 a day x 49 days).

22 18. On May 19, 2009, the above named Respondents submitted one payment
23 in the amount of \$400.00, which currently leaves a balance of
24 \$825.00.

25 19. To date, no further payments have been made to pay off the

1 remaining late filed financial statement fee balance of \$825.00.

2 **II. ISSUES OF LAW**

3 The staff of the Department alleges the following issues of law:

- 4 1. The Department realleges the above stated facts in Paragraphs 1
5 through 19 as fully set forth herein.
- 6 2. The Department has jurisdiction over the licensing and regulation
7 of persons engaged in mortgage banker or broker activities
8 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 9 3. RSA 397-A:12,V provides that the expense of such examination shall
10 be chargeable to and paid by the licensee. Each of the above
11 named Respondents violated this provision on at least two
12 occasions as alleged above. To date, the above named Respondents
13 have failed to pay the remaining unpaid fee of \$835.00 examination
14 invoice for the 2006 examination and the fee of \$3,400.00
15 examination fee for the 2008 examination.
- 16 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage
17 broker failing to file either the annual report or the financial
18 statement required by RSA Chapter 397-A within the time prescribed
19 may be required to pay to the Department a penalty of \$25.00 for
20 each calendar day the annual report or financial statement is
21 overdue, up to a maximum penalty of \$2,500.00 per report or
22 statement. Each of the above named Respondents violated this
23 provision on at least one occasion as alleged above. The above
24 named Respondents filed a financial statement that was 49 days
25

1 late, and incurred a penalty of \$1,225.00, of which \$400.00 was
2 paid. The current balance is \$825.00.

3 5. RSA 397-A:17,I provides in part that the Commissioner may by
4 order, upon due notice and opportunity for hearing, assess
5 penalties or deny, suspend, or revoke a license or application if
6 it is in the public interest and the applicant, respondent, or
7 licensee, any partner, officer, member, or director, any person
8 occupying a similar status or performing similar functions, or any
9 person directly or indirectly controlling the applicant,
10 respondent, or licensee: (a) has violated any provision of RSA
11 Chapter 397-A or rules thereunder, or (b)has not met the standards
12 established in RSA Chapter 397-A.

13 6. RSA 397-A:18,I provides that the Department may issue a complaint
14 setting forth charges whenever the Department is of the opinion
15 that the licensee or person over whom the Department has
16 jurisdiction, has violated any provision of RSA 397-A or orders
17 thereunder.

18 7. RSA 397-A:21,IV provides that any person who, either knowingly or
19 negligently, violates any provision of Chapter 397-A, may upon
20 hearing, and in addition to any other penalty provided for by law,
21 be subject to an administrative fine not to exceed \$2,500.00, or
22 both. Each of the acts specified shall constitute a separate
23 violation, and such administrative action or fine may be imposed
24 in addition to any criminal penalties or civil liabilities imposed
25 by New Hampshire Banking laws.

1 8. RSA 397-A:21,V provides that every person who directly or
2 indirectly controls a person liable under this section, every
3 partner, principal executive officer or director of such person,
4 every person occupying a similar status or performing a similar
5 function, every employee of such person who materially aids in the
6 act constituting the violation, and every licensee or person acting
7 as a common law agent who materially aids in the acts constituting
8 the violation, either knowingly or negligently, may, upon notice
9 and opportunity for hearing, and in addition to any other penalty
10 provided for by law, be subject to suspension, revocation, or
11 denial of any registration or license, including the forfeiture of
12 any application fee, or the imposition of an administrative fine
13 not to exceed \$2,500, or both. Each of the acts specified shall
14 constitute a separate violation, and such administrative action or
15 fine may be imposed in addition to any criminal or civil penalties
16 imposed.

17 **III. RELIEF REQUESTED**

18 The staff of the Department requests the Commissioner take the following
19 action:

- 20 1. Find as fact the allegations contained in section I of this Staff
21 Petition;
- 22 2. Make conclusions of law relative to the allegations contained in
23 section II of this Staff Petition;
- 24 3. Pursuant to RSA 397-A:17, order each of the above named
25 Respondents to show cause why their license should not be revoked;

