

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-223
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause and
) Cease and Desist Order
 5 Petitioner,)
)
 6 and)
)
 7 The Mortgage Specialists, Inc.,) Consent Order (only as to David
) Caillouette)
 8 Michael Gill, Lisa Tracy, Jean Duerr,)
)
 9 and David Caillouette,)
)
 10 Respondents)
)

11
12 CONSENT ORDER

13 I. For purposes of settling the above-referenced matter, the New
14 Hampshire Banking Department (hereinafter referred to as "the
15 Department") and only Respondent David Caillouette ("Respondent
16 Caillouette") do hereby enter this Agreement and stipulate to the
17 following:

- 18 1. Respondent Caillouette was at all relevant times the branch
19 manager for Respondent The Mortgage Specialists, Inc.'s Salem, New
20 Hampshire branch location.
- 21 2. Respondent Caillouette was at all times a relevant principal of
22 Respondent The Mortgage Specialists, Inc., as that term is
23 defined in RSA 397-A.
- 24 3. Respondent Caillouette avers that no altered documents have been
25 used to obtain a loan from any lender, as that term is defined
in RSA 397-A, and that no consumer harm has resulted from the
activities set forth in the July 23, 2008 Staff Petition.

1 II. For purposes of amicably resolving and closing the above-referenced
2 matter, Respondent Caillouette agrees to the following terms and conditions
3 and the Department accepts the same:

- 4 1. Respondent Caillouette agrees that he has voluntarily entered into
5 this Consent Order without reliance upon any discussions between
6 the Department and Respondent, without promise of a benefit of any
7 kind (other than concessions contained in this Consent Order), and
8 without threats, force, intimidation, or coercion of any kind.
9 Respondent Caillouette further acknowledges his understanding of
10 the nature of the offenses alleged in the July 23, 2008 Staff
11 Petition, including the penalties provided by law.
- 12 2. Respondent Caillouette agrees to waive any and all rights to a
13 hearing and appeal regarding the allegations set forth in the July
14 23, 2008 Staff Petition.
- 15 3. Respondent Caillouette agrees that all terms of this Consent Order
16 are contractual and none is a mere recital.
- 17 4. Respondent Caillouette agrees he is subject to potential
18 administrative penalties of \$200,000 as a result of the allegations
19 stated in the July 23, 2008 Staff Petition.
- 20 5. The Department agrees to accept monies in lieu thereof in the
21 amount of \$75,000.00 in penalties from Respondent Caillouette as
22 follows:
 - 23 a. \$50,000.00 of which shall be suspended for two calendar years
24 as long Respondent Caillouette no longer violates any mortgage
25 banking, brokering or servicing laws; and
 - b. \$25,000.00 of which shall be due and payable by Respondent
Caillouette as follows:
 - (1). \$10,000.00 shall be paid contemporaneously with the
execution of this Consent Order; and
 - (2). \$15,000.00 shall be paid over the course of one
calendar year in minimum equal monthly installments of
\$1,250.00 due on the first of each month after execution
of this Consent Order.
6. Respondent Caillouette agrees to be permanently out of the mortgage
business.

1 7. The provisions of this Consent Order shall not limit, estop, or
2 otherwise prevent the Department, or any federal or state agency or
3 department, from taking any other action affecting Respondent
4 Caillouette.

5 8. Failure to comply with the terms of this Consent Order as related
6 to the underlying Cease and Desist Order shall result in imposition
7 of further administrative penalties and possible criminal
8 liability.

9 9. This Consent Order shall become effective immediately upon the date
10 of its issuance.

11 10. The provisions of this Consent Order shall remain effective and
12 enforceable except to the extent that, and until such time as, any
13 provisions of this Consent Order shall have been modified,
14 terminated, suspended, or set aside by the Bank Commissioner or
15 upon an order of a court of competent jurisdiction.

16 This Consent Order represents the resolution of and discharge of any basis
17 for any civil or administrative proceeding by the Department against
18 Respondent Caillouette for violations arising as a result of or in
19 connection with any actions or omissions by Respondent Caillouette through
20 the date of this Consent Order as it applies to the allegations in this
21 action; provided, however, this release does not apply to facts not known by
22 the Department or not otherwise provided by Respondent Caillouette to the
23 Department as of the date of this Consent Order nor to actions for
24 restitution under RSA 383:10-d, or any possible actions related to the
25 examination just completed. Such facts would include, but not be limited
to, any consumer harm from the actions of Respondent Caillouette or altered
documents having been released outside the confines of The Mortgage
Specialists, Inc. The Department expressly reserves its right to pursue any
administrative, civil or criminal action or remedy available to it should
Respondent Caillouette breach this Consent Order or in the future violate
the Act or rules and orders promulgated thereunder.

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1 **WHEREFORE**, based on the foregoing, we have set our hands to this Agreement,
2 with it taking effect upon the signature of Peter C. Hildreth, Bank
3 Commissioner.

4 Recommended this 29th day of September, 2008 by

5 _____
6 /s/

7 Maryam Torben Desfosses, Staff Attorney, Banking Department

8 Executed this ____ day of October, 2008.

9 _____
10 /s/

11 David Caillouette, Respondent

12 **SO ORDERED,**

13 Entered this 23rd day of October, 2008.

14 _____
15 /s/

16 Peter C. Hildreth,
17 Bank Commissioner