

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-114
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 OCM Bancorp, Inc., Rabi H. Aziz, and)
)
 8 Madelina Colon,)
)
 9 Respondents)

10 NOTICE OF ORDER

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

13 LEGAL AUTHORITY AND JURISDICTION

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

18 Pursuant to RSA 397-A:18, I 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 Chapter
7 358-A and exempt under RSA 358-A:3,I or that may violate any of the
8 provisions of Titles XXXV and XXXVI and administrative rules adopted
9 thereunder. The Commissioner may hold hearings relative to such conduct and
10 may order restitution for a person or persons adversely affected by such
11 conduct.

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

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

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imposed against her;

4. The above named Respondents shall show cause why, in addition to the penalties listed in Paragraphs 1 through 3 above, statutory penalties of \$1,750.00 should not be imposed for the late filing of the 2008 annual report;

5. Respondents shall be jointly and severally liable for the above amounts alleged in Paragraphs 1 through 4 above.

It is hereby further ORDERED that:

6. Along with the administrative penalties listed for the above named Respondents, the outstanding sum of \$1,750.00 shall be immediately paid; and

7. Failure to request a hearing within 30 days of the date of receipt or valid delivery of this Order to Show Cause shall result in a default judgment being rendered and administrative penalties imposed upon the defaulting Respondent(s).

SIGNED,

Dated: 07/12/10

/s/ Robert A. Fleury for
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-114
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) July 6, 2010
6 and)
7 OCM Bancorp, Inc., Rabi H. Aziz, and)
8 Madelina Colon,)
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 OCM Bancorp, Inc. (hereinafter "Respondent OCM") was
15 licensed as a Mortgage Banker from at least October 5, 2005 (with
16 an amended license date of April 26, 2006) until its license
17 expired on December 31, 2009.
- 18 2. Respondent Rabi H. Aziz (hereinafter "Respondent Aziz") was the
19 100% owner and Chief Executive Officer of Respondent OCM, when
20 licensed by the Department.
- 21 3. Respondent Madelina Colon (hereinafter "Respondent Colon") was
22 the President and control person of Respondent OCM, when licensed
23 by the Department.
- 24
25

1 Violation of RSA 397-A:13, I Failure to Timely File Annual Report (1 Count):

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

4 5. Respondent OCM was licensed in 2008, and thus subject to the
5 filing of a 2008 annual report with the Department.

6 6. The 2008 annual report was due on or before March 31, 2009.

7 7. On January 9, 2009, the Department emailed Respondent OCM
8 regarding the annual report. The above named Respondents failed
9 to respond.

10 8. On June 3, 2009, the Department mailed via U.S. Certified Mail
11 Return Receipt requested, a letter reminding Respondent OCM to
12 submit the annual report. The above named Respondents received
13 the June 3, 2009 Department correspondence on June 8, 2009.

14 9. Respondent OCM filed its 2008 annual report on June 9, 2009 (70
15 days late), generating a fine of \$1,750.00 (\$25.00 a day x 70
16 days).

17 10. The above named Respondents requested a waiver of the fine listed
18 above, and the Department on June 30, 2009 denied the waiver.

19 11. The Department sent the above named Respondents invoices in June,
20 August and a third and final one on September 29, 2009.

21 12. To date, Respondent OCM has failed to pay the \$1,750.00 late
22 filing of the 2008 annual report fee.

23 **II. ISSUES OF LAW**

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

25 1. The Department realleges the above stated facts in Paragraphs 1

1 through 12 as fully set forth herein.

2 2. The Department has jurisdiction over the licensing and regulation
3 of persons engaged in mortgage banker or broker activities
4 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

5 3. RSA 397-A:13,I provides that a licensee shall file its annual
6 report on or before March 31 each year concerning operations for
7 the preceding year or license period ending December 31. Each of
8 the above named Respondents violated this provision on at least
9 one occasion as alleged above with a fine as calculated by RSA
10 397-A:13,IV below.

11 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage
12 broker failing to file either the annual report or the financial
13 statement required by RSA Chapter 397-A within the time
14 prescribed may be required to pay to the Department a penalty of
15 \$25.00 for each calendar day the annual report or financial
16 statement is overdue, up to a maximum penalty of \$2,500.00 per
17 report or statement. Respondents filed the annual report 70 days
18 late, which generated a reduced fine of \$1,750.00.

19 5. RSA 397-A:17,I provides in part that the Commissioner may by
20 order, upon due notice and opportunity for hearing, assess
21 penalties or deny, suspend, or revoke a license or application if
22 it is in the public interest and the applicant, respondent, or
23 licensee, any partner, officer, member, or director, any person
24 occupying a similar status or performing similar functions, or
25 any person directly or indirectly controlling the applicant,

1 respondent, or licensee: (a) has violated any provision of RSA
2 Chapter 397-A or rules thereunder, or (b) has not met the
3 standards established in RSA Chapter 397-A.

4 6. RSA 397-A:18,I provides that the Department may issue a complaint
5 setting forth charges whenever the Department is of the opinion
6 that the licensee or person over whom the Department has
7 jurisdiction, has violated any provision of RSA Chapter 397-A or
8 orders thereunder.

9 7. RSA 397-A:21,IV provides that any person who, either knowingly or
10 negligently, violates any provision of Chapter 397-A, may upon
11 hearing, and in addition to any other penalty provided for by
12 law, be subject to an administrative fine not to exceed
13 \$2,500.00, or both. Each of the acts specified shall constitute
14 a separate violation, and such administrative action or fine may
15 be imposed in addition to any criminal penalties or civil
16 liabilities imposed by New Hampshire Banking laws.

17 8. RSA 397-A:21,V provides that every person who directly or
18 indirectly controls a person liable under this section, every
19 partner, principal executive officer or director of such person,
20 every person occupying a similar status or performing a similar
21 function, every employee of such person who materially aids in the
22 act constituting the violation, and every licensee or person
23 acting as a common law agent who materially aids in the acts
24 constituting the violation, either knowingly or negligently, may,
25 upon notice and opportunity for hearing, and in addition to any

1 other penalty provided for by law, be subject to suspension,
2 revocation, or denial of any registration or license, including
3 the forfeiture of any application fee, or the imposition of an
4 administrative fine not to exceed \$2,500, or both. Each of the
5 acts specified shall constitute a separate violation, and such
6 administrative action or fine may be imposed in addition to any
7 criminal or civil penalties imposed.

8 **III. RELIEF REQUESTED**

9 The staff of the Department requests the Commissioner take the following
10 action:

- 11 1. Find as fact the allegations contained in section I of this Staff
12 Petition;
- 13 2. Make conclusions of law relative to the allegations contained in
14 section II of this Staff Petition;
- 15 3. Pursuant to RSA 397-A:17, order each of the above named
16 Respondents to show cause why their license should not be revoked;
- 17 4. Assess fines and administrative penalties in accordance with RSA
18 397-A:21, for violations of Chapter 397-A, in the number and amount
19 equal to the violations set forth in section II of this Staff
20 Petition; and
- 21 5. Take such other administrative and legal actions as necessary for
22 enforcement of the New Hampshire Banking Laws, the protection of
23 New Hampshire citizens, and to provide other equitable relief.

