

State of New Hampshire Banking Department

In re the Matter of:)	Case No.: 05-071
)	
State of New Hampshire Banking)	Order to Show Cause for License
)	Revocation
Department,)	
)	
Petitioner,)	
)	
and)	
)	
Financial Resources & Assistance of)	
)	
the Lakes Region Inc. and Scott)	
)	
Farah,)	
)	
Respondent)	

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 541-A:31, RSA 397-A, and BAN 204.03.

LEGAL AUTHORITY and JURISDICTION

Pursuant to RSA 397-A:17, the Commissioner of the New Hampshire Banking Department (hereinafter "the Department") may issue an Order to Show Cause why a license should not be revoked. RSA 397-A:17 states that the Department may issue such Order for good cause shown. Further, RSA 397-A:21 states that the Commissioner may impose administrative fines not to exceed \$2,500 per violation for knowingly or negligently violating this chapter.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondent has the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel. Any such request for a hearing shall be in writing, and signed by the respondent or by the duly authorized agent of the above named respondent, and shall be delivered either by hand or certified mail, return receipt request, to the

Exhibit to:

Order to Show Cause - 1

1 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
2 03301.

3 If respondent fails to request a hearing or respond to the show cause
4 order within 30 calendar days of receipt of this order, respondent shall be
5 deemed in default, and the penalties requested will be imposed.

6 STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

7 The Staff Petition dated December 16, 2005 (a copy of which is attached
8 hereto) are incorporated by reference hereto.

9 ORDER

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

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

15 It is hereby ORDERED, that:

- 16 1. The Respondent show cause why its license should not be
17 revoked;
- 18 2. The Respondent show cause why fines in the amount of
19 \$17,000.00 in accordance with the above referenced staff
20 petition should not be imposed; and
- 21 3. Failure to request a hearing within 30 days of the date of
22 receipt of this Order shall result in a default judgment being
23 rendered and administrative penalties being imposed upon the
24 defaulting Respondent.

25 SIGNED,



ROBERT A. FLEURY
DEPUTY BANK COMMISSIONER

Dated: 12/20/05

Exhibit to:

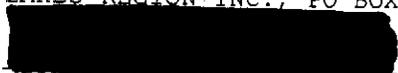
Order to Show Cause - 2

Appendix A Page A-11
Paragraph 3

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing ORDER TO SHOW CAUSE, Docket No. 05-071, has been sent via certified mail on December 20, 2005 to MR SCOTT FARAH, PRESIDENT, FINANCIAL RESOURCES & ASSISTANCE OF THE LAKES REGION INC., PO BOX 1158, MEREDITH NH 03253.



Andrea J. Shay
Staff Attorney

12/20/05
Date

Exhibit to:

Order to Show Cause - 3

Appendix A Page A-11
Paragraph 3

State of New Hampshire Banking Department

3	In re the Matter of:) Case No.: 05-071
4	State of New Hampshire Banking)
5	Department,) Order to Show Cause for License
6) Revocation
7	Petitioner,)
8	and)
9	Financial Resources & Assistance of)
10	the Lakes Region Inc. and Scott)
11	Farah,)
12	Respondent)

STATEMENT OF ALLEGATIONS

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

Background.

1. The Respondent, Financial Resources & Assistance of the Lakes Region Inc. and Scott Farah (herein after "FRA") is licensed as a first mortgage banker and second mortgage home loan lender and a small loan lender since at least 1997 through present. As provided in New Hampshire Banking Laws, the Respondent must comply with all applicable state and federal laws and regulations.
2. FRA is a New Hampshire corporation with its principal office or place of business at 15 Northview Drive, Meredith, NH 03253.
3. Scott Farah is president of said corporation.

Count 1 - Failure to implement a program to safeguard consumers' sensitive financial information.

4. The Department re-alleges all prior paragraphs in this staff petition.
5. FRA, a mortgage company, is a "financial institution" as that term is defined in Section 509(3)(A) of the Gramm-Leach-Bliley Act

(GLBA), and is therefore subject to the requirements of the Safeguards Rule and the Privacy Rule.

6. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is define in Section 4 of the FTC Act, 15 U.S.C. 44.
7. The Department conducted a regularly scheduled examination of the Respondent on or about October 11, 2004.
8. Through loan officers FRA accepts copies of documentation providing sensitive personal information (such as social security numbers, credit reports etc) in order to assist the consumer in obtaining mortgage financing.
9. The examiner conducted an oral interview with Scott Farah, president of FRA, regarding his policies and procedures for handling/destruction of documentation containing sensitive consumer information in compliance with the Gramm-Leach-Bliley Act and accompanying Federal Trade Commission ("FTC") rules.
10. Mr. Farah informed the examiner that the process for disposing of documents containing sensitive information was to shred said documents. The shredding was specifically assigned to two designated employees who were to shred documents at a shredding machine located at the Respondent's location.
11. The examiner received verbal permission from Mr. Farah to remove two garbage bags from the dumpster outside the office to spot check for compliance with the verbal procedure.
12. Upon review of the trash bags numerous documents containing sensitive consumer information (such as credit reports, loan applications (1003 forms), etc) were found in tact and were not shred as previously indicated. See Exhibits 1 - X.

Count II - Failure to have a written safeguard plan.

13. The Department re-alleges all prior paragraphs in this staff petition.
14. Mr. Farah informed the examiner that FRA did not have a written privacy policy.

Count III - Failure to facilitate an examination

15. The Department re-alleges all prior paragraphs in this staff petition.
16. The examiner discovered a letter from one of FRA's Lenders (First Franklin) on a file brokered by FRA claiming that the borrower's

1 income was misrepresented, and mandated that FRA buy the loan back
2 or pay it off with in 20 days.

3 17. The examiner requested FRA provide a complete explanation of the
4 circumstances surrounding its handling of the response to and
5 ultimate resolution of the alleged misrepresentation to the lender.

6 18. FRA failed to provide the examiner with the requested information.

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 to issue an
10 order to show cause for violating NH law pursuant to NH RSA 397-A:17
11 and RSA 397-A:21 respectively.

12 2. The Safeguard Rule, which was promulgated by the FTC on May 23, 2002
13 became effective on May 23, 2003. The rule implements section 501(b)
14 of the GLB Act.

15 3. 16 C.F.R. 314 (the Safeguard Rule) requires financial institutions to
16 protect the security, confidentiality, and integrity of consumer
17 information by developing a comprehensive written information security
18 program that contains reasonable administrative, technical and physical
19 safeguards.

20 4. FRA violated the Safeguard Rule because they failed to actually
21 implement their plan (by failing to shred documents).

22 5. A violation of the Safeguards Rule constitutes an unfair or deceptive
23 act or practice in violation of Section 5(a)(1) of the FTC act.

24 6. The GLB Act further requires that the Safeguard program be in writing.
25 See 16 CFR 314.3.

7. Violations of the FTC Act and Safeguard Rules are violations of New
Hampshire Revised Statute Annotated Chapter 397-A (See RSA 397-A:2
III).

8. RSA 397-A:12 provides that licensees shall make freely available to the
commissioner or his examiners, the accounts, records, documents, files,
information, assets, and matters in their possession or control
relating to the subject of the examination and shall facilitate the
examination. Failure to provide or respond to an examiner's request
for information pertaining to the First Franklin letter is a violation
of the Chapter.

1 9. The above acts are sufficient to constitute "good cause shown" under
2 RSA 397-A:17 to revoke FRA's mortgage lending licenses in New
Hampshire.

3 10. Revocation of said licenses is in the public interest as FRA and Mr.
4 Farah have illustrated a willingness to forgo the laws and rules of the
5 State of New Hampshire whenever they see fit.

6
7 RELIEF REQUESTED

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

- 10 1. Find as fact the allegations contained in section I of the Statement of
11 Allegations of this petition;
12 2. Make conclusions of law relative to the allegations contained in section
13 II of the Statement of Allegations of this petition;
14 3. Assess fines and administrative penalties in accordance RSA 397-A:21, for
15 violations of the New Hampshire Banking Laws, in the number and amount
16 equal to the violations set forth in section II of the Statement of
17 Allegations of this petition; and
18 4. Take such other administrative and legal actions as are necessary for
19 enforcement of the New Hampshire Banking laws, the protection of New
20 Hampshire citizens, and to provide other equitable relief.

21 RIGHT TO AMEND

22 The Department reserves the right to amend this Petition for Relief and
23 to request that the Banking Department Commissioner take additional
24 administrative action. Nothing herein shall preclude the Department from
25 bringing additional enforcement action under RSA 397-A or the regulations
thereunder.

Respectfully submitted by:

23 
24 Andrea J. Shaw
25 Staff Attorney

December 16, 2005

Date