

State of New Hampshire Banking Department

In re the Matter of:	)	Case No.: 05-071
	)	
State of New Hampshire Banking	)	Notice of Hearing
	)	
Department,	)	
	)	
Petitioner,	)	
	)	
and	)	
	)	
Financial Resources and Assistance)	)	
	)	
of the Lakes Region, Inc. and	)	
	)	
Scott Farah,	)	
	)	
Respondent	)	

NOTICE OF HEARING

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 violations of the chapter. RSA 397-A:2 states that violations of federal law constitutes a violation of Chapter RSA 397-A. 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.

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

Exhibit to:

1 state and federal laws and regulations. FRA is a New Hampshire  
2 corporation with its principal office or place of business at 15  
3 Northview Drive, Meredith, NH 03253. Scott Farah is president of said  
4 corporation.

5 The Department conducted an examination of Respondent on or  
6 about October of 2004. This action is regarding the alleged RSA 397-  
7 A:2 / Gramm Leach Bliley Act violations.

8 The Department alleges the following issues to be determined at  
9 hearing:

10 **Issue 1:** Whether the Respondents had a written consumer information  
11 safeguard policy in place as required by 16 CFR 314;

12 **Issue 2:** Whether the Respondents failed to implement a program to  
13 safeguard customer information as required by 16 CFR 314;

14 **Issue 3:** Whether the Respondents' violated RSA 397-A:2 for non-  
15 compliance with the Gramm Leach Bliley Act;

16 **Issue 4:** Whether the Respondents failed to facilitate the examination  
17 by not providing requested information in a timely manner, regarding  
18 First Franklin's December 15, 2003 letter about 2 suspect loans First  
19 Franklin purchased from Respondents.

20 Accordingly, an adjudicative proceeding shall be commenced  
21 pursuant to 541-A:31 and Chapter 200 of the Department's rules (NH  
22 Code of Administrative Rules BAN 200) for the purpose of permitting  
23 the Respondents to show compliance with RSA 397-A.

24 Each party has the right to have an attorney present to represent  
25 the party at the party's expense, or may represent itself. Each party  
has the right to have the Department provide a certified shorthand  
court reporter at the requesting party's expense. Any such request

Exhibit to:

1 must be submitted in writing to the Department at least 10 days prior  
2 to a scheduled hearing date.

3 THEREFORE, IT IS ORDERED, that the Licensee appear before the New  
4 Hampshire Banking Department on Thursday, March 9, 2006 at 10:00am, at  
5 the Department's offices at 64B Old Suncook Road, Concord, New  
6 Hampshire, for the purpose of participating in an adjudicative  
7 proceeding, at which time the Respondents will have the opportunity to  
8 demonstrate why fines should not be imposed and/or why their lending  
9 license should not be revoked; and

10 IT IS FURTHER ORDERED, that if Licensee elects to be represented  
11 by Counsel, said Counsel shall file notice of appearance at the  
12 earliest possible date; and

13 IT IS FURTHER ORDERED, that Andrea J. Shaw, Staff Attorney, New  
14 Hampshire Banking Department is designated as Hearing Counsel in this  
15 matter with authority to represent the public interest within the  
16 scope of the Department's authority. Hearing Counsel shall have the  
17 status of a party to this proceeding; and

18 IT IS FURTHER ORDERED, that Todd Wells, shall serve as the  
19 Presiding Officer in this proceeding and shall issue a RECOMMENDED  
20 DECISION in this matter which shall be reviewed and approved,  
21 disapproved or modified by the Bank Commissioner; and

22 IT IS FURTHER ORDERED, that Respondents shall file an answer to  
23 each of the allegations set forth in this Notice of Hearing, and any  
24 amendments hereto, by no later than 15 days from receipt. Such answer  
25 shall first admit or deny the allegation and then set forth any and  
all explanations or defenses to the allegation; and

Exhibit to:

1 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-  
2 marked, for identification only, and filed with the Department and  
3 provided to the opposing party not later than March 2, 2006. Hearing  
4 Counsel shall pre-mark the Department's exhibits with Arabic numbers.  
5 Respondents shall pre-mark exhibits with capital letters. An  
6 index/list of exhibits providing a brief description of each exhibit  
7 with its corresponding pre-marked number or letter shall be filed by  
8 both parties simultaneous with the filing of exhibits; and

9 IT IS FURTHER ORDERED, that the parties shall exchange a list of  
10 all exhibits and witnesses to be called at the hearing with a brief  
11 summary of their testimony by no later than February 23, 2006 and  
12 shall at the same time file a copy of their respective witness lists  
13 with the Presiding Officer; and

14 IT IS FURTHER ORDERED, that all periods referenced in this notice  
15 shall be calendar days. If the last day of the period so computed  
16 falls on a Saturday, Sunday, or legal holiday, then the time period  
17 shall be extended to include the first business day that is not a  
18 Saturday, Sunday, or legal holiday; and

19 IT IS FURTHER ORDERED, that parties shall file answer/objections  
20 to pleadings within ten (10) calendar days of the date the pleading is  
21 deemed "filed"; and

22 IT IS FURTHER ORDERED, that the burden of proof shall be by a  
23 preponderance of the evidence, and shall be borne by the Respondent  
24 once the Department has set forth a prima facie case; and

25 IT IS FURTHER ORDERED, that Respondents' failure to appear at the  
time, date, and place specified may result in the hearing being held in

Exhibit to:

1 absentia and/or default ruling in favor of the Department, without  
2 further notice or opportunity to be heard; and

3 IT IS FURTHER ORDERED, that the entirety of all oral proceedings  
4 shall be recorded verbatim by the Banking Department. Upon request of  
5 any party, or upon the Presiding Officer's own initiative, such record  
6 shall be transcribed by a certified court reporter designated by the  
7 Presiding Officer, and that all costs shall be borne solely by the  
8 requesting party. Any such request shall be submitted in writing to  
9 the Presiding Officer prior to hearing.

10 IT IS FURTHER ORDERED, that all documents shall be filed with the  
11 Presiding Officer in the form of an original and one (1) copy and shall  
12 bear a certification that a copy is being delivered to Hearing Counsel  
13 and any other parties to this matter in accordance with NH Code of  
14 Administrative Rules Ban 204.08. All documents shall be filed by  
15 mailing or delivering them to the New Hampshire Banking Department,  
16 ATTN: Todd Wells 64-B Old Suncook Road, Concord, NH 03301. Filing by  
17 facsimile or electronic transmission shall not be accepted; and

18 IT IS FURTHER ORDERED, that the parties may submit Proposed  
19 Orders, which shall include findings of fact and conclusions of law,  
20 separately stated, no later than ten (10) days following conclusion of  
21 the hearing(s) in this matter; and

22 IT IS FURTHER ORDERED, that routine procedural inquiries may be  
23 made by telephoning Todd Wells at (603)-271-3561, but all other  
24 communications with the Presiding Officer and with the Department shall  
25 be in writing and shall be filed as provided above. Ex parte  
communications are forbidden by statute; and

Exhibit to:

1 IT IS FURTHER ORDERED, that a copy of this Notice of hearing  
2 shall be mailed to Respondents' attorney, Michael Burke, Law Office of  
3 Gould and Burke, P.O. Box 666, Meredith, New Hampshire, 03253, and  
4 that a copy shall also be delivered to Andrea J. Shaw, Hearing  
5 Counsel, and to Todd Wells, Presiding Officer, at the New  
6 Hampshire Banking Department.

7 SO ORDERED,



8  
9 Robert A. Fleury  
10 Deputy Commissioner  
11 State of New Hampshire  
Banking Department

1-19-06  
Date

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