

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 10-001
)
 3 State of New Hampshire Banking)
)
 4 Department,)
)
 5 Petitioner,) Consent Order Re: Order to Show and
) Cease and Desist Order
 6 and)
) Consent Order Only as to
 7 Joseph William Patrick Clancey,) Joseph William Patrick Clancey
)
 8 Discount Mortgage Warehouse Inc)
)
 9 (d/b/a Globelend Mortgage), and Oleg)
)
 10 Lusher,)
)
 11 Respondents)
)

12 CONSENT ORDER

13 The State of New Hampshire Banking Department (the "Department") finds and
14 Orders as follows:

15 **Respondent**

16 1. Joseph William Patrick Clancey ("Respondent Clancey") was licensed as a
17 New Hampshire Mortgage Loan Originator from April 1, 2009 until his license
18 expired on December 31, 2009.

19 2. Respondent Clancey was employed by Discount Mortgage Warehouse Inc (d/b/a
20 Globelend Mortgage) ("Globelend") as a mortgage loan originator from January
21 1, 2007 until August 2008. Respondent Clancey does not currently have a
22 pending New Hampshire Mortgage Loan Originator license application with the
23 Department.

24 **Jurisdiction**

25 3. The Department is authorized to regulate New Hampshire Mortgage Loan

1 Originators. RSA 397-A:3,II.

2 4. The Commissioner has jurisdiction to issue orders to cease and desist
3 from violations under RSA Chapter 397-A and to revoke, deny, or suspend a
4 license of a licensee and/or assess penalties pursuant to RSA
5 Chapter 397-A. RSA 397-A:17 and RSA 397-A:18.

6 **Facts**

7 5. On or about January 6, 2010, the Department was informed that Respondent
8 Clancey had consumer loan files (both originals and copies) and computer
9 towers from Globelend in his possession.

10 6. Of the 517 loan files discovered in Respondent Clancey's possession, 172
11 were New Hampshire consumer residential loan files. Of the 172 New Hampshire
12 consumer residential loan files, 96 were original loan documents and 76 were
13 photocopies.

14 7. On December 20, 2010, Respondent Clancey signed a notarized affidavit
15 which is attached hereto and herein incorporated by reference.

16 **Violation(s) of Law and Penalties**

17 8. Respondent Clancey is a "Person" as defined by RSA 397-A:1,XVIII.

18 9. Respondent Clancey is not a "control" person as defined by RSA 397-A:1,V-
19 a.

20 10. Each of the 172 New Hampshire loan files taken, as detailed above in
21 Paragraph 6, may be assessed an administrative fine not to exceed \$2,500.00
22 for a total maximum administrative penalty of \$430,000.00. RSA 397-A:21.

23 11. Mitigating factors include but are not limited to:

24 a. Respondent Clancey has cooperated with the Department to resolve this
25 matter;

Order - 2

1 b. To date, no evidence has been presented to the Department that
2 Respondent Clancey has used the loan files in violation of applicable
3 state and federal laws;

4 c. To date, no evidence of consumer harm has been presented to the
5 Department; and

6 d. To date, no complaints have been filed with the Department against
7 Respondent Clancey.

8 12. Respondent Clancey does not deny the facts, statements, or violations
9 contained herein and Respondent Clancey hereby agrees to the entry of this
10 Consent Order.

11 13. Respondent Clancey hereby acknowledges, understands, and agrees that
12 there is the right to notice, hearing, and/or a civil action and hereby
13 waives said rights.

14 **Order**

15 14. **Whereas pursuant to RSA 397-A:20,VI** this Consent Order is necessary,
16 appropriate and in the public's best interest and consistent with the
17 purposes of New Hampshire banking laws and Orders as follows:

18 a. Respondent Clancey shall pay to the Department \$1,000.00, which shall
19 be hereby suspended and waived if after twelve months Respondent Clancey
20 has not violated RSA Chapter 397-A or any rules or orders thereunder.

21 15. This Consent Order may be revoked and the Department may pursue any and
22 all remedies available under law, if the Department later finds that
23 Respondent Clancey knowingly or willfully withheld information used and
24 relied upon in this Consent Order.

25 16. This Consent Order is binding on all heirs, assigns, and/or successors
in interest.

1 17. This Consent Order shall become effective upon the date the Commissioner
2 signs this Consent Order.

3 18. Once this Consent Order is effective, the Department agrees not to seek
4 further reimbursement, refunds, penalties, fines, costs, or fees regarding
5 the facts, allegations, or findings of violations contained herein.

6 **WHEREFORE**, based on the foregoing, we have set our hands to this Consent
7 Order, upon its execution by Robert A. Fleury, Deputy Bank Commissioner.

8
9 Recommended this 29th day of December, 2010 by

10 /s/
11 Maryam Torben Desfosses, Hearings Examiner, Banking Department

12
13 Executed this 6 day of January, 2010 by

14 /s/
15 Joseph William Patrick Clancy

16
17
18 **SO ORDERED.**

19 /s/
20 Robert A. Fleury,
21 Deputy Bank Commissioner

Dated: 1-11-2011

THE STATE OF NEW HAMPSHIRE BANKING DEPARTMENT

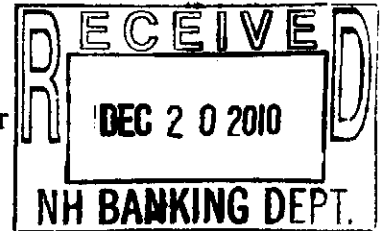
In re the Matter of:

State of New Hampshire Banking Department, Petitioner

and

Joseph William Patrick Clancey *et al.*, Respondents

Case No. 10-001



AFFIDAVIT OF JOSEPH CLANCEY

Now comes the undersigned, Joseph Clancey, first being duly sworn says as follows:

1. I am a competent person over eighteen years of age.
2. I am named as a Respondent in the matter captioned above.
3. During the time in issue in this matter, I worked as an originator in the Globelend office in New Hampshire.
4. I had no supervisory authority. And I was not involved in formulating policies or procedures.
5. The practice in effect during the time in issue in this matter was that the originator would maintain the documentation until a loan was ready for transfer to a processor for closing.
6. After the loan was transferred, the processor would provide a copy of the documentation to the originator.
7. Loans that for whatever reason did not reach the point of such transfer remained in the originator's work area.
8. The Globelend office in New Hampshire where I was working closed in August, 2008.
9. The closing was a disorganized affair. More particularly, I never received any directions as to what to do with the documentation in my work area,

which included copies of closed loans, documentation regarding dormant unclosed loans, and documents regarding pending loans.

10. My understanding is that all of the original closed loans, that is, the loans that had been transferred to the processor, were moved to an office in Massachusetts, and from there to Globelend's location in Florida.
11. Any closed loans that I might have removed were copies.
12. I did not believe that I was violating Globelend policy or any laws in doing so. More particularly, Globelend never removed such documentation from my work area and never requested that I take any action with this documentation. I believed that Globelend was not interested in this documentation and that it was permissible for me to remove the documentation, as the office was closing.
13. Dormant unclosed loans, that is, loans that never reached the point where they would be transferred to a processor, to the best of my knowledge, were not transferred to Massachusetts. The basis of this knowledge is that Globelend never removed such documentation from my work area and never requested that I take any action with this documentation.
14. I did remove original documentation as to the dormant unclosed loans. However, I did not believe that I was violating Globelend policy or any laws. Rather, I believed that it was permissible to remove such documentation.
15. I did not remove any pending loans from the New Hampshire office.
16. I never did anything with the documentation that I removed. More particularly, the documentation was not disseminated to any third-parties whatsoever, nor did I use the documentation for any purpose. Rather, the documentation simply sat in my home.
17. At no time did Globelend ever request that I return any documentation. Had Globelend done so, I would have complied.

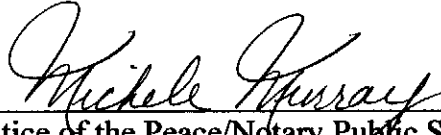
Date: 20 Dec 10

/s/

Joseph Clancey

STATE OF NEW HAMPSHIRE
COUNTY OF Rockingham

Personally appeared Joseph Clancey, known to me, or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same of his own free will for the purposes therein contained.



Justice of the Peace/Notary Public Seal
Michele Murray
Notary Public
My Commission Expires April 5, 2011