

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 10-181  
3 )  
4 State of New Hampshire Banking Department, )  
5 )  
6 Petitioner, )  
7 )  
8 and )  
9 )  
10 Prospect Mortgage, LLC, Prospect Holding Company )  
11 )  
12 LLC, Prospect Management Services Corp (f/k/a ) Consent Order As to Named  
13 ) Respondents  
14 Metrocities Services Corp.), Mark A. Filler, )  
15 )  
16 Ronald Lee Bergum, Christina Marie Longo, Derek )  
17 )  
18 Joseph "Dutch" Maranhas, Frederick Chapple Allard )  
19 )  
20 III, Jeffrey Heidtmann, John Bannister, John L. )  
21 )  
22 Cabral, John E. Priest, Kevin Joseph Cuzzo, )  
23 )  
24 Sadiki Pierre, Judy A. Weisman, Kevin Robert )  
25 )  
Clark, Kevin Paul Wentzell, Joseph Scott Gannon, )  
) )  
Todd Zukowski, Joe Adamaitis, David Scott Bolton, )  
) )  
Robert P. Ward, and Keyan Tramane Scott, )  
) )  
Respondents )

18 CONSENT ORDER

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

21 **Remaining Respondents**

22 1. Prospect Mortgage, LLC ("Prospect Mortgage") is a limited liability  
23 company formed in the State of Delaware on September 24, 1998 and  
24 registered to conduct business in New Hampshire with the New Hampshire  
25 Secretary of State on August 9, 2001 with a principal office location

1 in Sherman Oaks, California. Prospect Mortgage is licensed as a  
2 Mortgage Banker with the New Hampshire Banking Department  
3 ("Department") and has been since April 14, 2008. Prospect Mortgage  
4 was formerly known as Metrocities Mortgage, LLC. Prospect Mortgage  
5 acquired assets and employees of Opteum Mortgage Financial Services,  
6 LLC, Fidelity & Trust Mortgage, LLC and IndyMac Bank, FSB.

7 2. Prospect Holding Company LLC ("Prospect Holding") is the 99% direct  
8 owner of Prospect Mortgage and is a control person of Prospect  
9 Mortgage under RSA Chapter 397-A. Prospect Management Services Corp.  
10 (f/k/a Metrocities Services Corp.) ("Prospect Management") is the 1%  
11 direct owner and manager of Prospect Mortgage and is also a control  
12 person of Prospect Mortgage under RSA Chapter 397-A.

13 3. Mark Filler ("Filler") was the President and control person of  
14 Prospect Mortgage during the times material to this Consent Order. He  
15 remains a minority indirect owner, but is no longer an employee of  
16 Prospect Mortgage.

17 4. Ronald Lee Bergum ("Bergum") is the Chief Executive Officer and  
18 control person of Prospect Mortgage.

19 5. Christina Marie Longo ("Longo") is a Mortgage Loan Originator  
20 currently sponsored by Prospect Mortgage. The Nationwide Mortgage  
21 Licensing System & Registry ("NMLS") records indicate Longo was issued  
22 a Massachusetts Mortgage Loan Originator license on October 9, 2008.  
23 Longo has never held a New Hampshire Mortgage Loan Originator license.

24 6. Derek Joseph "Dutch" Maranhas ("Maranhas") is a Mortgage Loan  
25 Originator who was previously sponsored by Prospect Mortgage. NMLS

1 records indicate Maranhas was issued a Rhode Island Mortgage Loan  
2 Originator license on July 8, 2010, which has expired, and has an  
3 expired status in Massachusetts and North Carolina. Maranhas has  
4 never held a New Hampshire Mortgage Loan Originator license.

5 7. Frederick Chapple Allard III ("Allard") is a Mortgage Loan Originator  
6 who was previously sponsored by Prospect Mortgage (formerly  
7 Metrocities Mortgage, LLC). NMLS records indicate Allard was issued a  
8 Massachusetts Mortgage Loan Originator license on August 22, 2008 and  
9 has an approved status in Massachusetts. Allard has never held a New  
10 Hampshire Mortgage Loan Originator license.

11 8. Jeffrey Heidtmann ("Heidtmann") is a Mortgage Loan Originator who was  
12 previously sponsored by Prospect Mortgage. NMLS records indicate  
13 Heidtmann was issued a Connecticut Mortgage Loan Originator license on  
14 September 3, 2008. Heidtmann has never held a New Hampshire Mortgage  
15 Loan Originator license.

16 9. John Bannister ("Bannister") is a Mortgage Loan Originator currently  
17 sponsored by Prospect Mortgage. NMLS records indicate Bannister was  
18 issued a Massachusetts Mortgage Loan Originator license on August 28,  
19 2008 and has an expired license from Rhode Island. Bannister has  
20 never held a New Hampshire Mortgage Loan Originator license.

21 10. John L. Cabral ("Cabral") is a Mortgage Loan Originator currently  
22 sponsored by Prospect Mortgage. NMLS records indicate Cabral was  
23 issued a Massachusetts Mortgage Loan Originator license on October 23,  
24 2008 and has an expired license from Rhode Island. Cabral has never  
25 held a New Hampshire Mortgage Loan Originator license.

1 11. John E. Priest ("Priest") is a Mortgage Loan Originator currently  
2 sponsored by Prospect Mortgage. NMLS records indicate Priest was  
3 issued a Massachusetts Mortgage Loan Originator license on October 9,  
4 2008. Priest has never held a New Hampshire Mortgage Loan Originator  
5 license.

6 12. Kevin Joseph Cuzzo ("Cuzzo") is a Mortgage Loan Originator who was  
7 previously sponsored by Prospect Mortgage (formerly Metrocities  
8 Mortgage, LLC). NMLS records indicate Cuzzo was issued a  
9 Massachusetts Mortgage Loan Originator license on October 3, 2008,  
10 which expired on January 1, 2010. Cuzzo has never held a New  
11 Hampshire Mortgage Loan Originator license.

12 13. Sadiki Pierre ("Pierre") is a Mortgage Loan Originator was previously  
13 sponsored by Prospect Mortgage. NMLS records indicate Pierre was  
14 issued a New York Mortgage Loan Originator license on May 14, 2010,  
15 which is currently in approved-inactive status. Pierre has never held  
16 a New Hampshire Mortgage Loan Originator license.

17 14. Judy A. Weisman ("Weisman") was a New Hampshire Mortgage Loan  
18 Originator licensed from April 1, 2009, voluntarily surrendered the  
19 license on November 3, 2009 and who was sponsored by Prospect  
20 Mortgage. NMLS records indicate Weisman has been a licensed  
21 California Mortgage Loan Originator since June 17, 2010, surrendered  
22 the license in 11 other states and let the license expire in two other  
23 states.

24 15. Kevin Robert Clark ("Clark") was a Mortgage Loan Originator previously  
25 sponsored by Prospect Mortgage. NMLS records indicate Clark was issued

1 a Massachusetts Mortgage Loan Originator license on October 15, 2008,  
2 which has been surrendered. Clark has never held a New Hampshire  
3 Mortgage Loan Originator license.

4 16. Kevin Paul Wentzell ("Wentzell") is a Mortgage Loan Originator  
5 currently sponsored by Prospect Mortgage. NMLS records indicate  
6 Wentzell was issued a Massachusetts Mortgage Loan Originator license  
7 on October 9, 2008. Wentzell has never held a New Hampshire Mortgage  
8 Loan Originator license.

9 17. Joseph Scott Gannon ("Gannon") is a Mortgage Loan Originator currently  
10 sponsored by Prospect Mortgage. NMLS records indicate Gannon was  
11 issued a Massachusetts Mortgage Loan Originator license on October 25,  
12 2008 and a New Hampshire Mortgage Loan Originator license on January  
13 17, 2012.

14 18. Todd Zukowski ("Zukowski") is a Mortgage Loan Originator currently  
15 sponsored by Prospect Mortgage (formerly Metrocities Mortgage, LLC).  
16 NMLS records indicate Zukowski was issued a Massachusetts Mortgage  
17 Loan Originator license on October 31, 2008 with an expired Rhode  
18 Island license. Zukowski has never held a New Hampshire Mortgage Loan  
19 Originator license.

20 19. Joe Adamaitis ("Adamaitis") is a Mortgage Loan Originator who worked  
21 for Prospect Mortgage but was not sponsored by Prospect Mortgage.  
22 NMLS records indicate Adamaitis was issued a Florida Mortgage Loan  
23 Originator license on January 3, 2011.

24 20. David Scott Bolton ("Bolton") is a Mortgage Loan Originator who was  
25 previously sponsored by Prospect Mortgage. NMLS records indicate

1 Bolton was issued a Massachusetts Mortgage Loan Originator license on  
2 October 9, 2008 and is approved as of the date hereof. Bolton has  
3 never held a New Hampshire Mortgage Loan Originator license.

4 21. Robert P. Ward ("Ward") was an employee of Prospect Mortgage from  
5 January 1, 2009 until March 1, 2011. Ward was an area manager, then a  
6 regional operations manager in Southern Florida. NMLS records indicate  
7 Ward has never held a Mortgage Loan Originator License in any state.

8 22. Keyan Tramane Scott ("Scott") is a Mortgage Loan Originator currently  
9 sponsored by Prospect Mortgage. NMLS records indicate Scott has been  
10 a licensed New Hampshire Mortgage Loan Originator since April 1, 2009  
11 and is currently licensed in 25 other states.

12 23. Prospect Mortgage, Prospect Holding and Prospect Management are hereby  
13 collectively known as "Prospect Mortgage."

14 24. The above named Mortgage Loan Originators are hereby collectively  
15 known as "Originators."

16 25. Prospect Mortgage, Filler, Bergum and the Originators are hereby  
17 collectively known as "Named Respondents."

18 **Jurisdiction**

19 26. The Department is authorized to regulate mortgage bankers pursuant to  
20 RSA Chapter 397-A. RSA 397-A:2.

21 27. The Commissioner has jurisdiction to issue orders to show cause and to  
22 cease and desist from violations under RSA Chapter 397-A and to  
23 revoke, deny, or suspend a license of a licensee and/or assess  
24 penalties pursuant to RSA Chapter 397-A. RSA 397-A:17, RSA 397-A:18  
25 and RSA 397-A:21.

**Facts**

28. On July 25, 2011, the Department issued an Order to Show Cause and Cease and Desist against the Respondents, alleging, among other allegations, unlicensed mortgage loan originator activity and unlicensed branch office activity.

29. Based on information provided by Prospect Mortgage as part of an examination commenced on September 14, 2009 ("First Examination"), the Department alleges that from April 1, 2009 to January 26, 2010, Prospect Mortgage allowed its Originators not licensed in New Hampshire to originate New Hampshire residential mortgage loans by utilizing the credentials of Originators licensed in New Hampshire. Based on such information, the Department has further alleged that from April 1, 2009 to January 26, 2010, Respondents conducted or facilitated unlicensed mortgage loan originator activity for twenty-nine (29) New Hampshire consumers and a certain number of those Originators collected fees for such residential mortgage loan origination activity in the total amount of \$46,185.41 as follows:

Consumer 1:\$100.00	Consumer 11:\$1,314.11	Consumer 21:\$1,199.00
Consumer 2:\$571.24	Consumer 12:\$936.00	Consumer 22:\$100.00
Consumer 3:\$1,024.82	Consumer 13:\$555.59	Consumer 23:\$1,874.88
Consumer 4:\$984.86	Consumer 14:\$910.00	Consumer 24:\$628.00
Consumer 5:\$2,331.59	Consumer 15:\$2,218.60	Consumer 25:\$1,714.00
Consumer 6:\$2,723.64	Consumer 16:\$877.14	Consumer 26:\$1,277.31
Consumer 7:\$856.05	Consumer 17:\$1,936.76	Consumer 27:\$889.67
Consumer 8:\$1,439.32	Consumer 18:\$2,813.00	Consumer 28:\$4,368.50

1 Consumer 9:\$1,102.85 Consumer 19:\$1,910.90 Consumer 29:\$2,532.61

2 Consumer 10:\$4,725.49 Consumer 20:\$2,269.48

3 30. None of the Originators who are not licensed in New Hampshire had  
4 taken and passed the New Hampshire Mortgage Loan Originator  
5 Examination.

6 31. Prospect Mortgage's Newton, Massachusetts branch office was licensed  
7 by the Department from August 17, 2009 through November 13, 2009.  
8 Based on information provided by Prospect Mortgage in the First  
9 Examination, the Department alleges that unlicensed New Hampshire  
10 residential mortgage loan activity occurred at the Newton,  
11 Massachusetts branch office before August 17, 2009 and after November  
12 13, 2009, where at least nine (9) residential consumer loans were  
13 originated.

14 32. Based on the foregoing, the Department alleges that Prospect Mortgage  
15 failed to properly supervise certain of its employees and branch  
16 offices from April 1, 2009 to January 26, 2010.

17 33. A second examination of Prospect Mortgage commenced on January 18,  
18 2012 ("Second Examination"). During this examination, the Department  
19 determined that Prospect Mortgage had failed to retain certain  
20 original records or documents in violation of RSA 397-A:11,IV. The  
21 Department also determined that Prospect Mortgage had failed to audit  
22 all of its Dover and Portsmouth, New Hampshire branch offices in 2011  
23 in violation of its Branch Office Audit Policy adopted on April 7,  
24 2011.

25 34. The Department acknowledges that Prospect Mortgage had submitted



1 information demonstrating that it adopted policies and procedures  
2 which are still in place to ensure unlicensed mortgage loan  
3 origination activity does not occur and no branch offices remain  
4 unlicensed.

5 35. During the request for information, Respondents cooperated with the  
6 Department and explained the circumstances around the aforementioned  
7 stated violations.

#### 8 **Governing Law and Penalties**

9 36. Respondents are "Persons" as defined by RSA 397-A:1,XVIII.

10 37. The Originators are "Mortgage Loan Originators" as defined by RSA 397-  
11 A:1,XVII.

12 38. Respondents may be assessed an administrative fine not to exceed  
13 \$2,500.00 for each violation of RSA Chapter 397-A. *RSA 397-A:21,IV*  
14 *and V.*

#### 15 **Respondents' Consent**

16 39. The Named Respondents hereby acknowledge that were an administrative  
17 hearing to be held in this matter, the Department would introduce  
18 evidence attempting to demonstrate that Respondents conducted activity  
19 that violated RSA Chapter 397-A as mentioned above.

20 40. Respondents have voluntarily entered into this Consent Order without  
21 reliance upon any discussions between the Department and Respondents,  
22 without promise of a benefit of any kind (other than concessions  
23 contained in this Consent Order), and without threats, force,  
24 intimidation, or coercion of any kind. Respondents further acknowledge  
25 their understanding of the nature of the allegations set forth in this

1 action, including the potential penalties provided by law.

2 41. Respondents hereby acknowledge, understand, and agree that they have  
3 the right to notice, hearing, and/or a civil action and hereby waive  
4 said rights.

5 **Order**

6 42. **Whereas pursuant to RSA 397-A:20,VI**, this Consent Order is necessary,  
7 appropriate and in the public interest and consistent with the intent  
8 and purposes of New Hampshire banking laws, the Department orders as  
9 follows:

10 a. Pursuant to RSA 397-A:17,II(a) and (b) and RSA Chapter 397-A,  
11 the Respondents shall not conduct, aid and abet unlicensed  
12 mortgage loan origination activity in New Hampshire and from  
13 violating RSA Chapter 397-A;

14 b. Respondents shall retain original documents in the same form in  
15 which they were obtained or created by Prospect Mortgage for a  
16 period of at least 3 years after the loan is closed, and shall  
17 comply with all other requirements of RSA 397-A:11, except that  
18 if the provisions of RSA 397-A:11 are amended or rules are  
19 adopted pursuant thereto which institute a different requirement  
20 for the retention of original documents, Respondents shall  
21 thereafter abide by those requirements;

22 c. Respondents shall comply with Prospect Mortgage's Branch Office  
23 Audit Policy;

24 d. Prospect Mortgage shall reimburse Consumers 1 through 29 the  
25 fees charged as described in Paragraph 29 above, payable

1 contemporaneously with the effective date of this Consent Order,  
2 which is upon the Commissioner's signature. These consumer  
3 checks shall be bank check or guaranteed funds and made payable  
4 to each individual consumer and submitted directly to each  
5 consumer via first class mail by Prospect Mortgage.

6 (1). Each check shall be accompanied by written  
7 correspondence containing only the following language: "This  
8 refund check is being sent to you pursuant to a public  
9 consent order that Prospect Mortgage, LLC and other persons  
10 entered into with the New Hampshire Banking Department. You  
11 may find a copy of the public consent order on the Banking  
12 Department's website at  
13 [www.nh.gov/banking/orders/enforcement/index.htm](http://www.nh.gov/banking/orders/enforcement/index.htm) by searching  
14 for Docket #10-181. For further questions, please contact  
15 the New Hampshire Banking Department at (603) 271-3561;"

16 (2). Any verbal communications with consumers about the  
17 restitution shall be limited to the language found in the  
18 written correspondence, and the Prospect Mortgage shall refer  
19 the consumer to the Department for further information;

20 (3). Prospect Mortgage shall also forward to the Department  
21 copies of all cancelled checks or copies of cancelled check  
22 images. Such images may be forward in batches on a monthly  
23 basis by Prospect Mortgage;

24 (4). Prospect Mortgage shall make a second attempt to locate  
25 the consumer, if the address to which the restitution check

1 is mailed is no longer valid. Such attempt shall be  
2 documented and reported to the Department;

3 (5). Prospect Mortgage shall follow up at least once with any  
4 consumer who does not cash the check within three months of  
5 receipt. Such follow up shall be documented and reported to  
6 the Department; and

7 (6). If, after six months, a consumer has failed to cash or  
8 deposit the restitution check, Prospect Mortgage shall begin  
9 the process to escheat the funds to the New Hampshire State  
10 Treasurer's Abandoned Property division. Such process shall  
11 be documented and reported to the Department. The process of  
12 escheatment may begin prior to six months, if so approved or  
13 directed by the Department;

14 e. Prospect Mortgage shall pay to the Department \$55,000.00 in  
15 administrative penalties, payable contemporaneously with  
16 Respondents' signing of this Consent Order. The check shall be  
17 bank check or guaranteed funds and made payable to "State of New  
18 Hampshire."

19 43. This Consent Order may be revoked as to any Respondent and the  
20 Department may pursue any and all remedies available under law against  
21 such Respondent, if the Department later finds that such Respondent  
22 knowingly or willfully withheld information used and relied upon in  
23 this Consent Order.

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

1 45. This Consent Order shall become effective upon the date the  
2 Commissioner signs this Consent Order, providing the Department has  
3 confirmed the receipt of payments referenced in Paragraphs 40.d. and  
4 40.e. herein.

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

8 47. For any person or entity not a party to this Consent Order, this  
9 Consent Order does not create any private rights or remedies against  
10 the Respondents, create any liability for the Respondents or limit  
11 defenses of Respondents to any claims.

12 **WHEREFORE**, based on the foregoing, we have set our hands to this Consent  
13 Order, effective upon its execution by Ronald A. Wilbur, Bank Commissioner.

14  
15 Recommended this 18th day of July, 2012 by

16 \_\_\_\_\_  
/s/

17 Maryam Torben Desfosses, Hearings Examiner, Banking Department  
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1 Executed this 23rd day of July, 2012 by

2 \_\_\_\_\_  
/s/

3 John D. Socknat, Esq., on behalf of Prospect Mortgage, Prospect Holding,  
4 Prospect Management, Longo, Maranhas, Allard, Heidtmann, Bannister, Cabral,  
5 Priest, Cuozzo, Pierre, Weisman, Clark, Wentzell, Gannon, Zukowski,  
6 Adamaitis, Bolton, Ward and Scott.

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Executed this 23rd day of July, 2012 by

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/s/

W. John Funk, Esq., on behalf of Filler and Bergum.

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1 **SO ORDERED.**

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3 Glenn A. Perlow for

Dated: 7/24/12

4 Ronald A. Wilbur,

5 Bank Commissioner

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