

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-132
)
 4 State of New Hampshire Banking) Order To Show Cause
)
 5 Department,) Cease and Desist Order
)
 6 Petitioner,) Immediate Suspension
)
 7 and)
)
 8 Carteret Mortgage Corporation, Eric)
)
 9 Weinstein, and Albert L. Elder,)
)
 10 Respondents

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12 NOTICE OF ORDER

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

15 LEGAL AUTHORITY AND JURISDICTION

16 Pursuant to RSA 397-A:17, the Commissioner of the New Hampshire Banking
17 Department (hereinafter "the Department") may issue an Order to Show Cause
18 why a license should not be revoked. RSA 397-A:17 states that the
19 Department may issue such Order when a licensee engages in an unethical
20 business practice. RSA 397-A:21 states the Commissioner may impose penalties
of up to \$2,500 per violation of the chapter.

21 Pursuant to RSA 397-A:18 the banking department may issue a cease and
22 desist order against any licensee or person who it has reasonable cause to
23 believe is in violation of the provisions of this chapter or any rule or order
24 under this chapter.

25 Pursuant to RSA 397-A:18 the Commissioner may by order summarily postpone
or suspend any license or application pending final determination of any order

1 to show cause, or other order, or of any other proceeding under this section,
2 provided the commissioner finds that the public interest would be irreparably
3 harmed by delay in issuing such order

4 Pursuant to RSA 383:10-d the Commissioner shall investigate conduct that
5 is or may be an unfair or deceptive act or practice under RSA 358-A and exempt
6 under RSA 358-A:3, I or that may violate any of the provisions of Titles XXXV
7 and XXXVI and administrative rules adopted thereunder. The commissioner may
8 hold hearings relative to such conduct and may order restitution for a person
9 or persons adversely affected by such conduct. The Commissioner may utilize
10 all remedies available under the Act.

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

12 The above named respondents have the right to request a hearing on this
13 Order to Show Cause and Cease and Desist Order, as well as the right to be
14 represented by counsel. Any such request for a hearing shall be in writing,
15 and signed by the respondents or by the duly authorized agent of the above
16 named respondents, and shall be delivered either by hand or certified mail,
17 return receipt request, to the Banking Department, State of New Hampshire,
18 64B Old Suncook Road, Concord, NH 03301. Hearings will be conducted within 10
19 days of such request.

20 If respondents fail to request a hearing or respond to the orders
21 within 30 calendar days of receipt of these orders, respondent shall be
22 deemed in default, the penalties requested will be imposed, and the Cease and
23 Desist will be become permanent on the 31st day.

24 Pursuant to RSA 541-A the Department shall hold a hearing within ten
25 days on the issue of the immediate suspension. That hearing is Noticed under
separate order.

STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

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and administrative penalties shall be imposed upon the
defaulting Respondent.

SIGNED,

Dated: 6/5/07

/s/
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-132
)
 4 State of New Hampshire Banking) Staff Petition
)
 5 Department,)
)
 6 Petitioner,) June 5, 2007
)
 7 and)
)
 8 Carteret Mortgage Corporation, Eric)
)
 9 Weinstein, and Albert L. Elder,)
)
 10 Respondents

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12 STATEMENT OF ALLEGATIONS

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

- 15 1. Respondent Carteret Mortgage Corporation (CMC) is licensed as a mortgage
16 banker and has held a license with the Department since at least 2000.
- 17 2. CMC's principal office is currently located at 6211 Centerville Rd
18 Centerville, VA and they have one or more branch offices in New
19 Hampshire.
- 20 3. Respondent Eric Weinstein is an owner, Officer or other direct
21 controller of Respondent CMC and materially contributed or should have
22 prevented Respondent CMC's failure to abide by the Chapter as alleged
23 herein.
- 24 4. Respondent Albert L. Elder is an owner, Officer or other direct
25 controller of Respondent CMC and materially contributed to Respondent
CMC's failure to abide by the Chapter as alleged herein.

- 1 5. The Department initiated an examination of Respondent CMC on March 12,
2 2007 pursuant to RSA 397-A:12.
- 3 6. During the examination it became apparent that a certain area of
4 Respondent CMC's book and records were only accessible via a website
5 regulated by a certain password.
- 6 7. The examiner requested access on more than one occasion and was refused.
- 7 8. The examiner notified the Respondent CMC via Respondent Elder that
8 continued refusal to provide a password would be considered a failure to
9 facilitate the exam.
- 10 9. Respondent Elder on behalf of Respondent CMC again refused to grant
11 access to those books and records of the company.
- 12 10. In a previous exam Respondent CMC caused an undue delay of the
13 examination by refusing to provide requested materials to such a degree
14 that the exam had to be rescheduled.
- 15 11. In a previous exam Respondent CMC caused an undue delay of the
16 examination by refusing to provide revenue sheets, employee records,
17 work papers for the annual report and other financial information in a
18 timely manner and utterly refused to provide certain materials.

19 II. The staff of the Banking Department, State of New Hampshire alleges the
20 following issues of law:

- 21 1. The Banking Department ("Department"), has jurisdiction over the
22 licensing and regulation of persons engaged in first mortgage banker /
23 broker activities pursuant to NH RSA 397-A:3.
- 24 2. Pursuant to RSA 397-A:12 licensees are required to comply with
25 examination requests with or without prior notice. All books, papers,
files, files, related material, and records of assets shall be subject
to the Department's examination.

1 3. RSA 397-A:21 IV provides that any person who, either knowingly or
2 negligently, violates any provision of RSA 397-A, may upon hearing, and
3 in addition to any other penalty provided for by law, be subject to
4 suspension, revocation, or denial of any registration or license, or an
5 administrative fine not to exceed \$2,500, or both. Each of the acts
6 specified shall constitute a separate violation, and such
7 administrative action or fine may be imposed in addition to any
8 criminal penalties or civil liabilities imposed by New Hampshire
9 banking laws. Respondents are subject to revocation and/or
administrative fines for violations of RSA 397-A.

10 4. RSA 397-A:21 V provides that every person who directly or indirectly
11 controls a person liable under this section, every partner, principal
12 executive officer, or director of such person, who materially aids in
13 the acts constituting the violation, either knowingly or negligently,
14 may, upon notice and opportunity for hearing, and in addition to any
15 other penalty provided for by law, be subject to suspension,
16 revocation, or denial of an registration or license, including the
17 forfeiture of any application fee, or the imposition of an
18 administrative fine not to exceed \$2,500, or both. Each of the acts
19 specified shall constitute a separate violation, and such
20 administrative action or fine may be imposed in addition to any
21 criminal penalties or civil liabilities imposed by New Hampshire
22 banking laws. Respondents Eric Weinstein and Albert L. Elder are
subject to revocation and/or administrative fines for violations of RSA
397-A.

23 5. Pursuant to RSA 397-A:17 the commissioner may issue an order requiring a
24 person to whom any license has been granted or any person under the
25 commissioner's jurisdiction to show cause why the license should not be
revoked, suspended, or penalties imposed, or both, for violations of this

1 chapter. Respondent CMG is subject to license revocation for failing to
2 comply with examination requests pursuant to RSA 397-A:12.

3 6. Pursuant to RSA 397-A:18 the commissioner may by order summarily postpone
4 or suspend any license or application pending final determination of any
5 order to show cause, or other order, or of any other proceeding under
6 this section, provided the commissioner finds that the public interest
7 would be irreparably harmed by delay in issuing such order.

8 7. Pursuant to RSA 397-A:18 the banking department may issue a cease and
9 desist order against any licensee or person who it has reasonable cause
10 to believe is in violation of the provisions of this chapter or any rule
11 or order under this chapter.

12 **RELIEF REQUESTED**

13 The staff of the Banking Department requests the Commissioner take the
14 following action:

- 15 1. Find as fact the allegations contained in section I of the Statement of
16 Allegations of this petition.
- 17 2. Make conclusions of law relative to the allegations contained in section
18 II of the Statement of Allegations of this petition.
- 19 3. Assess fines and administrative penalties in accordance RSA 397-A:21, for
20 violations of the New Hampshire Banking Laws, in the number and amount
21 equal to the violations set forth in section I of the Statement of
22 Allegations of this petition. Respondents are each subject to an
23 administrative penalty of \$2,500 for each violation of the Chapter.
- 24 4. Order Respondent to show cause why their license should not be revoked.
- 25 5. Find that the public interest would be irreparably harmed by delay in
issuing such order and therefore issue an immediate suspension of their
license.
6. Order respondents to cease and desist from further violation of NH Law.

