

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-300
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Orion Mortgage Corp, and Christine)
)
 8 Tammaro,)
)
 9 Respondents)

10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions
12 of RSA Chapter 397-A and RSA Chapter 541-A.

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 397-A:17, the Banking Department of the State of New
15 Hampshire (hereinafter the "Department") has the authority to issue an order
16 to show cause why license revocation and penalties for violations of New
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, the Department has the authority to issue a
19 complaint setting forth charges whenever the Department is of the opinion
20 that the licensee or person over whom the Department has jurisdiction is
21 violating or has violated any provision of RSA Chapter 397-A, or any rule or
22 order thereunder.

23 Pursuant to RSA 397-A:20,IV the Commissioner may issue, amend, or
24 rescind such orders as are reasonably necessary to comply with the
25 provisions of the Chapter.

1 Pursuant to RSA 397-A:21, the Commissioner has the authority to
2 suspend, revoke or deny any license and to impose administrative penalties
3 of up to \$2,500.00 for each violation of New Hampshire banking law and
4 rules.

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

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

13 The above named Respondents have the right to request a hearing on
14 this Order to Show Cause, as well as the right to be represented by counsel
15 at each Respondent's own expense. All hearings shall comply with RSA Chapter
16 541-A. Any such request for a hearing shall be in writing, and signed by the
17 Respondent or the duly authorized agent of the above named Respondent, and
18 shall be delivered either by hand or certified mail, return receipt
19 requested, to the Banking Department, State of New Hampshire, 53 Regional
20 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
21 10 days of the Department's receipt of the request. If the Respondent fails
22 to appear at the hearing after being duly notified, such person shall be
23 deemed in default, and the proceeding may be determined against the Respondent
24 upon consideration of the Order to Show Cause, the allegations of which may be
25 deemed to be true.

1 \$2,950.00 examination fee for the July 16, 2007 examination
2 should not be paid to the Department;

3 4. The above named Respondents shall show cause why, in addition
4 to the penalties listed in Paragraphs 1 through 3 above, the
5 \$1,965.00 examination fee for the July 9, 2008 examination
6 should not be paid to the Department;

7 5. The above named Respondents shall show cause why, in addition
8 to the penalties listed in Paragraphs 1 through 4 above,
9 statutory penalties of \$2,500.00 should not be imposed for
10 failing to file the 2007 annual report;

11 6. Respondents shall be jointly and severally liable for the
12 above amounts alleged in Paragraphs 1 through 5 above;

13 7. The above named Respondents shall show cause why, in addition
14 to the penalties listed in Paragraphs 1 through 6 above,
15 Respondent Orion's license should not be revoked.

16 It is hereby further ORDERED that:

17 8. Along with the administrative penalties listed for the above
18 named Respondents, the outstanding sum of \$7,415.00 shall be
19 immediately paid; and

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-300
)
 3 State of New Hampshire Banking)
)
 4 Department,) Staff Petition
)
 5 Petitioner,) July 10, 2009
)
 6 and)
)
 7 Orion Mortgage Corp, and Christine)
)
 8 Tamarro,)
)
 9 Respondents)

10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent Orion Mortgage Corp (hereinafter "Respondent Orion")
 15 was licensed as a Mortgage Broker from at least December 19, 2002
 16 until its license expired on December 31, 2007.
- 17 2. Respondent Christine Tamarro (hereinafter "Respondent Tamarro"),
 18 as of 2005, was the 100% owner and President of Respondent Orion,
 19 when licensed by the Department.

20 2007 Examination

21 Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

22 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to

23 Department Inquiries (1 Count):

- 24 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
 25 herein.

1 4. The Department conducted an examination of Respondent Orion on
2 July 16, 2007, while Respondent Orion was still licensed with the
3 Department.

4 5. On November 8, 2007, the Department mailed the report of
5 examination and invoice for \$2,950.00 to Respondent Orion, via
6 U.S. Certified Mail Return Receipt requested, which the
7 Respondents received on November 13, 2007.

8 6. Respondents failed to respond to the November 8, 2007 Department
9 correspondence.

10 7. The Department, via U.S. mail, mailed a second notice on December
11 19, 2007 and a third notice on February 5, 2008.

12 8. The above named Respondents did not respond to any of the notices
13 for payment of the \$2,950.00 invoice.

14 9. To date, the above named Respondents still owe the \$2,950.00
15 examination fee for the 5.9 day examination.

16 **2008 Examination**

17 **Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):**

18 **Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to**

19 **Department Inquiries (1 Count):**

20 10. Paragraphs 1 through 9 are hereby realleged as fully set forth
21 herein.

22 11. The Department conducted a special examination of Respondent Orion
23 on July 9, 2008 because Respondent Orion had abandoned its
24 records. The scope of the examination concerned the safekeeping
25 of consumers' non-public, personal information.

1 12. Therefore, the July 9, 2008 examination involved activities and
2 loans during the time Respondent Orion was licensed with the
3 Department.

4 13. On September 10, 2008, the Department mailed the report of
5 examination and invoice for \$1,965.00 to Respondent Orion, via
6 U.S. Certified Mail Return Receipt requested, which the
7 Respondents received on September 15, 2009.

8 14. Respondents failed to respond to the September 10, 2008 Department
9 correspondence.

10 15. The Department, via U.S. mail, mailed a second notice on October
11 23, 2008 and a third notice on December 5, 2008.

12 16. The above named Respondents did not respond to any of the notices
13 for payment of the \$1,965.00 invoice.

14 17. To date, the above named Respondents still owe the \$1,965.00
15 examination fee for the 3.93 day examination.

16 **Violation of RSA 397-A:13, I Failure to File Annual Report (1 Count):**

17 18. Paragraphs 1 through 17 are hereby realleged as fully set forth
18 herein.

19 19. Respondent Orion was licensed in 2007, and thus subject to the
20 filing of a 2007 annual report with the Department.

21 20. The 2007 annual report was due on or before February 1, 2008.

22 21. On January 18, 2008, the Department mailed a certified letter to
23 Respondent Orion requesting that it obtain and prepare the
24 surrender/expiration forms since its license had expired on
25 December 31, 2007.

1 22. On February 5, 2008, the Department mailed a reminder letter that
2 the annual report was due on February 1, 2008.

3 23. On February 19, 2008, the Department sent a certified letter
4 requesting the 2007 annual report, surrender documents and
5 publication notice.

6 24. To date, Respondent Orion has failed to file the 2007 annual
7 report.

8 25. To date, the penalty for failing to file an annual report has
9 accrued to the cap of \$2,500.00 (\$25.00 per day; maximum
10 \$2,500.00).

11 **II. ISSUES OF LAW**

12 The staff of the Department alleges the following issues of law:

13 1. The Department realleges the above stated facts in Paragraphs 1
14 through 25 as fully set forth herein.

15 2. The Department has jurisdiction over the licensing and regulation
16 of persons engaged in mortgage banker or broker activities
17 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

18 3. RSA 397-A:12,V provides that the expense of such examination shall
19 be chargeable to and paid by the licensee. Each of the above
20 named Respondents violated this provision on at least two
21 occasions as alleged above. To date, the above named Respondents
22 have failed to pay the \$2,950.00 examination invoice and the
23 \$1,965.00 examination invoice.

24 4. RSA 397-A:13,I provides that a licensee shall file its annual
25 report on or before February 1 each year concerning operations for

1 the preceding year or license period ending December 31. Each of
2 the above named Respondents violated this provision on at least
3 one occasion as alleged above. The fine has accrued to \$2,500.00
4 as calculated pursuant to RSA 397-A:13,IV below.

5 5. RSA 397-A:13,IV provides that any mortgage banker or broker
6 failing to file the annual report or financial statement within
7 the time prescribed may be required to pay to the Department a
8 penalty of \$25.00 per calendar day for each day the annual report
9 is overdue, for a maximum of \$2,500.00. Each of the above named
10 Respondents failed to file the annual report, which has accrued
11 the maximum of \$2,500.00.

12 6. RSA 397-A:13,VI provides that any officer, owner, manager or agent
13 of any licensee shall reply promptly in writing, or other
14 designated form, to any written inquiry from the Department.
15 Respondent Tamaro violated this provision on at least two
16 occasions as alleged above.

17 7. RSA 397-A:17,I provides in part that the Commissioner may by
18 order, upon due notice and opportunity for hearing, assess
19 penalties or deny, suspend, or revoke a license or application if
20 it is in the public interest and the applicant, respondent, or
21 licensee, any partner, officer, member, or director, any person
22 occupying a similar status or performing similar functions, or any
23 person directly or indirectly controlling the applicant,
24 respondent, or licensee: (a) has violated any provision of RSA
25 Chapter 397-A or rules thereunder, or (b) has not met the

standards established in RSA Chapter 397-A.

8. RSA 397-A:18,I provides that the Department may issue a complaint setting forth charges whenever the Department is of the opinion that the licensee or person over whom the Department has jurisdiction, has violated any provision of RSA 397-A or orders thereunder.

9. RSA 397-A:21,IV provides that any person who, either knowingly or negligently, violates any provision of Chapter 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500.00, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire Banking laws.

10. RSA 397-A:21,V provides that every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of

1 any application fee, or the imposition of an administrative fine
2 not to exceed \$2,500, or both. Each of the acts specified shall
3 constitute a separate violation, and such administrative action or
4 fine may be imposed in addition to any criminal or civil penalties
5 imposed.

6 **III. RELIEF REQUESTED**

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

- 9 1. Find as fact the allegations contained in section I of this Staff
10 Petition;
- 11 2. Make conclusions of law relative to the allegations contained in
12 section II of this Staff Petition;
- 13 3. Pursuant to RSA 397-A:17, order each of the above named
14 Respondents to show cause why their license should not be revoked;
- 15 4. Assess fines and administrative penalties in accordance with RSA
16 397-A:21, for violations of Chapter 397-A, in the number and
17 amount equal to the violations set forth in section II of this
18 Staff Petition; and
- 19 5. Take such other administrative and legal actions as necessary for
20 enforcement of the New Hampshire Banking Laws, the protection of
21 New Hampshire citizens, and to provide other equitable relief.

