

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-133
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Imperial Lending, LLC (d/b/a Imperial)
)
 8 Wholesale Lending), Amy Jaeger, Larry)
)
 9 Jaeger, and Mike Stanki,)
)
 10 Respondents)

11 NOTICE OF ORDER

12 This Order to Show Cause commences an adjudicative proceeding under
13 the provisions of RSA Chapter 397-A and RSA Chapter 541-A.

14 LEGAL AUTHORITY AND JURISDICTION

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

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

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

1 provisions of the Chapter.

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

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

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

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

1 deemed to be true.

2 If any of the above named Respondents fails to request a hearing within
3 30 calendar days of receipt of such order or reach a formal written and
4 executed settlement with the Department within that time frame, then such
5 person shall likewise be deemed in default, and the orders shall, on the
6 thirty-first day, become permanent, and shall remain in full force and effect
7 until and unless later modified or vacated by the Commissioner, for good cause
8 shown.

9 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

10 The Staff Petition dated February 1, 2010 (a copy of which is attached
11 hereto) is incorporated by reference hereto.

12 **ORDER**

13 WHEREAS, finding it necessary and appropriate and in the public
14 interest, and consistent with the intent and purposes of the New Hampshire
15 banking laws; and

16 WHEREAS, finding that the allegations contained in the Staff Petition,
17 if proved true and correct, form the legal basis of the relief requested;

18 It is hereby ORDERED, that:

- 19 1. Respondent Imperial Lending, LLC (d/b/a Imperial Wholesale
20 Lending) ("Respondent Imperial") shall show cause why
21 penalties in the amount of \$17,500.00 should not be imposed
22 against it;
- 23 2. Respondent Amy Jaeger ("Respondent A. Jaeger") shall show
24 cause why penalties in the amount of \$20,000.00 should not be
25 imposed against her;

1 3. Respondent Larry Jaeger ("Respondent L. Jaeger") shall show
2 cause why penalties in the amount of \$20,000.00 should not be
3 imposed against him;

4 4. Respondent Mike Stanki ("Respondent Stanki") shall show cause
5 why penalties in the amount of \$17,500.00 should not be
6 imposed against him;

7 5. The above named Respondents shall show cause why, in addition
8 to the penalties listed in Paragraphs 1 through 4 above, the
9 \$850.00 examination fee for the July 2007 examination should
10 not be paid to the Department;

11 6. The above named Respondents shall show cause why, in addition
12 to the penalties listed in Paragraphs 1 through 5 above, the
13 accrued fine of \$3,500.00 for failing to timely provide
14 examination materials should not be paid to the Department;

15 7. The above named Respondents shall show cause why, in addition
16 to the penalties listed in Paragraphs 1 through 6 above, a
17 statutory penalty of \$2,500.00 should not be imposed for
18 failing to file the 2007 annual report;

19 8. Respondents shall be jointly and severally liable for the
20 above amounts alleged in Paragraphs 1 through 7 above;

21 9. The above named Respondents shall show cause why, in addition
22 to the penalties listed in Paragraphs 1 through 8 above,
23 Respondent Imperial's license should not be revoked.

24 It is hereby further ORDERED that:

25 10. Along with the administrative penalties listed for the above

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-133
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) February 1, 2010
6 and)
7 Imperial Lending, LLC (d/b/a Imperial)
8 Wholesale Lending), Amy Jaeger, Larry)
9 Jaeger, and Mike Stanki,)
10 Respondents)

11 I. STATEMENT OF ALLEGATIONS

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

14 Facts Common on All Counts:

- 15 1. Respondent Imperial Lending, LLC (d/b/a Imperial Wholesale
16 Lending) (hereinafter "Respondent Imperial") was licensed as a
17 Mortgage Banker from at least July 21, 2006 until it surrendered
18 its license on December 31, 2007.
- 19 2. Respondent Amy Jaeger (hereinafter "Respondent A. Jaeger") was
20 the 43.75% owner and Executive Vice President of Respondent
21 Imperial, when licensed by the Department.
- 22 3. Respondent Larry Jaeger (hereinafter "Respondent L. Jaeger") was
23 the 43.75% owner and President of Respondent Imperial, when
24 licensed by the Department.
- 25 4. Respondent Mike Stanki (hereinafter "Respondent Stanki") was the

1 12.5% owner and Member of Respondent Imperial, when licensed by
2 the Department.

3 Violation of RSA 397-A:10-a,I(a) Failure to Properly Surrender License (1
4 Count):

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

6 Violation of RSA 397-A:10,IV Failure to Update Information on File with
7 Commissioner (1 Count):

8 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to
9 Department Inquiries (1 Count) (only as to Respondents A. Jaeger and L.
10 Jaeger):

11 5. Paragraphs 1 through 4 are hereby realleged as fully set forth
12 herein.

13 6. The 2007 Annual Report was due on or before February 1, 2008.

14 7. On December 12, 2007, Respondents faxed a copy of the surrender
15 form and 2007 license to the Department.

16 8. On December 14, 2007, the Department sent correspondence, via U.S.
17 Mail, advising the above named Respondents to publish notice of
18 closing and to remind Respondents the annual report was due no
19 later than February 1, 2008.

20 9. On February 5, 2008, the Department mailed a letter, via U.S.
21 Certified Mail Return Receipt requested, regarding the annual
22 report being due on February 1, 2008. Respondents received this
23 correspondence on February 11, 2008.

24 10. To date, the above named Respondents have failed to respond to the
25 Department's correspondence and have failed to properly file

1 surrender documents.

2 11. To date, the accrued penalty for failure to file an annual report
3 has reached the maximum cap of \$2,500.00 (\$25.00 per day/maximum
4 of \$2,500.00).

5 **Violation of RSA 397-A:12,VII Failure to Facilitate Exam (1 Count):**

6 **Violation of RSA 397-A:12,III Examinations: Failure to Timely Provide**

7 **Requested Files (1 Count):**

8 **Violation of RSA 397-A:11,II Record Keeping: Failure to Timely Provide**

9 **Requested Files (1 Count):**

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

11 12. Paragraphs 1 through 11 are hereby realleged as fully set forth
12 herein.

13 13. The Department conducted an examination of Respondent Imperial on
14 July 23, 2007, while Respondent Imperial was still licensed with
15 the Department.

16 14. The Department sent Respondents the Notice of Examination and
17 invoice for \$850.00 via U.S. Certified Mail Return Receipt
18 requested on March 18, 2008, which Respondents received March 27,
19 2008.

20 15. Respondents submitted a general correspondence to the Department
21 dated March 27, 2008 informing the Department it was closing its
22 doors.

23 16. To date, the above named Respondents still owe the \$850.00
24 examination fee for the 1.7 day examination.

25 17. Further, Respondents submitted the examination materials on

1 December 27, 2007 (70 days late), which generated a fine of
2 \$3,500.00 (\$50/day x 70 days).

3 18. An invoice was generated and mailed on or about January 18, 2008
4 and again on March 5, 2008. Respondents submitted correspondence
5 to the Department on April 1, 2008 indicating it has no assets or
6 cash and therefore cannot pay its bills.

7 19. To date, Respondents still owe \$3,500.00 for the late filing of
8 examination materials.

9 **II. ISSUES OF LAW**

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

11 1. The Department realleges the above stated facts in Paragraphs 1
12 through 19 as fully set forth herein.

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

16 3. RSA 397-A:10,IV provides that persons licensed under RSA Chapter
17 397-A are under a continuing obligation to update information on
18 file with the Commissioner. Each of the above named Respondents
19 failed to update the Commissioner on at least one occasion as
20 alleged above.

21 4. RSA 397-A:10-a,I(a) provides that a licensee who ceases to engage
22 in the business of a mortgage banker or mortgage broker at any
23 time during a license year for any cause shall surrender such
24 license in person or by registered or certified mail to the
25 Commissioner within 15 calendar days of such cessation, and shall

1 cause to be published in a newspaper of general circulation in the
2 licensee's market area a notice to such effect. Each of the above
3 named Respondents violated this statute on at least one occasion
4 as alleged above.

5 5. RSA 397-A:11,II provides that requested files and business records
6 must be received by the Department within 21 calendar days of
7 request. The licensee will be subject to a \$50.00 a day fine
8 every day after the 21-day period the records are not produced.
9 Respondents owe \$3,500.00 for submitting materials 70 days late.
10 Each of the above named Respondents violated this statute on at
11 least one occasion as alleged above.

12 6. RSA 397-A:12,III requires licensees to comply with examination
13 requests with or without prior notice. All books, papers, files,
14 related material, and records of assets shall be subject to the
15 Department's examination. Each of the above named Respondents
16 violated this statute on at least one occasion as alleged above.

17 7. RSA 397-A:12,V provides that the expense of such examination shall
18 be chargeable to and paid by the licensee. Each of the above
19 named Respondents violated this provision on at least one occasion
20 as alleged above. To date, the above named Respondents have
21 failed to pay the \$850.00 examination invoice.

22 8. RSA 397-A:12,VII provides that every person being examined, and
23 all of the officers, directors, employees, agents, and
24 representatives of such person shall make freely available to the
25 Commissioner or his or her examiners, the accounts, records,

1 documents, files, information, assets, and matters in their
2 possession or control relating to the subject of the examination
3 and shall facilitate the examination. Each of the above named
4 Respondents violated this statute on at least one occasion as
5 alleged above.

6 9. RSA 397-A:13,I provides that a licensee shall file its annual
7 report on or before February 1 each year concerning operations for
8 the preceding year or license period ending December 31. Each of
9 the above named Respondents violated this provision on at least
10 one occasion as alleged above. The maximum fine for this specific
11 violation has reached \$2,500.00 (\$25.00 per day; maximum
12 \$2,500.00) since no annual report was filed for 2007.

13 10. RSA 397-A:13,VI provides that any officer, owner, manager or
14 agent of any licensee shall reply promptly in writing, or other
15 designated form, to any written inquiry from the Department.
16 Respondents A. Jaeger and Respondent L. Jaeger each have violated
17 this provision on at least one (1) occasion as alleged above.

18 11. RSA 397-A:17,I provides in part that the Commissioner may by
19 order, upon due notice and opportunity for hearing, assess
20 penalties or deny, suspend, or revoke a license or application if
21 it is in the public interest and the applicant, respondent, or
22 licensee, any partner, officer, member, or director, any person
23 occupying a similar status or performing similar functions, or
24 any person directly or indirectly controlling the applicant,
25 respondent, or licensee: (a) has violated any provision of RSA

1 Chapter 397-A or rules thereunder, or (b) has not met the
2 standards established in RSA Chapter 397-A.

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

8 13. RSA 397-A:21,IV provides that any person who, either knowingly or
9 negligently, violates any provision of RSA Chapter 397-A, may
10 upon hearing, and in addition to any other penalty provided for
11 by law, be subject to an administrative fine not to exceed
12 \$2,500.00, or both. Each of the acts specified shall constitute
13 a separate violation, and such administrative action or fine may
14 be imposed in addition to any criminal penalties or civil
15 liabilities imposed by New Hampshire Banking laws.

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

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

7 **III. RELIEF REQUESTED**

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

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

