

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-260
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Coast to Coast Mortgage and Funding LLC)
)
 8 (d/b/a CTC Mortgage and Funding), and)
)
 9 Peter V. Tedeschi,)
)
 10 Respondents)

11 NOTICE OF ORDER

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

14 LEGAL AUTHORITY AND JURISDICTION

15 Pursuant to RSA 397-A:17, the Banking Department of the State of New
16 Hampshire (hereinafter the "Department") has the authority to issue an order
17 to show cause why license revocation and penalties for violations of New
18 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, 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 358-A and
8 exempt under RSA 358-A:3,I or that may violate any of the provisions of
9 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
10 Commissioner may hold hearings relative to such conduct and may order
11 restitution for a person or persons adversely affected by such conduct. The
12 Commissioner may utilize all remedies available under the Consumer
13 Protection Act.

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

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

1 upon consideration of the Order to Show Cause, the allegations of which may be
2 deemed to be true.

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

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

10 The Staff Petition dated January 22, 2009 (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 Coast to Coast Mortgage LLC (d/b/a CTC Mortgage
20 and Funding) ("Respondent Coast to Coast") shall show cause
21 why penalties in the amount of \$17,500.00 should not be
22 imposed against it;
- 23 2. Respondent Peter V. Tedeschi ("Respondent Tedeschi") shall
24 show cause why penalties in the amount of \$20,000.00 should
25 not be imposed against him;

1 3. The above named Respondents shall show cause why, in addition
2 to the penalties listed in Paragraphs 1 through 2 above, the
3 accrued fine of \$23,400.00 (and still accruing) for the
4 failure to file examination materials should not be paid to
5 the Department;

6 4. The above named Respondents shall show cause why, in addition
7 to the penalties listed in Paragraphs 1 through 3 above, the
8 \$500.00 examination fee should not be paid to the Department;

9 5. The above named Respondents shall show cause why, in addition
10 to the penalties listed in Paragraphs 1 through 4 above, the
11 fine for \$2,500.00 for the failure to file the 2007 financial
12 statement should not be paid to the Department;

13 6. The above named Respondents shall show cause why, in addition
14 to the penalties listed in Paragraphs 1 through 5 above, the
15 fine for \$2,500.00 for the failure to file the 2007 annual
16 report should not be paid to the Department;

17 7. The above named Respondents shall be jointly and severally
18 liable for the above amounts alleged in Paragraphs 1 through
19 6 above;

20 8. The above named Respondents shall show cause why, in addition
21 to the penalties listed in Paragraphs 1 through 7 above,
22 Respondent Coast to Coast's license should not be revoked.

23 It is hereby further ORDERED that:

24 9. Along with the administrative penalties listed for the above
25 named Respondents, the outstanding sum of \$28,900.00 shall be

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-260
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) January 22, 2009
6 and)
7 Coast to Coast Mortgage and Funding LLC)
8 (d/b/a CTC Mortgage and Funding), and)
9 Peter V. Tedeschi,)
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 Coast to Coast Mortgage and Funding LLC (d/b/a CTC
16 Mortgage and Funding) (hereinafter "Respondent Coast to Coast")
17 was licensed as a Mortgage Broker from at least January 1, 2004
18 until its license expired on December 31, 2008.
- 19 2. Respondent Peter V. Tedeschi (hereinafter "Respondent Tedeschi")
20 was the Member of Respondent Coast to Coast, when licensed by
21 the Department.

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

2 Violation of RSA 397-A:12,III Examinations: Failure to Provide Requested
3 Files (1 Count):

4 Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested
5 Files (1 Count):

6 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
7 herein.

8 4. The Department conducted an examination of Respondent Coast to
9 Coast on October 15, 2007, while Respondent Coast to Coast was
10 still licensed with the Department.

11 5. On September 17, 2007, the Department sent the notice of
12 examination to Respondent Coast to Coast via U.S. Certified Mail
13 Return Receipt requested, which Respondents received on September
14 20, 2007.

15 6. The examination materials were due 21 days after Respondents'
16 receipt of the notice of examination, which would have been
17 October 11, 2007.

18 7. The above named Respondents acknowledged the notice of examination
19 via email on September 25, 2007 and included some information
20 within the body of the email itself.

21 8. With no further response or receipt of examination materials, on
22 December 21, 2007 the Department emailed a second notice to the
23 above named Respondents.

24 9. The December 21, 2007 Department email resulted in multiple emails
25 between Respondent Coast to Coast and a Department Examiner.

1 10. On December 27, 2007, Respondent Coast to Coast then faxed over
2 the same information it submitted via email on September 25,
3 2007.

4 11. The Department still has not received Respondent Coast to Coast's
5 examination material, aside from the numbers of loans closed in
6 New Hampshire.

7 12. To date, fines have accrued for failing to provide the requested
8 files. The current fine to date is \$23,400.00 (\$50.00 a day x
9 468 days) and is still accruing.

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

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

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

15 14. The Department conducted an examination of Respondent Coast to
16 Coast on October 15, 2007, while Respondent Coast to Coast was
17 still licensed with the Department.

18 15. On February 14, 2008, the Department mailed the invoice for
19 \$500.00 to Respondent Coast to Coast, via U.S. Certified Mail
20 Return Receipt requested, which the post office returned to the
21 Department on March 12, 2008 as "return to sender, unclaimed,
22 unable to forward".

23 16. On March 14, 2008, the Department mailed the invoice for \$500.00
24 to Respondent Coast to Coast, via UPS, which was returned to the
25 Department on or about March 26, 2008 as "received moved".

1 17. The Department, via U.S. mail, mailed a second notice on March 14,
2 2008, which was returned to the Department on March 31, 2008 as
3 "moved, left no address".

4 18. The Department, via U.S. mail, mailed a third notice on April 16,
5 2008.

6 19. To date, the above named Respondents still owe the \$500.00
7 examination fee for the one day examination.

8 20. To date, Respondents have failed to update the Commissioner on a
9 new address.

10 **Violation of RSA 397-A:13,II Failure to File Financial Statement (1 Count):**

11 21. Paragraphs 1 through 20 are hereby realleged as fully set forth
12 herein.

13 22. The Respondents' fiscal year end was December 31, 2007 and the
14 financial statement was due on or before March 31, 2008.

15 23. Respondent Coast to Coast was licensed on the date the financial
16 statement filing was due the Department.

17 24. The Department sent Respondent Coast to Coast a reminder letter on
18 January 24, 2008, via U.S. mail, notifying the Respondents of the
19 upcoming filing requirement.

20 25. On April 9, 2008, the Department sent another reminder letter that
21 the filing was not received and that a fine had begun to accrue.

22 26. On May 8, 2008, via U.S. Certified Mail Return Receipt requested,
23 the Department sent Respondent Coast to Coast a final notice
24 advising the company that the financial statement had not been
25 received by the Department and a legal referral would be made if

1 not received by a specified date. The post office returned the
2 letter on May 19, 2008 as "moved left no address, unable to
3 forward, return to sender".

4 27. The above named Respondents neither responded to the reminder
5 letters nor submitted the 2007 financial statement.

6 28. To date, the accrued penalty for failure to file a financial
7 statement has reached the maximum cap of \$2,500.00 (\$25.00 a day,
8 maximum \$2,500.00).

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

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

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

12 29. Paragraphs 1 through 28 are hereby realleged as fully set forth
13 herein.

14 30. Respondent Coast to Coast was licensed in 2007, and thus subject
15 to the filing of a 2007 annual report with the Department.

16 31. The 2007 annual report was due on or before February 1, 2008.

17 32. On February 5, 2008, the Department mailed, via U.S. Certified
18 Mail Return Receipt requested, a reminder letter that the annual
19 report was due on February 1, 2008, which Respondents received
20 on February 8, 2008.

21 33. The above named Respondents failed to respond to the February 5,
22 2008 Department correspondence.

23 34. On February 21, 2008, the Department mailed, via U.S. Certified
24 Mail Return Receipt requested, another reminder letter that the
25 annual report was due on February 1, 2008, which the post office

1 returned to the Department on March 12, 2008 as "unclaimed".

2 35. On May 8, 2008, the Department's legal division sent a third
3 letter, via U.S. Certified Mail Return Receipt requested, which
4 the post office returned to the Department on May 19, 2008.

5 36. To date, Respondent Coast to Coast has failed to file the 2007
6 annual report.

7 37. To date, the penalty for failing to file an annual report has
8 accrued to the cap of \$2,500.00.

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 37 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:11,II provides that requested files and business records
22 must be received by the Department within 21 calendar days of
23 request. The licensee will be subject to a \$50.00 a day fine
24 every day after the 21-day period the records are not produced.
25 Each of the above named Respondents violated this provision on at

1 least one occasion as alleged above. Respondents currently owe
2 \$23,400.00 to date and the fine is still accruing.

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

8 6. RSA 397-A:12,V provides that the expense of such examination shall
9 be chargeable to and paid by the licensee. Each of the above
10 named Respondents violated this provision on at least one
11 occasion as alleged above. To date, the above named Respondents
12 have failed to pay the \$500.00 examination invoice.

13 7. RSA 397-A:12,VII provides that every person being examined, and
14 all of the officers, directors, employees, agents, and
15 representatives of such person shall make freely available to the
16 Commissioner or his or her examiners, the accounts, records,
17 documents, files, information, assets, and matters in their
18 possession or control relating to the subject of the examination
19 and shall facilitate the examination. Each of the above named
20 Respondents violated this statute on at least one occasion as
21 alleged above.

22 8. RSA 397-A:13,I provides that a licensee shall file its annual
23 report on or before February 1 each year concerning operations
24 for the preceding year or license period ending December 31.
25 Each of the above named Respondents violated this provision on at

1 least one occasion as alleged above. The amount of the fine is
2 calculated under RSA 397-A:13,IV below.

3 9. RSA 397-A:13,II provides that each licensee shall file a financial
4 statement within 90 days from the date of its fiscal year end.
5 Each of the above named Respondents violated this statute on at
6 least one occasion as alleged above. The maximum fine has
7 accrued to \$2,500.00 as calculated by RSA 397-A:13,IV below.

8 10. RSA 397-A:13,IV provides that any mortgage banker or mortgage
9 broker failing to file either the annual report or the financial
10 statement required by RSA Chapter 397-A within the time
11 prescribed may be required to pay to the Department a penalty of
12 \$25.00 for each calendar day the annual report or financial
13 statement is overdue, up to a maximum penalty of \$2,500.00 per
14 report or statement. The above named Respondents failed to file a
15 financial statement, the fine of which has accrued to the maximum
16 cap of \$2,500.00.

17 11. RSA 397-A:13,VI provides that any officer, owner, manager or
18 agent of any licensee shall reply promptly in writing, or other
19 designated form, to any written inquiry from the Department.
20 Respondent Tedeschi violated this provision on at least one
21 occasion as alleged above.

22 12. RSA 397-A:17,I provides in part that the Commissioner may by
23 order, upon due notice and opportunity for hearing, asses
24 penalties or deny, suspend, or revoke a license or application if
25 it is in the public interest and the applicant, respondent, or

1 licensee, any partner, officer, member, or director, any person
2 occupying a similar status or performing similar functions, or
3 any person directly or indirectly controlling the applicant,
4 respondent, or licensee: (a) has violated any provision of RSA
5 Chapter 397-A or rules thereunder, or (b) has not met the
6 standards established in RSA Chapter 397-A.

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

12 14. RSA 397-A:21,IV provides that any person who, either knowingly or
13 negligently, violates any provision of RSA Chapter 397-A, may
14 upon hearing, and in addition to any other penalty provided for
15 by law, be subject to an administrative fine not to exceed
16 \$2,500.00, or both. Each of the acts specified shall constitute
17 a separate violation, and such administrative action or fine may
18 be imposed in addition to any criminal penalties or civil
19 liabilities imposed by New Hampshire Banking laws.

20 15. RSA 397-A:21,V provides that every person who directly or
21 indirectly controls a person liable under this section, every
22 partner, principal executive officer or director of such person,
23 every person occupying a similar status or performing a similar
24 function, every employee of such person who materially aids in the
25 act constituting the violation, and every licensee or person acting

1 as a common law agent who materially aids in the acts constituting
2 the violation, either knowingly or negligently, may, upon notice
3 and opportunity for hearing, and in addition to any other penalty
4 provided for by law, be subject to suspension, revocation, or
5 denial of any registration or license, including the forfeiture of
6 any application fee, or the imposition of an administrative fine
7 not to exceed \$2,500, or both. Each of the acts specified shall
8 constitute a separate violation, and such administrative action or
9 fine may be imposed in addition to any criminal or civil penalties
10 imposed.

11 **III. RELIEF REQUESTED**

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

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

