

1 State of New Hampshire Banking Department

)Case No.: 08-311

2 In re the Matter of:)

3 State of New Hampshire Banking)

4 Department,)

5 Petitioner,)

6 and)

7 Northern Financial Associates Inc)

8 (d/b/a Northern Financial Association)

9 of Massachusetts), Lawrence F.)

10 McLaughlin, and John A. Mercauto,)

11 Respondents)

12 NOTICE OF ORDER

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

15 LEGAL AUTHORITY AND JURISDICTION

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

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

25 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or

1 rescind such orders as are reasonably necessary to comply with the
2 provisions of the Chapter.

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

7 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
8 that is or may be an unfair or deceptive act or practice under RSA 358-A and
9 exempt under RSA 358-A:3,I or that may violate any of the provisions of
10 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
11 Commissioner may hold hearings relative to such conduct and may order
12 restitution for a person or persons adversely affected by such 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 541-A.
17 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 the Respondent fails
23 to appear at the hearing after being duly notified, such person shall be
24 deemed in default, and the proceeding may be determined against the Respondent
25 upon 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 June 5, 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 Northern Financial Associates Inc (d/b/a Northern
20 Financial Association of Massachusetts) ("Respondent Northern
21 Financial") shall show cause why penalties in the amount of
22 \$7,500.00 should not be imposed against it;
- 23 2. Respondent Lawrence F. McLaughlin ("Respondent McLaughlin")
24 shall show cause why penalties in the amount of \$12,500.00
25 should not be imposed against him;

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-311
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) June 5, 2009
6 and)
7 Northern Financial Associates Inc)
8 (d/b/a Northern Financial Association)
9 of Massachusetts), Lawrence F.)
10 McLaughlin, and John A. Mercauto,)
11 Respondents)

12 I. STATEMENT OF ALLEGATIONS

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

15 Facts Common on All Counts:

- 16 1. Respondent Northern Financial Associates Inc (d/b/a Northern
17 Financial Association of Massachusetts) (hereinafter "Northern
18 Financial") was licensed as a Mortgage Broker from at least 2000
19 until its license expired on December 31, 2008.
- 20 2. Respondent Lawrence F. McLaughlin (hereinafter "Respondent
21 McLaughlin") was, as of January 10, 2008, the 100% owner and
22 President of Respondent Northern Financial, when licensed by the
23 Department.
- 24 3. Respondent John A. Mercauto (hereinafter "Respondent
25 McLaughlin") was, prior to January 10, 2008, the 50% owner and

1 President of Respondent Northern Financial, when licensed by the
2 Department.

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

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

5 Department Inquiries (1 Count):

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

8 5. The Department conducted an examination of Respondent Northern
9 Financial on December 24, 2007, while Respondent Northern
10 Financial was still licensed with the Department.

11 6. On March 18, 2008, the Department mailed the report of examination
12 and invoice for \$500.00 to Respondent Northern Financial, via
13 U.S. Certified Mail Return Receipt requested, which Respondents
14 received on March 20, 2008.

15 7. The above named Respondents failed to respond to the March 18,
16 2008 correspondence from the Department.

17 8. The Department, via U.S. mail, mailed a second notice on April 29,
18 2008 and a third notice on April 29, 2008.

19 9. The above named Respondents did not respond to any of the three
20 notices for payment of the \$500.00 invoice.

21 10. To date, the above named Respondents still owe the \$500.00
22 examination fee for the one day examination.

1 Violation of RSA 397-A:5,III(c) Failure to Post Continuous Surety Bond (1
2 Count):

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

5 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to
6 Department Inquiries (1 Count):

7 11. Paragraphs 1 through 10 are hereby realleged as fully set forth
8 herein.

9 12. On January 22, 2008, the Department was notified by Travelers of a
10 surety bond cancellation to be effective February 11, 2008.

11 13. On February 5, 2008, the Department sent the above named
12 Respondents a notification via U.S. Certified Mail Return Receipt
13 Requested that the bond must be reinstated or replaced
14 immediately and the originally-executed bond sent to the
15 Department.

16 14. Respondent McLaughlin signed for the February 5, 2008 letter on
17 February 11, 2008.

18 15. To date, the above named Respondents have failed to respond to the
19 February 5, 2008 Department correspondence.

20 16. To date, the Department has not received the required bond
21 reinstatement.

22 **II. ISSUES OF LAW**

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

24 1. The Department realleges the above stated facts in Paragraphs 1
25 through 16 as fully set forth herein.

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

4 3. RSA 397-A:5, III (c) requires licensee to post a continuous surety
5 bond in the amount of \$20,000 to the Department. Each of the
6 above named Respondents violated this provision on at least one
7 occasion as alleged above.

8 4. RSA 397-A:10, IV provides that persons licensed under RSA Chapter
9 397-A are under a continuing obligation to update information on
10 file with the Commissioner. Each of the above named Respondents
11 violated this provision on at least one occasion as alleged
12 above.

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

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

23 7. RSA 397-A:18, I provides that the Department may issue a complaint
24 setting forth charges whenever the Department is of the opinion
25 that the licensee or person over whom the Department has

1 jurisdiction, has violated any provision of RSA 397-A or orders
2 thereunder.

3 8. RSA 397-A:21,IV provides that any person who, either knowingly or
4 negligently, violates any provision of Chapter 397-A, may upon
5 hearing, and in addition to any other penalty provided for by
6 law, be subject to an administrative fine not to exceed
7 \$2,500.00, or both. Each of the acts specified shall constitute
8 a separate violation, and such administrative action or fine may
9 be imposed in addition to any criminal penalties or civil
10 liabilities imposed by New Hampshire Banking laws.

11 9. RSA 397-A:21,V provides that every person who directly or
12 indirectly controls a person liable under this section, every
13 partner, principal executive officer or director of such person,
14 every person occupying a similar status or performing a similar
15 function, every employee of such person who materially aids in the
16 act constituting the violation, and every licensee or person acting
17 as a common law agent who materially aids in the acts constituting
18 the violation, either knowingly or negligently, may, upon notice
19 and opportunity for hearing, and in addition to any other penalty
20 provided for by law, be subject to suspension, revocation, or
21 denial of any registration or license, including the forfeiture of
22 any application fee, or the imposition of an administrative fine
23 not to exceed \$2,500, or both. Each of the acts specified shall
24 constitute a separate violation, and such administrative action or
25 fine may be imposed in addition to any criminal or civil penalties

