

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-324
))
3 State of New Hampshire Banking)
))
4 Department,) Order to Show Cause
))
5 Petitioner,)
))
6 and)
))
7 Maine Mortgage Group, Christopher M.)
))
8 Castaldo, and Shawn Boulet,)
))
9 Respondents)
))
10)

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 15, 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 Maine Mortgage Group ("Respondent Maine Mortgage
20 Group") shall show cause why penalties in the amount of
21 \$2,500.00 should not be imposed against it;
- 22 2. Respondent Christopher M. Castaldo ("Respondent Castaldo")
23 shall show cause why penalties in the amount of \$5,000.00
24 should not be imposed against him;
- 25 3. Respondent Shawn Boulet ("Respondent Boulet") shall show

1 cause why penalties in the amount of \$5,000.00 should not be
2 imposed against him;

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 \$500.00 examination fee should not be paid to the Department;

6 5. Respondents shall be jointly and severally liable for the
7 above amounts alleged in Paragraphs 1 through 4 above;

8 6. The above named Respondents shall show cause why, in addition
9 to the penalties listed in Paragraphs 1 through 5 above,
10 Respondent Maine Mortgage Group's license should not be
11 revoked.

12 It is hereby further ORDERED that:

13 7. Along with the administrative penalties listed for the above
14 named Respondents, the outstanding sum of \$500.00 shall be
15 immediately paid; and

16 8. Failure to request a hearing within 30 days of the date of
17 receipt or valid delivery of this Order shall result in a
18 default judgment being rendered and administrative penalties
19 imposed upon the defaulting Respondent(s).

20 SIGNED,

21
22 Dated: 01/15/09

23 /s/
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2	In re the Matter of:) Case No.: 08-324
)
3	State of New Hampshire Banking)
) Staff Petition
4	Department,)
) January 15, 2009
5	Petitioner,)
)
6	and)
)
7	Maine Mortgage Group, Christopher M.)
)
8	Castaldo, and Shawn Boulet,)
)
9	Respondents)
)
10)

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 Maine Mortgage Group (hereinafter "Respondent Maine
16 Mortgage Group") was licensed as a Mortgage Broker from at least
17 May 25, 2005 until its license expired on December 31, 2007.
- 18 2. Respondent Christopher M. Castaldo (hereinafter "Respondent
19 Castaldo") was the President and 50% owner of Respondent Maine
20 Mortgage Group, when licensed by the Department.
- 21 3. Respondent Shawn Boulet (hereinafter "Respondent Boulet") was
22 the Vice President and 50% owner of Respondent Maine Mortgage
23 Group, when licensed by the Department.

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

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

3 Department Inquiries (1 Count):

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

6 5. The Department conducted an examination of Respondent Maine
7 Mortgage Group on November 26, 2007, while Respondent Maine
8 Mortgage Group was still licensed with the Department.

9 6. On March 5, 2008, the Department mailed the report of examination
10 and invoice for \$500.00 to Respondent Maine Mortgage Group, via
11 U.S. Certified Mail Return Receipt requested, which the post
12 office returned to the Department on March 27, 2008 as
13 "unclaimed".

14 7. On April 1, 2008, the Department mailed the report of examination
15 and invoice for \$500.00 to Respondent Maine Mortgage Group, via
16 UPS, which Respondents received on April 2, 2008.

17 8. The above named Respondents did not respond to the April 1, 2008
18 mailing.

19 9. The Department, via U.S. mail, mailed a second notice on April 16,
20 2008 and a third notice on June 24, 2008.

21 10. The above named Respondents did not respond to any of the three
22 notices for payment of the \$500.00 invoice.

23 11. To date, the above named Respondents still owe the \$500.00
24 examination fee for the one day examination.

25

1 **II. ISSUES OF LAW**

2 The staff of the Department, alleges the following issues of law:

- 3 1. The Department realleges the above stated facts in Paragraphs 1
4 through 12 as fully set forth herein.
- 5 2. The Department has jurisdiction over the licensing and regulation
6 of persons engaged in mortgage banker or broker activities
7 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 8 3. 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 4. RSA 397-A:13,VI provides that any officer, owner, manager or agent
14 of any licensee shall reply promptly in writing, or other
15 designated form, to any written inquiry from the Department.
16 Respondent Castaldo and Respondent Boulet violated this provision
17 on at least one occasion as alleged above.
- 18 5. RSA 397-A:18,I provides that the Department may issue a complaint
19 setting forth charges whenever the Department is of the opinion
20 that the licensee or person over whom the Department has
21 jurisdiction, has violated any provision of RSA 397-A or orders
22 thereunder.
- 23 6. RSA 397-A:21,IV provides that any person who, either knowingly or
24 negligently, violates any provision of Chapter 397-A, may upon
25 hearing, and in addition to any other penalty provided for by

1 law, be subject to an administrative fine not to exceed
2 \$2,500.00, or both. Each of the acts specified shall constitute
3 a separate violation, and such administrative action or fine may
4 be imposed in addition to any criminal penalties or civil
5 liabilities imposed by New Hampshire Banking laws.

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

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23 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
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1 **III. RELIEF REQUESTED**

2 The staff of the Department requests the Commissioner take the following
3 action:

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

17 **IV. RIGHT TO AMEND**

18 The Department reserves the right to amend this Staff Petition and to
19 request that the Commissioner take additional administrative action.
20 Nothing herein shall preclude the Department from bringing additional
21 enforcement action under RSA 397-A or the regulations thereunder.

22 Respectfully submitted by:

23
24 /s/
Maryam Torben Desfosses
25 Hearings Examiner

 01/15/09
Date