

1 State of New Hampshire Banking Department

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3 In re the Matter of:)Case No.: 08-366
)
 4 State of New Hampshire Banking)Notice of Hearing - Order to Show
)Cause with Immediate Suspension
 5 Department,)
)
 6 Petitioner,)
)
 7 and)
)
 8 Post Road Funding Inc, Ward W. Weizel,)
)
 9 and Paul T. Hatidani,)
)
 10 Respondents)
)

11
12 NOTICE OF HEARING

13 Pursuant to RSA 397-A:17, the Banking Department of the State of New
14 Hampshire (hereinafter the "Department") has the authority to issue an order
15 to show cause why license revocation penalties for violations of New
16 Hampshire Banking laws should not be imposed. The Commissioner has the
17 further authority to impose an immediate suspension. Upon a finding of
18 irreparable harm if revocation of the license is delayed, the Commissioner
19 may summarily suspend any license pending final determination of the Order to
20 Show Cause.

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

24 Pursuant to New Hampshire Banking law, RSA 397-A:5 III (c) each
25 mortgage banker shall post a continuous surety bond in the amount of
\$20,000.00 to the Department.

1 The Department issued to the above named Respondents an Order to Show
2 Cause with an Immediate Suspension and Cease and Desist Order of the license
3 on August 22, 2008. RSA 541-A requires the Department to hold a hearing on
4 such summary action within ten (10) working days.

5 The Department alleges the following:

- 6 **Issue 1: Failure to facilitate examination (RSA 397-A:12, VII);**
7 **Issue 2: Failure to provide requested files (RSA 397-A:12, III);**
8 **Issue 3: Failure to file financial statement (RSA 397-A:13, II);**
9 **Issue 4: Failure to file additional documents (RSA 397-A:13, V);**
10 **Issue 5: Failure to post continuous surety bond (RSA 397-A:5, III (c));**
11 **Issue 6: Failure to update information on file with Bank Commissioner (RSA**
12 **397-A:10, IV);**
13 **Issue 7: Failure to pay examination fee (RSA 397-A:12);**
14 **Issue 8: Failure to inform Bank Commissioner of office closure (RSA 397-A:10,**
15 **III);**
16 **Issue 9: Conducting business under an unauthorized trade name (RSA 397-A:10,**
17 **I);**
18 **Issue 10: Failure to properly surrender license (RSA 397-A:10-a, I(a));**
19 **Issue 11: Unauthorized retention of commissions for services rendered (RSA**
20 **397-A:16, IV);**
21 **Issue 12: Mortgage loans brokered do not comply with RSA 293-A:15.01 (RSA**
22 **397-A:2, II);**
23 **Issue 13: Persons subject to or licensed by RSA Chapter 397-A must comply**
24 **with RSA 293-A:15.01 (RSA 397-A:2, III);**
25 **Issue 14: Failure to maintain records (RSA 397-A:11, I);**
Issue 15: Violation of federal law Gramm-Leach-Bliley Act (RSA 397-A:2, III);

1 **Issue 16: Failure of officers and owners to respond to Department inquiries**
2 **(RSA 397-A:13, VI);**
3 **Issue 17: Failure to supervise (RSA 397-A:6, I);**
4 **Issue 18: Fraud (RSA 397-A:17, I(f)); and**
5 **Issue 19: Dishonest or unethical practices (RSA 397-A:17, I(k)).**

6 Accordingly, an adjudicative proceeding shall be commenced pursuant to
7 541-A:31 and Chapter 200 of the Department's rules (NH Code of
8 Administrative Rules BAN 200 and JUS 800 as applicable) for the purpose of
9 permitting the Respondents to show compliance with the above state violations
10 in Issues 1 through 16.

11 Each party has the right to have an attorney present to represent the
12 party at the party's expense, or may represent itself.

13 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
14 Hampshire Banking Department on **September 5, 2008 at 10:00 am**, at the
15 Department's offices at 53 Regional Drive, Suite 200, Concord, New Hampshire
16 03301, for the purpose of participating in an adjudicative proceeding, at
17 which time the Respondents will have the opportunity to demonstrate why the
18 relief sought in the show cause order with immediate suspension should not
19 become permanent; and

20 IT IS FURTHER ORDERED, that if the Respondents elect to be represented
21 by Counsel, said Counsel shall file notice of appearance at the earliest
22 possible date; and

23 IT IS FURTHER ORDERED, that Maryam Torben Desfosses, Staff Attorney,
24 New Hampshire Banking Department is designated as Hearing Counsel in this
25 matter with authority to represent the public interest within the scope of
the Department's authority. Hearing Counsel shall have the status of a party
to this proceeding; and

1 IT IS FURTHER ORDERED, that the Commissioner designates Todd Wells to
2 serve as the Presiding Officer in this proceeding who shall issue a
3 RECOMMENDED DECISION in this matter which shall be reviewed and approved,
4 disapproved or modified by the Bank Commissioner; and

5 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
6 for identification only, and filed with the Department and provided to the
7 opposing party **as soon as possible**. Hearing Counsel shall pre-mark the
8 Department's exhibits with Arabic numbers. The Respondents shall pre-mark
9 exhibits with capital letters. An index/list of exhibits providing a brief
10 description of each exhibit with its corresponding pre-marked number or
11 letter shall be filed by both parties simultaneous with the filing of
12 exhibits; and

13 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
14 exhibits and witnesses to be called at the hearing with a brief summary at
15 the hearing, and shall at the same time file a copy of their respective lists
16 with the Presiding Officer; and

17 IT IS FURTHER ORDERED, that all periods referenced in this notice shall
18 be calendar days. If the last day of the period so computed falls on a
19 Saturday, Sunday, or legal holiday, then the time period shall be extended to
20 include the first business day that is not a Saturday, Sunday, or legal
21 holiday; and

22 IT IS FURTHER ORDERED, that the Department shall have the burden of
23 setting forth a *prima facie* case, then the Respondents shall have the burden
24 of showing compliance with applicable law by a preponderance of the evidence;

25 IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,
date, and place specified may result in the hearing being held *in absentia*
and/or default ruling in favor of the Department, without further notice or
opportunity to be heard; and

1 IT IS FURTHER ORDERED, that a record of the proceeding shall be made by
2 a certified shorthand court reporter provided by the Department.

3 IT IS FURTHER ORDERED, that all documents shall be filed with the
4 Presiding Officer in the form of an original and one (1) copy and shall bear a
5 certification that a copy is being delivered to Hearing Counsel and any other
6 parties to this matter in accordance with NH Code of Administrative Rules Ban
7 204.08. All documents shall be filed by mailing or delivering them to the New
8 Hampshire Banking Department, ATTN: Presiding Officer 08-366, 53 Regional
9 Drive, Suite 200, Concord, NH 03301. Filing by facsimile or electronic
10 transmission shall not be accepted; and

11 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,
12 which shall include findings of fact and conclusions of law, separately
13 stated, no later than ten (10) days following conclusion of the hearing(s) in
14 this matter; and

15 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
16 telephoning Abigail Shaine at (603)-271-3561, but all other communications with
17 the Presiding Officer and with the Department shall be in writing and shall be
18 filed as provided above. *Ex parte* communications are forbidden by statute; and

19 IT IS FURTHER ORDERED, that a copy of this Notice of Hearing shall be
20 mailed to all named Respondents at their addresses of record and that a copy
21 shall also be delivered to Maryam Torben Desfosses, Hearing Counsel, and to
22 the Presiding Officer at the New Hampshire Banking Department.

23 **SO ORDERED,**

24 _____ / s /
25 Peter C. Hildreth
Commissioner
State of New Hampshire
Banking Department

August 22, 2008
Date