

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-378
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause and
) Cease and Desist Order
 5 Petitioner,)
)
 6 and)
)
 7 First Call Mortgage Company, Inc.,) Consent Order (only as to George
) Vanderheiden)
 8 Kathleen L. Donovan, Carl D.)
)
 9 McFadden, George Vanderheiden, Peter)
)
 10 S. Lynch and Carolyn A. Lynch as)
)
 11 Joint Tenants, James Arthur)
)
 12 Lesmerises, David Allen Kesler,)
)
 13 Dennis Wright,)
)
 14 Respondents)
)

15 CONSENT ORDER

16 I. For purposes of settling the above-referenced matter, the New
 17 Hampshire Banking Department (hereinafter referred to as "the
 18 Department") and only Respondent George Vanderheiden ("Respondent
 19 Vanderheiden") do hereby enter this Agreement and stipulate to the
 20 following:

- 21 1. Respondent Vanderheiden was, as of August 24, 2007, a 25% owner
- 22 of Respondent First Call Mortgage Company, Inc., a licensee under
- 23 RSA Chapter 397-A.
- 24 2. RSA 397-A:10,II requires each licensee to submit written
- 25 notification to the Department of the addition or deletion of

1 any person with a 10% or more ownership interest in the licensee
2 and to provide the name and address of each person within 30
3 days after such change. RSA 397-A:10,IV also imposes a
4 continuing obligation on a licensee to update information on
5 file with the Commissioner.

6 3. RSA 397-A:10,II requires each person acquiring a 10% or more
7 ownership interest in a licensee to authorize the Commissioner
8 to conduct a background check.

9 4. Respondent First Call Mortgage Company, Inc. did not give the
10 required notice to the Department of the addition of Respondent
11 Vanderheiden and his 10% or more ownership interest in the
12 licensee within the 30 day period.

13 5. Respondent Vanderheiden did not give the required authorization
14 to the Commissioner to conduct a background check.

15 6. The Department contends that the obligation of Respondent
16 Vanderheiden to give the authorization to conduct a background
17 check is separate and apart from the obligation of Respondent
18 First Call Mortgage Company, Inc. to give notice of the addition
19 of a person with a 10% or more ownership interest in the
20 licensee.

21 7. Respondent Vanderheiden contends that his obligation to give the
22 authorization to conduct a background check is required after
23 Respondent First Call Mortgage Company, Inc. provides notice of
24 the addition of any person, such as the Respondent Vanderheiden,
25 with a 10% or more ownership interest in the

1 license.

2 8. Respondent Vanderheiden affirms that at no time during his
3 ownership of an interest in Respondent First Call Mortgage
4 Company, Inc. has he been or is directly or indirectly involved
5 with the day-to-day operations or management decisions of
6 Respondent First Call Mortgage Company, Inc.

7 9. Without admitting or denying liability under RSA Chapter 397-A,
8 in order to amicably resolve and close the matters recited
9 hereinabove, Respondent Vanderheiden agrees to enter into this
10 Consent Order.

11 II. Respondent Vanderheiden agrees to the following terms and conditions
12 and the Department accepts the same:

13 1. Respondent Vanderheiden agrees that he has voluntarily entered
14 into this Consent Order without reliance upon any discussions
15 between the Department and Respondent Vanderheiden, without
16 promise of a benefit of any kind (other than concessions
17 contained in this Consent Order), and without threats, force,
18 intimidation, or coercion of any kind. Respondent Vanderheiden
19 further acknowledges his understanding of the nature of the
20 violation alleged in the September 24, 2008 Staff Petition,
21 including the penalties provided by law.

22 2. Respondent Vanderheiden agrees to waive any and all rights to a
23 hearing and appeal regarding the allegations set forth in the
24 September 24, 2008 Staff Petition.

25 3. Respondent Vanderheiden agrees that all terms of this Consent
Order are contractual and none is a mere recital.

1 4. Respondent Vanderheiden represents and warrants that he has all
2 the necessary rights, powers and ability to carry out all of the
3 terms of this Consent Order which are applicable to Respondent
4 Vanderheiden.

5 5. Contemporaneously with the execution of this Consent Order,
6 Respondent Vanderheiden has paid the Department \$2,500.00.

7 6. This Consent Order shall become effective immediately upon the
8 date of its issuance.

9 7. The provisions of this Consent Order shall remain effective and
10 enforceable except to the extent that, and until such time as,
11 any provisions of this Consent Order shall have been modified,
12 terminated, suspended, or set aside by the Bank Commissioner or
13 upon an order of a court of competent jurisdiction.

14 This Consent Order represents the resolution of and discharge of any basis
15 for any civil or administrative proceeding by the Department against
16 Respondent Vanderheiden for alleged violations arising as a result of or in
17 connection with any actions or omissions by Respondent Vanderheiden through
18 the date of this Consent Order as it applies to the allegations in this
19 action; provided, however, this release does not apply to facts not known by
20 the Department or not otherwise provided by Respondent Vanderheiden to the
21 Department as of the date of this Consent Order. The Department expressly
22 reserves its rights to pursue any administrative, civil or criminal action
23 or remedy available to it should Respondent Vanderheiden breach this Consent
24 Order or in the future violate the Act or rules and orders promulgated
25 thereunder.

1 **WHEREFORE**, based on the foregoing, we have set our hands to this Agreement,
2 with it taking effect upon the signature of Peter C. Hildreth, Bank
3 Commissioner.

4
5 Recommended this 5th day of March, 2009 by

6 _____ /s/
7 Maryam Torben Desfosses, Hearings Examiner, Banking Department

8
9 Executed this 8th day of March, 2009.

10
11 _____ /s/
12 Respondent George Vanderheiden

13
14
15 **SO ORDERED,**

16 Entered this 12th day of March, 2009.

17
18 _____ /s/
19 Peter C. Hildreth,
20 Bank Commissioner