

1 State of New Hampshire Banking Department

)Case No.: 09-021

2 In re the Matter of:

)

)

3 State of New Hampshire Banking

)

)Order to Show Cause

4 Department,

)

)

5 Petitioner,

)

)

6 and

)

)

7 Deborah Siegel (d/b/a Westchester

)

)

8 Mortgage), and Deborah Siegel,

)

)

9 Respondents

)

10 NOTICE OF ORDER

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

13 LEGAL AUTHORITY AND JURISDICTION

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

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

23 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or
24 rescind such orders as are reasonably necessary to comply with the
25 provisions of the Chapter.

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

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
6 that is or may be an unfair or deceptive act or practice under RSA 358-A and
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
9 Commissioner may hold hearings relative to such conduct and may order
10 restitution for a person or persons adversely affected by such conduct.

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

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

25 If any of the above named Respondents fails to request a hearing within

1 30 calendar days of receipt of such order or reach a formal written and
2 executed settlement with the Department within that time frame, then such
3 person shall likewise be deemed in default, and the orders shall, on the
4 thirty-first day, become permanent, and shall remain in full force and effect
5 until and unless later modified or vacated by the Commissioner, for good cause
6 shown.

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

8 The Staff Petition dated June 26, 2009 (a copy of which is attached
9 hereto) is incorporated by reference hereto.

10 **ORDER**

11 WHEREAS, finding it necessary and appropriate and in the public
12 interest, and consistent with the intent and purposes of the New Hampshire
13 banking laws, and

14 WHEREAS, finding that the allegations contained in the Staff Petition,
15 if proved true and correct, form the legal basis of the relief requested,

16 It is hereby ORDERED, that:

- 17 1. Respondent Deborah Siegel (d/b/a Westchester Mortgage)
18 ("Respondent Westchester Mortgage") shall show cause why
19 penalties in the amount of \$5,000.00 should not be imposed
20 against it;
- 21 2. Respondent Deborah Siegel ("Respondent Siegel") shall show
22 cause why penalties in the amount of \$17,500.00 should not be
23 imposed against her;

- 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 \$500.00 examination fee should not be paid to the Department;
4 4. The above named Respondents shall show cause why, in addition
5 to the penalties listed in Paragraphs 1 through 3 above, the
6 accrued fine of \$1,450.00 for the late filing of examination
7 materials should not be paid to the Department;
8 5. The above named Respondents shall be jointly and severally
9 liable for the above amounts alleged in Paragraphs 1 through
10 4 above;
11 6. The above named Respondents shall show cause why, in addition
12 to the penalties listed in Paragraphs 1 through 5 above,
13 Respondent Westchester Mortgage's license should not be
14 revoked.

15 It is hereby further ORDERED that:

- 16 7. Along with the administrative penalties listed for the above
17 named Respondents, the outstanding sum of \$1,950.00 shall be
18 immediately paid; and
19
20
21

22 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
23
24
25

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

5
6
7 SIGNED,

8
9 Dated: 06/26/09

/s/
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-021
)
 3 State of New Hampshire Banking)
)
 4 Department,) Staff Petition
)
 5 Petitioner,) June 26, 2009
)
 6 and)
)
 7 Deborah Siegel (d/b/a Westchester)
)
 8 Mortgage), and Deborah Siegel,)
)
 9 Respondents)

10 I. STATEMENT OF ALLEGATIONS

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

13 Facts Common on All Counts:

- 14 1. Respondent Deborah Siegel (d/b/a Westchester Mortgage)
 15 (hereinafter "Respondent Westchester Mortgage") was licensed as
 16 a Mortgage Broker from at least August 2, 2005 (with an amended
 17 license date of November 8, 2007) until it surrendered its
 18 license on September 26, 2008.
- 19 2. Respondent Deborah Siegel (hereinafter "Respondent Siegel") was
 20 the 100% owner and President of Respondent Westchester Mortgage,
 21 when licensed by the Department.

1 Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested

2 Files in a Timely Manner (1 Count):

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 (5 Counts):

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

8 4. The Department conducted an examination of Respondent Westchester
9 Mortgage on February 25, 2008, while Respondent Westchester
10 Mortgage was still licensed with the Department.

11 5. On February 5, 2008, the Department mailed a notice of examination
12 to Respondent Westchester Mortgage, via U.S. Certified Mail
13 Return Receipt requested, which Respondents received on February
14 26, 2008.

15 6. The acknowledgment was due seven calendar days after Respondents'
16 February 26, 2008 receipt of the notice of examination, which
17 would have been March 4, 2008.

18 7. With only a few documents received, on March 18, 2008, the
19 Department mailed a second notice of examination to Respondent
20 Westchester Mortgage, via U.S. Certified Mail Return Receipt
21 requested, which Respondents received on March 31, 2008. The
22 notice was also emailed successfully to the Respondents on March
23 18, 2008.

24 8. With no response, the Department successfully faxed a third notice
25 of examination on April 16, 2008.

- 1 9. The examination materials were due on March 18, which is 21 days
2 after the February 26, 2008 receipt of the February 5, 2008
3 notice of examination.
- 4 10. The Department received the examination materials on April 16,
5 2008, which was 29 days late.
- 6 11. Respondent Westchester Mortgage's late submittal of examination
7 materials generated a fine of \$1,450.00 (\$50.00 per day x 29
8 days).
- 9 12. On April 18, 2008, the Department sent Respondent Westchester
10 Mortgage the invoice for the late filing of examination
11 materials, to which the above named Respondents failed to
12 respond.
- 13 13. To date, the above named Respondents have failed to pay the
14 \$1,450.00 invoice.
- 15 14. On May 12, 2008, the Department mailed the report of examination
16 and invoice for \$500.00 to Respondent Westchester Mortgage, via
17 U.S. Certified Mail Return Receipt requested, which Respondents
18 received on May 15, 2008.
- 19 15. The above named Respondents failed to respond to the May 12, 2008
20 correspondence from the Department.
- 21 16. The Department, via U.S. mail, mailed a second notice on June 24,
22 2008 and a third notice on August 1, 2008.
- 23 17. The above named Respondents did not respond to any of the three
24 notices for payment of the \$500.00 invoice.
- 25 18. To date, the above named Respondents still owe the \$500.00

1 examination fee for the 4.27 day examination.

2 **II. ISSUES OF LAW**

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

- 4 1. The Department realleges the above stated facts in Paragraphs 1
5 through 18 as fully set forth herein.
- 6 2. The Department has jurisdiction over the licensing and regulation
7 of persons engaged in mortgage banker or broker activities
8 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 9 3. RSA 397-A:11,II provides that requested files and business records
10 must be received by the Department within 21 calendar days of
11 request. The licensee will be subject to a \$50.00 a day fine
12 every day after the 21-day period the records are not produced.
13 Respondents currently owe \$1,450.00. Each of the above named
14 Respondents violated this statute on at least one occasion as
15 alleged above.
- 16 4. RSA 397-A:12,V provides that the expense of such examination shall
17 be chargeable to and paid by the licensee. Each of the above
18 named Respondents violated this provision on at least one
19 occasion as alleged above. To date, the above named Respondents
20 have failed to pay the \$500.00 examination invoice.
- 21 5. RSA 397-A:13,VI provides that any officer, owner, manager or agent
22 of any licensee shall reply promptly in writing, or other
23 designated form, to any written inquiry from the Department.
24 Respondent Siegel violated this provision on at least five
25 occasions as alleged above.

1 6. RSA 397-A:17,I provides in part that the Commissioner may by
2 order, upon due notice and opportunity for hearing, assess
3 penalties or deny, suspend, or revoke a license or application if
4 it is in the public interest and the applicant, respondent, or
5 licensee, any partner, officer, member, or director, any person
6 occupying a similar status or performing similar functions, or
7 any person directly or indirectly controlling the applicant,
8 respondent, or licensee: (a) has violated any provision of RSA
9 Chapter 397-A or rules thereunder, or (b) has not met the
10 standards established in RSA Chapter 397-A.

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

16 8. RSA 397-A:21,IV provides that any person who, either knowingly or
17 negligently, violates any provision of Chapter 397-A, may upon
18 hearing, and in addition to any other penalty provided for by
19 law, be subject to an administrative fine not to exceed
20 \$2,500.00, or both. Each of the acts specified shall constitute
21 a separate violation, and such administrative action or fine may
22 be imposed in addition to any criminal penalties or civil
23 liabilities imposed by New Hampshire Banking laws.

24 9. RSA 397-A:21,V provides that every person who directly or
25 indirectly controls a person liable under this section, every

1 partner, principal executive officer or director of such person,
2 every person occupying a similar status or performing a similar
3 function, every employee of such person who materially aids in the
4 act constituting the violation, and every licensee or person acting
5 as a common law agent who materially aids in the acts constituting
6 the violation, either knowingly or negligently, may, upon notice
7 and opportunity for hearing, and in addition to any other penalty
8 provided for by law, be subject to suspension, revocation, or
9 denial of any registration or license, including the forfeiture of
10 any application fee, or the imposition of an administrative fine
11 not to exceed \$2,500, or both. Each of the acts specified shall
12 constitute a separate violation, and such administrative action or
13 fine may be imposed in addition to any criminal or civil penalties
14 imposed.

15 **III. RELIEF REQUESTED**

16 The staff of the Department requests the Commissioner take the following
17 action:

- 18 1. Find as fact the allegations contained in section I of this Staff
19 Petition;
- 20 2. Make conclusions of law relative to the allegations contained in
21 section II of this Staff Petition;
- 22 3. Pursuant to RSA 397-A:17, order each of the above named
23 Respondents to show cause why their license should not be revoked;
- 24 4. Assess fines and administrative penalties in accordance with RSA
25 397-A:21, for violations of Chapter 397-A, in the number and

