

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 10-234
)
 3 State of New Hampshire Banking Department,)
)
 4 Petitioner,)
)
 5 and) Consent Order
)
 6 Powder House Mortgage Company, Inc., Alan)
)
 7 Jay Nissenbaum, Jeremy David Nissenbaum, and)
)
 8 Michael J. DeKoster,)
)
 9 Respondents)
)

10 CONSENT ORDER

11 The State of New Hampshire Banking Department (the "Department") finds and
12 Orders as follows:

13 Respondents

- 14 1. Powder House Mortgage Company, Inc. ("Powder House") is a professional
 15 corporation formed in the State of Massachusetts on November 1, 1984
 16 and registered with the New Hampshire Secretary of State on April 15,
 17 1998 with a principal office location in Somerville, Massachusetts. In
 18 New Hampshire, Powder House was licensed as a Mortgage Banker from
 19 January 1, 1997 until its license expired on December 31, 2009.
- 20 2. Alan J. Nissenbaum ("A.J. Nissenbaum") is the 50% direct owner,
 21 control person and Secretary of Powder House.
- 22 3. Jeremy David Nissenbaum (J.D. Nissenbaum") is the 50% direct owner,
 23 control person and President of Powder House.
- 24 4. Michael J. DeKoster ("DeKoster") is the Chief Operating Officer of and
 25 unlicensed New Hampshire Mortgage Loan Originator for Powder House.

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Jurisdiction

5. The Department is authorized to regulate mortgage bankers pursuant to RSA Chapter 397-A. RSA 397-A:2.
6. The Commissioner has jurisdiction to issue orders to show cause and to cease and desist from violations under RSA Chapter 397-A and to revoke, deny, or suspend a license of a licensee and/or assess penalties pursuant to RSA Chapter 397-A. RSA 397-A:17, RSA 397-A:18 and RSA 397-A:21.

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Facts

7. The Department issued an Order to Show Cause and Cease and Desist against the above named Respondents for failing to facilitate the examination of Powder House and for originating two loans by an unlicensed New Hampshire Mortgage Loan Originator.
8. Respondents were 116 days late in submitting examination materials and have incurred a fine of \$5,800.00.
9. On April 10, 2009, DeKoster originated the Consumer A loan while DeKoster was not a licensed New Hampshire Mortgage Loan Originator. Consumer A was charged \$1,249.33 in mortgage loan origination fees.
10. On April 30, 2009, DeKoster originated the Consumer B loan while DeKoster was not a licensed New Hampshire Mortgage Loan Originator. Consumer B was charged \$2,229.68 in mortgage loan origination fees.
11. During the request for information, Respondents cooperated and provided the information to show they did conduct business in New Hampshire without proper licensure.

1 **Violation(s) of Law and Penalties**

2 12. The above named Respondents are "Persons" as defined by RSA 397-
3 A:1,XVIII.

4 13. The above named Respondents may be assessed an administrative fine not
5 to exceed \$2,500.00 for each violation of RSA Chapter 397-A. RSA 397-
6 A:21,IV and V.

7 **Respondents' Consent**

8 14. The above named Respondents do not deny the facts, statements, or
9 violations contained herein and the above named Respondents hereby
10 agree to the entry of this Consent Order.

11 15. The above named Respondents have voluntarily entered into this Consent
12 Order without reliance upon any discussions between the Department and
13 the above named Respondents, without promise of a benefit of any kind
14 (other than concessions contained in this Consent Order), and without
15 threats, force, intimidation, or coercion of any kind. The above named
16 Respondents further acknowledge their understanding of the nature of
17 the allegations set forth in this action, including the potential
18 penalties provided by law.

19 16. The above named Respondents hereby acknowledge, understand, and agree
20 that there is the right to notice, hearing, and/or a civil action and
21 hereby waive said rights.

22 **Order**

23 17. **Whereas pursuant to RSA 397-A:20,VI**, this Consent Order is necessary,
24 appropriate and in the public interest and consistent with the intent
25 and purposes of New Hampshire banking laws, the Department Orders as

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2 follows:

3 a. The above named Respondents shall reimburse Consumers A and B
4 the fees charged as described in Paragraphs 9 and 10 above,
5 payable contemporaneously with the above named Respondents'
6 signing of this Consent Order. Each check should be made out to
7 the specific consumer and submitted to the Department along with
8 current contact information to forward to the consumer;

9 b. The above named Respondents shall pay to the Department
10 \$5,800.00 in statutory penalties, payable contemporaneously with
11 the above named Respondents' signing of this Consent Order; and

12 c. All checks shall be bank check or guaranteed funds and made
13 payable to "State of New Hampshire", except for those
14 specifically made payable to Consumers A and B.

15 18. This Consent Order may be revoked and the Department may pursue any
16 and all remedies available under law, if the Department later finds
17 that the above named Respondents knowingly or willfully withheld
18 information used and relied upon in this Consent Order.

19 19. This Consent Order is binding on all heirs, assigns, and/or successors
20 in interest.

21 20. This Consent Order shall become effective upon the date the
22 Commissioner signs this Consent Order.

23 21. Once this Consent Order is effective, the Department agrees not to
24 seek further reimbursement, refunds, penalties, fines, costs, or fees
25 regarding the facts, allegations, or findings of violations contained

