

State of New Hampshire Banking Department

State of New Hampshire
Banking Department,

Docket # 10-399

Petitioner

v.

**Order to
Show Cause and Cease and Desist**

Brian Brisebois and Kevin Gillis

Respondents

Notice of Order to Show Cause and Cease and Desist (“Order”)

1. This Order commences an adjudicative proceeding under the provisions of RSA 397-A (including RSA 397-A:17,I, II and IX, RSA 397-A:18,I and II and RSA 397-A:20,IV) and RSA Chapter 541-A.

Respondents

2. Brian Brisebois (“Respondent Brisebois”) is mortgage loan originator and is a Control Person (RSA 397-A:1, V-a) and a Person (RSA 397-A:1, XVIII). According to the Nationwide Mortgage Licensing System (“NMLS”) Respondent Brisebois obtained his mortgage loan originators license on November 9, 2009.
3. Kevin Gillis (“Respondent Gillis”) is mortgage loan originator and is a Control Person (RSA 397-A:1, V-a) and a Person (RSA 397-A:1, XVIII). According to the Nationwide Mortgage Licensing System (“NMLS”) Respondent Gillis obtained his mortgage loan originators license on January 12, 2010.
4. All parties are hereinafter collectively referred to as “Respondents”.

Jurisdiction

5. The Department is authorized to regulate and license Mortgage Loan Originators. RSA 397-A:1, XVII defines an “originator” or “mortgage loan originator” as, *inter alia*, an individual who for direct or indirect compensation or gain offers, negotiates,

solicits, arranges, or finds a mortgage loan or who assists a consumer in obtaining or applying to obtain a mortgage loan.

6. Respondents could be assessed a fine and penalty against a mortgage loan originator in an amount not to exceed \$25,000.00 for each violation or failure to comply with the requirements of the S.A.F.E. Mortgage Licensing Act of 2008 pursuant to RSA 397-A:17, IX.
7. The Commissioner may impose administrative penalties of up to \$2,500.00 for each violation. RSA 397-A:21, IV and V.
8. The Department has jurisdiction to revoke, deny or suspend a license of a licensee and/ or assess fines, penalties and costs pursuant to RSA Chapter 397-A. RSA 397-A:17 and RSA 397-A:21.

Right to Request a Hearing

9. Respondents have a right to request a hearing on this Order. A hearing shall be held not later than ten (10) days after the Commissioner receives the Respondents' written request for a hearing. Respondents may request a hearing and waive the ten (10) day hearing requirement. The hearing shall comply with RSA Chapter 541-A, RSA 397-A:17, I and II and RSA 397-A:18, I and II.
10. If any person fails to request a hearing within thirty (30) days of receiving this Order, then such person shall be deemed in default, and the Order shall, on the thirty-first (31st) day, become permanent, all allegations may be deemed true, and shall remain in full force and effect until modified or vacated by the Commissioner for good cause shown. RSA 397-A:17, I and II and RSA 397-A:18, I and II.
11. A default may result in administrative fines as described in Paragraph 2 above.

Statement of Alleged Facts

12. Mortgage Master Inc. (“Mortgage Master”) is a corporation formed in the Commonwealth of Massachusetts with a principal business location of 102 Elm Street, Walpole, MA 02081.
13. Mortgage Master has held a valid New Hampshire Mortgage Banker license since as early as January 1, 1997. Mortgage Master operates from twelve (12) licensed locations and has eleven (11) licensed branch offices in New Hampshire.
14. On May 10, 2010, the Department conducted its scheduled examination of Mortgage Master.
15. As of April 1, 2009, mortgage loan originators are required to obtain licenses from the Department before conducting loan origination activities in New Hampshire pursuant to RSA 397-A:3.
16. One of the unlicensed mortgage loan originators, Respondent Brisebois, originated seventeen (17) loans prior to obtaining his licensure in New Hampshire in violation of RSA 397-A:3, II. These loans were also originated while employed by another company while he was transitioning employment to Mortgage Master in violation of RSA 397-A:3, III.
17. In addition, Respondent Brisebois, omitted to state a material fact by not listing his name or signing his name on twenty (20) loan applications he originated in violation of RSA 397-A:2, VI (b).
18. A second unlicensed mortgage loan originator, Respondent Gillis, made an untrue statement of material fact by listing his name and signing as mortgage loan originator on twenty (20) loan applications originated by Respondent Brisebois in violation of RSA 397-A:2, VI (b).

Violation(s) of Law

Respondent Brian Brisebois

17 Counts for originating mortgage loans while unlicensed.

RSA 397-A:3, II.

17 Counts for representing more than one Mortgage Broker or Banker.

RSA 397-A:3, III.

20 Counts for omitting to state a material fact on a mortgage loan application.

RSA 397-A:2, VI (b).

Respondent Kevin Gillis

20 Counts for originating mortgage loans while unlicensed.

RSA 397-A:3, II.

20 Counts for making an untrue statement of material fact on a mortgage loan application.

RSA 397-A:2, VI (b).

Recommended June 30, 2011 by

/s/

Raef J. Granger, Esq.
Hearings Examiner
Banking Department

Order

I hereby find as follows:

19. Pursuant to RSA 397-A:17,I, the facts as alleged above, if true, show Respondents are operating or have operated in violation of RSA Chapter 397-A and form the legal basis for this Order;

20. Pursuant to RSA 397-A:20,VI, this Order is necessary and appropriate to the public

- interest and for the protection of consumers and consistent with the intent and purpose of New Hampshire banking laws;
21. The Department finds pursuant to RSA 397-A:17,II and RSA 397-A:18,II, reasonable cause to issue an order to cease and desist; and
 22. Pursuant to RSA 397-A:17,I and RSA 397-A:18,II, if Respondents fail to respond to this Order and/or defaults then all facts as alleged herein are deemed as true.

23. Accordingly it is hereby Ordered, that:

- a. Respondents shall cease and desist from violating RSA Chapter 397-A and rules or orders thereunder;
- b. Respondents shall show cause why the Commissioner should not enter an order of rescission, restitution, or disgorgement of profits and/or commissions for services rendered;
- c. Respondents shall show cause why the Commissioner shall not revoke their mortgage loan originators license;
- d. Respondent Brisebois shall pay an administrative fine of \$42,500.00 for (17) counts of \$2,500.00 each for representing more than one Mortgage Broker or Banker;
- e. Respondent Brisebois shall pay an administrative fine of \$25,000.00 for violating the S.A.F.E. Act for originating loans while unlicensed and by representing more than one Mortgage Broker or Banker.
- f. Respondent Brisebois shall pay an administrative fine of \$50,000.00 for (20) counts of \$2,500.00 each for omitting to state a material fact made on a mortgage loan application; and
- g. Respondent Gillis shall pay an administrative fine of \$50,000.00 for (20) counts of \$2,500.00 each for making an untrue statement of material fact on a mortgage

loan application.

- h. Respondent Gillis shall pay an administrative fine of \$25,000.00 for violating the S.A.F.E. Act for originating loans while unlicensed.
- i. Nothing in this Order:
 - a. Shall prevent the Department from taking any further administrative and legal action as necessary under New Hampshire law; and
 - b. Shall prevent the New Hampshire Office of the Attorney General from bringing an action against the above named Respondents in any New Hampshire superior court, with or without prior administrative action by the Commissioner.

SO ORDERED,

Entered this day July 1, 2011.

/s/

Ronald A. Wilbur
Bank Commissioner
New Hampshire Banking Department