

State of New Hampshire
Banking Department

In re:)	Case Nos.: 12-233 & 12-253
)	
State of New Hampshire Banking)	
Department,)	Consent Order
)	
 Petitioner,)	
)	
 and)	
)	
BayBurg Financial, Inc. and Adam M.)	
Bayer, President of BayBurg Financial, Inc.,)	
)	
 Respondents)	
)	

The State of New Hampshire Banking Department, acting in agreement with the respondents, BayBurg Financial, Inc. and Adam M. Bayer, President of BayBurg Financial, Inc., finds and orders as follows:

JURISDICTION

The Department licenses and regulates persons “engage[d] in the business of offering, originating, making, funding, or brokering mortgage loans from the state of New Hampshire or mortgage loans secured by real property located in the state of New Hampshire.” RSA 397-A:2. The Bank Commissioner “may by order . . . assess penalties . . . if it is in the public interest and the applicant, respondent, or licensee . . . [h]as violated any provision of [RSA Chapter 397-A].” RSA 397-A:17, I.

BACKGROUND

On August 30, 2012, the Department issued an Order to Show Cause against the respondents. The Order to Show Cause alleged that the respondents had: (1) knowingly

violated RSA 397-A:12, V when they did not pay the expense of examination; and (2) knowingly violated RSA 397-A:12, VII when Mr. Bayer failed to facilitate an examination by refusing to submit an Officer Questionnaire. The Order to Show Cause further directed the respondents to show cause why the Commissioner should not order the respondents to pay administrative fines totaling \$5,000 and the examination fee of \$727.60.

The Order to Show Cause included a Notice of Right to a Hearing, which explained that “[i]f the respondents fail ‘to request a hearing within 30 calendar days of receipt or valid delivery of [this Order to Show Cause] . . . such person shall be deemed in default and the proceeding may be decided against the person’” The respondents received the Order to Show Cause on September 4, 2012. The respondents failed to request a hearing. Subsequently, on October 17, 2012, the Department entered a Default Judgment against the respondents.

On October 22, 2012, Mr. Bayer contacted the undersigned hearings examiner. The Department and Mr. Bayer entered into negotiations to settle this matter amicably with the cooperation of all parties. The parties reached the following resolution of this matter in its entirety.

CONSENT AND ACKNOWLEDGMENTS

1. On this same date, the Department will move to withdraw the Entry of Default against the respondents.
2. The respondents have voluntarily entered into this Consent Order without reliance upon any discussions between the Department and the respondents, without the promise of a benefit of any kind (other than the concessions contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind.

3. The respondents acknowledge their understanding of the nature of the allegations set forth in this proceeding, including the potential penalties provided by law.
4. The respondents acknowledge, understand, and agree that they have the right to notice, hearing, civil action, and/or appeal, and hereby waive those rights.
5. The respondents represent and warrant that they have all the necessary rights, powers, and ability to carry out all of the terms of this Consent Order that are applicable to the respondents.
6. The respondents acknowledge that the Department is relying upon the respondents' representations and warranties stated herein in making its determination in this matter.

ORDER

Pursuant to RSA 397-A:20, the Commissioner finds this Consent Order necessary or appropriate to the public interest and consistent with the purposes fairly intended by the policy and provisions of this title. Accordingly, the Commissioner orders as follows:

1. The respondents shall pay the Department \$1,727.60. This amount represents a \$1,000 administrative penalty and \$727.60 in examination costs. The amount is payable to the Department in six (6) installment payments of \$250.00 and one (1) final installment payment of \$227.60. The respondents shall make each installment payment no later than the first day of each month commencing on January 1, 2013.
2. If the respondents fail to make a monthly installment payment, the remaining balance will be due immediately and the failure to pay will be deemed a violation of this Consent Order.
3. All checks shall be bank check or guaranteed funds made payable to the "State of New Hampshire."

4. The respondents are jointly and severally liable for the amount owed to the Department.
5. If the Department finds that the respondents knowingly or willfully withheld information used and relied upon in this Consent Order, the Department may revoke this Consent Order and the Department may pursue any and all remedies available under law.
6. This Consent Order is binding on all heirs, assigns, and/or successors in interest.

Recommended by:

12/19/12
Date

/s/
Emelia A.S. Galdieri
N.H. Bar #19840
Hearings Examiner
State of New Hampshire
Banking Department

Executed by:

11/29/12
Date

/s/
Adam Bayer
President of BayBurg Financial, Inc.

SO ORDERED.

12/20/12
Date

/s/
Ronald A. Wilbur
Bank Commissioner