STATE OF NEW HAMPSHIRE   **BANKING DEPARTMENT**

In re: Capital Access Residential, Inc., and Barry P. Winer
Case No.: 14-204

CONSENT ORDER

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

Respondents

1. Capital Access Residential, Inc. ("Capital Access") is a corporation formed in the State of Massachusetts on June 30, 2006 on with a principal office location in Newton, Massachusetts. Capital Access registered with the New Hampshire Secretary of State on December 14, 2006 and has been Department-licensed Mortgage Broker since January 1, 2007.

2. Barry P. Winer ("B. Winer") is the 100% direct owner and President of Capital Access.

3. The above-named Respondents are hereinafter collectively known as "Respondents."

Jurisdiction

4. The Department is authorized to regulate mortgage brokers pursuant to RSA Chapter 397-A. *RSA 397-A:2 and RSA 397-A:3.*

5. The Commissioner has jurisdiction to issue orders to cease and desist from violations under RSA Chapter RSA

Chapter 397-A and orders to show cause regarding license suspension, and to assess penalties pursuant to RSA Chapter 397-A. *RSA 397-A:17, RSA 397-A:18 and RSA 397-A:21.*

6. The Department may assess administrative fines not to exceed $2,500.00 for each violation of RSA Chapter RSA Chapter 397-A. *RSA 397-A:21, IV and V.*

Facts

7. Respondents failed to pay the $2,025.10 examination fee within 14 days of Respondents' February 11, 2014 receipt of said invoice, in violation of RSA 397-A:12,V (in conjunction with RSA 397-A::22,I).

8. Respondents initially offered several inconsistent reasons for non-payment of the examination invoice and then ceased responding to the Department, in violation of RSA 397-A:13,VI.

9. After the Department issued the November 20, 2014 Order to Show Cause for License Suspension, Respondents fully cooperated with the Department and paid the examination fee.

Violation(s) of Law and Penalties

10. Respondents failed to pay the examination invoice within 14 days, in violation of RSA 397-A:12,V (in conjunction with RSA 397-A:22,I).

11. Respondents failed to promptly reply to the Department's inquiries regarding non-payment. Respondents provided inconsistent reasons, in violation of RSA 397-A:13,VI.

Respondents' Consents and Acknowledgments

12. Respondents hereby acknowledge that were an administrative hearing to be held in this matter, the Department would introduce evidence demonstrating that Respondents violated RSA Chapter 397-A.

13. Respondents voluntarily enter into this Consent Order without reliance upon any discussions between the Department and Respondents, without promise of a benefit of any kind (other than concessions contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind. Respondents further acknowledge their understanding of the nature of the allegations set forth in this action, including the potential penalties provided by law.

14. Respondents hereby acknowledge, understand, and agree that they have the right to notice and hearing and hereby waive said rights. Respondents hereby further acknowledge they waive the filing of any civil actions related to this matter.

Order

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

   a. Respondents shall cease and desist from violations of RSA Chapter 397-A; and

   b. Respondents shall pay to the Department $5,000.00 in administrative fines, of which:

      (1). $750.00 shall be payable contemporaneously with Respondents' execution of this Consent Order. The check shall be bank check or guaranteed funds and made payable to "State of New Hampshire;" and

      (2). $4,250.00 shall be held in abeyance for two years from the date of this fully executed Consent Order, assuming Respondents commit no further violations of RSA Chapter 397-A. If Respondents violate RSA 397-A within this two (2) year period, $2,500.00 shall be immediately due the Department.

16. The Consent Order finally and completely concludes

this matter against Respondents. This Consent Order may still be revoked and the Department may pursue any and all remedies available under law, if the Department later finds that Respondents knowingly or willfully withheld information used and relied upon in this Consent Order.

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

18. This Consent Order shall become effective upon the date the Commissioner signs this Consent Order, providing the Department has confirmed the payment referenced in Paragraph 15.b.(1). herein.

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

WHEREFORE, based on the foregoing, we have set our hands to this Consent Order, effective upon its execution by Glenn A. Perlow, Bank Commissioner.

Recommended this *24th* day of *December*, 2014 by

/s/

Maryam Torben Desfosses,
Hearings Examiner, Banking Department

Executed this *24th* day of *December*, 2014 by

_____*/s/*_____
Mr. Barry P. Winer, on his own behalf and as owner and
President of Capital Access Residential, Inc.

SO ORDERED.

____*/s/*_____   Dated:*01/08/15*___
Glenn A. Perlow,
Bank Commissioner