

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 05-055
)
State of New Hampshire Banking) Order To Show Cause
Department,)
)
Petitioner,)
)
and)
)
Federated Home Mortgage Inc,)
)
Respondent)

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 541-A:31, RSA 397-A, RSA 398-A and BAN 204.03.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:10-a the Banking Department of the State of New Hampshire (hereinafter referred to as the Department) may initiate a license revocation proceeding within one (1) year after withdrawal became effective and may enter a revocation order as of the last date on which the license was effective for violations of the Chapter. Pursuant to RSA 397-A:13 and RSA 398-A:1-e, all First Mortgage Bankers and Brokers and Second Mortgage Home Loan Lenders are required to submit an annual report to the Department on or before February 1, 2005.

1 RSA 397-A:13 and RSA 398-A:1-e further authorize the Department
2 to fine the licensee \$25/day for each day the report is late.
3 RSA 397-A:13 and RSA 398-A:1-e require licensees to submit their
4 financial statements to the Department within 90 days of the end
5 of their fiscal year. The statute further states that failure
6 to file in a timely fashion will result in a fine of \$25/day
7 until the statement is received or a \$2,500 fine has accrued.

8
9 BAN 2411.03 sets forth procedures that licensees must abide
10 by when surrendering their licenses. Specifically, it states
11 that notice of the surrender must be published in a newspaper of
12 general circulation in the licensee's market area. Further a
13 licensee must send or deliver to the department copies of the
14 notices published within 30 days of the last date of
15 publication. Failure to comply with these provisions shall
16 constitute a violation under RSA 397-A or RSA 398-A.

17 Furthermore, BAN 204.03 states that the commissioner or his
18 designee shall initiate an adjudicative proceeding against a
19 licensee for failure to pay fees or fines within 60 days of the
20 licensee receiving an invoice of the fees or fine.

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

22 The above named respondent has the right to request a
23 hearing on this Order to Show Cause, as well as the right to be
24 represented by counsel. Any such request for a hearing shall be
25 in writing, and signed by the respondent or by the duly

1 authorized agent of the above named respondent, and shall be
2 delivered either by hand or certified mail, return receipt
3 request, to the Banking Department, State of New Hampshire, 64B
4 Old Suncook Road, Concord, NH 03301.

5 If respondent fails to request a hearing or respond to the
6 show cause order within 30 calendar days of receipt of this
7 order, respondent shall be deemed in default, and the penalties
8 requested will be imposed.
9

10
11 **STATEMENT OF ALLEGATIONS**

12 The allegations contained in the Staff Petition for Relief
13 dated August 10, 2005 (a copy of which is attached hereto) are
14 incorporated by reference hereto.

15 **ORDER**

16 WHEREAS, finding it necessary and appropriate and in the
17 public interest, and consistent with the intent and purposes of
18 the New Hampshire banking laws, and

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

22 It is hereby ORDERED, that:

- 23
24 1. The Respondent shall show cause why it should not
25 file its annual reports and financial statements
immediately with the Department; and

2. The Respondent shall show cause why they should not pay a fine in the amount of \$5,000 for failure to file their annual reports (RSA 397-A and RSA 398-A, \$2,500 each) in a timely matter;
3. The Respondent shall show cause why they should not pay a fine in the amount of \$5,000 for failure to file their financial statements (RSA 397-A and 398-A, \$2,500 each) in a timely manner; and
4. The Respondent is hereby ordered to show cause why they should not pay an administrative fine of \$5,000 for failure to provide the Department proof of publication of the surrender in a paper of general circulation; and
5. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered and administrative penalties being imposed upon the defaulting Respondent.

SIGNED,

/s/

Dated:

8/19/05

PETER C. HILDRETH
BANK COMMISSIONER

1 Andrea J. Shaw
State of New Hampshire
2 Banking Department
64B Old Suncook Road
3 Concord, NH 03301

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5 **State of New Hampshire Banking Department**

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7 In re the Matter of:) Case No.: No. 05-055
8 Banking Department,) Staff Petition
9 Petitioner,)
10 and)
11 Federated Home Mortgage Inc.,)
12 Respondent)
13)
14)

15 **STATEMENT OF ALLEGATIONS**

16 I. The staff of the Banking Department, State of New Hampshire
17 (hereinafter referred to as the "Department") alleges the following
18 facts:

- 19 1. Federated Home Mortgage Inc. ("FHMI") was licensed to conduct First
20 Mortgage Banker business for the year ending December 31, 2004 but
21 surrendered their licenses prior to the end of the current year
(surrendered on June 30, 2005).
- 22 2. FHMI was required to submit a financial statement to the Department
23 within 90 days from the date of its fiscal year end, which was
24 December 31, 2004 for its first mortgage banker/broker license.
- 25 3. The Department never received FHMI's financial statement.

- 1 4. The applicable statute state that a fine in the amount of \$25/day
2 accrues until the statement is received or it reaches \$2,500.00.
- 3 5. The Department sent FHMI a reminder of the required filing of the
4 financial statement via US Mail in a letter dated December 30, 2004.
5 See Exhibit 1.
- 6 6. A second notice was sent to FHMI regarding its failure to file its
7 financial statements via US Mail in a letter dated April 4, 2005.
8 See Exhibit 2.
- 9 7. To date, the Department has not received the FHMI's financial
10 statements.
- 11 8. FHMI was required to submit an annual report by February 1, 2005
12 for activities conducted in 2004.
- 13 9. FHMI failed to file its annual report with the Department.
- 14 10. The Department sent FHMI notice of its failure to file the 2004
15 annual report via US Mail in a letter dated March 28, 2005. See
16 Exhibit 3.
- 17 11. The Department sent a second notice regarding the missing annual
18 report via certified mail (mail piece number 7002 2030 0000 9675
19 6623) in a letter dated June 22, 2005.
- 20 12. This letter went "unclaimed" and was returned to the Department.
21 See Exhibit 4.
- 22 13. FHMI was required to publish notice of its surrender in a newspaper
23 of general circulation in its market area. Proof of that
24 publication was due to the Department within 30 days of the last
25 publication.
14. The Department attempted to notify FHMI of this requirement and
deficiency via certified mail (mail piece number 7002 2030 0000
9675 5466) in a letter dated July 15, 2005. See Exhibit 5.
15. To date the Department has not received notice of that publication.

Second Mortgage Home Lender License

1. FHMI was licensed to conduct Second Mortgage Home Loan Lender business for the year ending December 31, 2004 and was licensed for 2005; however, FHMI surrendered its license on June 30, 2005.
2. FHMI was required to submit a financial statement to the Department within 90 days from the date of its fiscal year end, which was December 31, 2004.
3. The Department never received FHMI's financial statement.
4. The applicable statute states that a fine in the amount of \$25/day accrues until the statement is received or it reaches \$2,500.00.
5. The Department sent FHMI a reminder of the required filing of the financial statement via US Mail in a letter dated December 30, 2004. See Exhibit 1.
6. A second notice was sent to FHMI regarding its failure to file its financial statements via US Mail in a letter dated April 4, 2005. See Exhibit 2.
7. To date, the Department has not received the FHMI's financial statements.
8. FHMI was required to submit an annual report by February 1, 2005 for activities conducted in 2004.
9. FHMI failed to file its annual report with the Department.
10. The Department sent FHMI notice of its failure to file the 2004 annual report via US Mail in a letter dated March 28, 2005. See Exhibit 3.
11. The Department sent a second notice regarding the missing annual report via certified mail (mail piece number 7002 2030 0000 9675 6623) in a letter dated June 22, 2005.

1 12. This letter went "unclaimed" and was returned to the Department.

2 See Exhibit 4.

3 13. FHMI was required to publish notice of its license surrender in a
4 newspaper of general circulation in its market area. Proof of that
5 publication was due to the Department within 30 days of the last
6 publication.

7 14. The Department attempted to notify FHMI of this requirement and
8 deficiency via certified mail (mail piece number 7002 2030 0000 9675
9 5466) in a letter dated July 15, 2005. See Exhibit 5.

10 15. To date the Department has not received notice of that
11 publication.

12 II. The staff of the Banking Department, State of New Hampshire alleges
13 the following issues of law:

14 1. The Department has jurisdiction to issue an order to show cause for
15 violating New Hampshire law pursuant to RSA 397-A:13 and RSA 398-
16 A:1-e.

17 2. Financial statements are required to be filed with the Department
18 within 90 days from the date of a licensee's fiscal year end,
19 regarding licensee's activities for the calendar year 2004. Failure
20 to submit the financial statements in a timely manner violates RSA
21 397-A:13, II and RSA 398-A:1-e.

22 3. Annual reports must be filed with the Department on or before
23 February 1 of the current year for licensed activity that took place
24 in the previous calendar year according to RSA 397-A:13 and RSA 398-
25 A:1-e.

4. RSA 397-A:13 and RSA 398-A:1-e further authorize the Department to
fine licensees up to \$2,500 for each day that each report is not

1 filed with the Department at increments of \$25/day. The statutes
2 cap each fine at \$2,500.00.

3 5. BAN 2411.03 requires licensees of RSA 397-A and RSA 398-A to publish
4 notice of surrender in a newspaper of general circulation in the
5 licensee's market area and provide the Department proof of that
6 publication or it is a violation of the applicable statutes.

7 6. RSA 397-A:21 and RSA 398-A:7-a states that the Department may impose
8 up to a \$2,500 dollar fine for knowingly or negligently violating
9 Department laws.

10 **RELIEF REQUESTED**

11 The staff of the Department requests the Commissioner take the following
12 action:

- 13 1. Find as fact the allegations contained in section I of the Statement
14 of Allegations of this petition;
- 15 2. Make conclusions of law relative to the allegations contained in
16 section II of the Statement of Allegations of this petition;
- 17 3. Assess fines and administrative penalties in accordance with RSA 397-
18 A:21 and RSA 398-A:7-a, for violations of the New Hampshire Banking
19 Laws, in the number and amount equal to the violation set forth in
20 section II of the Statement of Allegations of this petition;
- 21 4. Require FHMI to file both its annual reports and financial statements
22 with the Department;
- 23 5. Require FHMI to publish notice of its license surrender and notify
24 the Department of such in accordance with BAN 2411.03; and
- 25 6. Take such other administrative and legal actions as are necessary for
enforcement of the New Hampshire Banking Laws, the protection of New
Hampshire citizens, and to provide other equitable relief.

RIGHT TO AMEND

1 The Department reserves the right to amend this Petition for Relief and
2 to request that the Banking Department Commissioner take additional
3 administrative action. Nothing herein shall preclude the Department from
4 bringing additional enforcement action under RSA 397-A and 398-A or the
5 regulations thereunder.

6
7
8 Dated this 10th day of August, 2005

9 /s/

10 _____
11 State of New Hampshire
12 Banking Department
13 64B Old Suncook Road
14 Concord, NH 03301
15 Andrea J. Shaw