

1 State of New Hampshire Banking Department

2

3 In re the Matter of:) Case No.: 06-263
)
 4 State of New Hampshire Banking) Cease and Desist Order
)
 5 Department,)
)
 6 and)
)
 7 2Amoskeag5 Realty LLC, 2Maisie5)
)
 8 Realty I LLC, Walter Bressler III,)
)
 9 Sadie Stanhope, Michael T Prieto,)
)
 10 Respondents)
)

11
12 NOTICE OF ORDER

13
14 This Order commences an adjudicative proceeding under the provisions of
15 RSA 397-A:18 II, RSA 398-A:1-b IV, and 399-D:23 II, and RSA 541-A.

16 LEGAL AUTHORITY AND JURISDICTION - Unlicensed Mortgage Banking

17 Pursuant to RSA 397-A:18 II, the Banking Department of the State of New
18 Hampshire (hereinafter the "Department") has the authority to issue and cause
19 to be served an order requiring any person engaged in any act or practice
20 constituting a violation of RSA 397-A or any rule or order thereunder, to
21 cease and desist from violations of RSA 397-A.

22 Pursuant to RSA 397-A:3 any person engaged in the business of making or
23 brokering residential mortgage loans secured by New Hampshire property
24 (consisting of 1-4 family units) is required to hold a Department Mortgage
25 Banking or Brokering license.

24 LEGAL AUTHORITY AND JURISDICTION - Unlicensed Second Mortgage Banking

25 Pursuant to RSA 398-A:1-b VI, the Department has the authority to issue
and cause to be served an order requiring any person engaged in any act or

1 practice constituting a violation of RSA 398-A or any rule or order
2 thereunder, to cease and desist from violations of RSA 398-A.

3 Prior to September 2005, all persons engaging in the business of making
4 or brokering second mortgage home loans secured by New Hampshire residential
5 property (consisting of 1-4 family units) were required to hold a Department
6 second mortgage home loan lender or broker license pursuant to RSA 398-A:1-a.

7 **LEGAL AUTHORITY AND JURISDICTION - Unlicensed Debt Adjustment**

8 Pursuant to RSA 399-D:23 II, the Department has the authority to issue
9 and cause to be served an order requiring any person engaged in any act or
10 practice constituting a violation of RSA 399-D or any rule or order
11 thereunder, to cease and desist from violations of RSA 399-D.

12 Pursuant to RSA 399-D:3 I all persons engaged in the business of debt
13 adjustment, either by having their debt adjustment business located in New
14 Hampshire, or by offering debt adjustment services to consumers located in
15 New Hampshire are required to be licensed by the Department.

16 **NOTICE OF RIGHT TO REQUEST A HEARING - All Causes of Action**

17 The above named respondent has the right to request a hearing on this
18 Order to Cease and Desist, as well as the right to be represented by counsel
19 at the Respondent's own expense. A hearing shall be held not later than 10
20 days after the request for such hearing is received by the commissioner. Within
21 20 days of the date of the hearing the commissioner shall issue a further order
22 vacating the cease and desist order or making it permanent as the facts
23 require. All hearings shall comply with RSA 541-A. If the person to whom a
24 cease and desist order is issued fails to appear at the hearing after being
25 duly notified, such person shall be deemed in default, and the proceeding may
be determined against him or her upon consideration of the cease and desist
order, the allegations of which may be deemed to be true.

If the person to whom a cease and desist order is issued fails to request a
hearing within 30 calendar days of receipt of such order, then such person

1 shall likewise be deemed in default, and the order shall, on the thirty-first
2 day, become permanent, and shall remain in full force and effect until and
3 unless later modified or vacated by the commissioner, for good cause shown.
4 Any such request for a hearing shall be in writing, and signed by the
5 respondent or by the duly authorized agent of the above-named respondent, and
6 shall be delivered either by hand or certified mail, return receipt
7 requested, to the Banking Department, State of New Hampshire, 64B Old Suncook
8 Road, Concord, NH 03301.

9 **STATEMENT OF ALLEGATIONS, APPLICABLE LAW AND RELIEF REQUESTED - All Causes of**
10 **Action**

11 The Staff Petition dated November 20, 2006 (a copy of which is attached
12 hereto) is incorporated by reference hereto.

13 **ORDER - All Causes of Action**

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

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

19 It is hereby ORDERED, that:

- 20 1. The Respondents immediately cease engaging in the activity of
21 a mortgage banker/broker on residential property in New
22 Hampshire; and
- 23 2. The Respondents immediately cease engaging in the activity of
24 a second mortgage banker/broker on residential property in New
25 Hampshire;

1 James Shepard
2 State of New Hampshire
3 Banking Department
4 64B Old Suncook Road
5 Concord, NH 03301

6
7
8
9
10
11
12
13
14
15
State of New Hampshire Banking Department

16
17
18
19
20
21
22
23
24
25
In re the Matter of:) **Case No.: 06-263**
)
State of New Hampshire Banking) **Staff Petition**
)
Department,)
)
Petitioner,)
)
and)
)
2Amoskeag5 Realty LLC, 2Maisie5)
)
Realty I LLC, Walter Bressler III,)
)
Sadie Stanhope, Michael T Prieto,)
)
Respondents

16
17
18
19
20
21
22
23
24
25
STATEMENT OF ALLEGATIONS

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

Mortgage Banking and/or Brokering - RSA 397-A

1. 2Amoskeag5 Realty, LLC and 2Maisie5 Realty I, LLC offer loans secured by a mortgage to individuals facing foreclosure.
2. Neither entity is licensed to conduct mortgage banking or brokering activities in New Hampshire, nor do they qualify for an exemption under RSA 397-A:4.

1 3. Neither entity was licensed to conduct second mortgage banking or
2 brokering in New Hampshire under former RSA 398-A, nor do they qualify
3 for an exemption under former RSA 398-A:10.

4 4. 2Amoskeag5 Realty LLC registered as a domestic limited liability
5 company with the NH Secretary of State on May 25, 2005. Its sole
6 manager is Sadie Stanhope. Its principal address is 7 Colby Court
7 #202, Bedford, NH 03110 (a private mailbox at the UPS Store).

8 5. 2Maisie5 Realty I, LLC registered as a domestic limited liability
9 company with the NH Secretary of State on January 1, 2005. Its sole
10 manager is Micheal Prieto. Its principal address is 7 Colby Court
11 #202, Bedford, NH 03110 (a private mailbox at the UPS Store).

12 6. 2Amoskeag5 Realty, LLC recorded a mortgage secured by New Hampshire
13 real estate which was owner occupied and had 4 or less living units on
14 May 26, 2006 and another such mortgage on June 15, 2005 both in the
15 Rockingham County Register of Deeds.

16 7. 2Masie5 Realty I, LLC recorded two mortgages secured by New Hampshire
17 real estate which was owner occupied and had 4 or less living units on
18 April 4, 2005 at the Hillsborough County Register of Deeds, another
19 such mortgage February 24, 2005 at the Strafford County Register of
20 Deeds, another such mortgage on March 1, 2005 at the Hillsborough
21 County Register of Deeds and two more of such mortgages on April 18,
22 2005 one at the Hillsborough County Register of Deeds and one at the
23 Rockingham County Register of Deeds .

24 8. The principal agents involved in each of these transactions were Sadie
25 Stanhope, Micheal Prieto, and Walter Bressler III.

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

1 **Chapter 397-A Mortgage Banking and Brokering**

- 2 1. The Banking Department ("Department"), has jurisdiction over the
3 licensing and regulation of persons engaged in mortgage banker / broker
4 activities pursuant to NH RSA 397-A:3.
- 5 2. Non-natural persons conducting mortgage brokering or banking are
6 required to be licensed except when exempted by RSA 397-A:4. Neither of
7 the entity respondents is exempted by said statute.

8 **Chapter 398-A - Second Mortgage Loans**

- 9 1. The Department has jurisdiction over the licensing and regulation of
10 persons engaged in second mortgage banker / broker activities pursuant
11 to NH RSA 398-A:1-a. (repealed effective September 12, 2005)
- 12 2. Pursuant to former NH RSA 398-A:1-a no person shall engage in the
13 business of making or brokering second mortgage secured by real estate
14 in New Hampshire which is or shall be occupied in whole or in part by
15 the borrower and which consists of not more than 4 living units unless
16 the person first obtains a license.

17 **Truth in Lending Act Violations**

- 18 1. RSAs 397-A:2 III and RSA 397-A:17 I(1), 398-A:1-b I(k) and 399-D:13 I (k)
19 require all licensees to abide by all applicable federal and state laws
20 and regulations.
- 21 2. RSA 397-A:17I(1), 398-A:1-bI(k) and 399-D:13I(k) state that failure to
22 comply with applicable federal laws and regulations shall be grounds for
23 license denial or revocation.
- 24 3. 12 CFR 226.17 requires creditors to provide an itemization of the amount
25 financed to consumer clearly and conspicuously in writing.

1 RELIEF REQUESTED

2 The staff of the Banking Department requests the Commissioner take the
3 following action:

- 4 1. Find as fact the allegations contained in section I of the Statement of
5 Allegations of this petition.
- 6 2. Make conclusions of law relative to the allegations contained in section
7 II of the Statement of Allegations of this petition.
- 8 3. Pursuant to NH RSA 397-A:18, RSA 398-A:1-b IV, and RSA 399-D:23 II,
9 immediately Order Respondent to Cease and Desist from violations of the
10 New Hampshire Banking Laws.
- 11 4. Take such other administrative and legal actions as are necessary for
12 enforcement of the New Hampshire Banking laws, the protection of New
13 Hampshire citizens, and to provide other equitable relief.

14 RIGHT TO AMEND

15 The Department reserves the right to amend this Petition for Relief and
16 to request that the Banking Department Commissioner take additional
17 administrative action. Nothing herein shall preclude the Department from
18 bringing additional enforcement action under RSA 397-A, RSA 398-A or RSA 399-D
19 or the regulations thereunder.

20 Respectfully submitted by:

21
22
23 _____
24 /s/ James Shepard
25 Staff Attorney

11/20/06
Date