

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-053
)
 3 State of New Hampshire Banking) Order on Motion to Consolidate:
) Denied
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Fairfield Mortgage LLC, Earl J.)
)
 8 Cheney, David Paolini,)
)
 9 Respondents

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11 Order Denying Motion to Consolidate Related Actions

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13 I. BACKGROUND:

14 On July 20, 2007, Petitioner James Shepard filed a Motion to
 15 Consolidate (hereinafter "Motion") two pending matters before the New
 16 Hampshire Banking Department (hereinafter "Petitioner"). He requested that
 17 the assigned Case Number 07-053 (Order to Show Cause July 18, 2007 Staff
 18 Petition and July 19, 2007 Cease and Desist Order) be consolidated with
 19 assigned Case Number 07-044 (February 26, 2007 Cease and Desist Staff
 20 Petition and Order). The law firm of McLane, Graf, Raulerson & Middleton
 21 (hereinafter "Respondents' counsel") has filed Respondents' Objection to
 22 Motion to Consolidate. Respondents' counsel represents all Respondents in
 23 both cases.

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25 II. APPLICABLE NEW HAMPSHIRE ADMINISTRATIVE RULE BAN 203.07

New Hampshire Administrative Rule BAN 203.07, entitled

1 "Consolidation", provides as follows:

2 (a) A party may file a motion to consolidate whenever 2 or
3 more proceedings involve substantially similar or related
4 issues.

5 (b) A motion to consolidate may include a request for a
6 single hearing, a single decision, or both.

7 (c) The bank commissioner shall grant a motion to
8 consolidate upon finding that:

9 (1) A requested consolidation would further the
10 interests of fairness and efficiency; and

11 (2) A requested consolidation would not impair
12 consideration of the issues presented by each
13 individual matter.

14 **III. APPLICATION:**

15 In reviewing the Motion and the Objection, the Commissioner has
16 given particular weight to the Respondent's objection. While consolidation
17 would probably "further the interests of . . . efficiency," the respondents
18 clearly believe that consolidation in this matter would be unfair to the
19 respondents. The Respondents' Counsel has been fully informed of the
20 particulars of the two cases and their interrelation. Counsel still opposes
21 consolidation. While I believe it would be more efficient to consolidate the
22 two matters, I decline to order consolidation.

23 **IV. ORDER:**

24 Having considered the documents submitted by the parties as well as the
25 recommendation of the Presiding Officer, it is hereby ORDERED:

1. Pursuant to New Hampshire Administrative Rule BAN 203.07(c)(1), I
hereby find that the requested consolidation will not further the
interests of fairness and efficiency; and

