

1 State of New Hampshire Banking Department

2	In re the Matter of:) Case No.: 07-224
)
3	State of New Hampshire Banking)
4	Department,) Order to Show Cause
)
5	Petitioner,)
)
6	and)
)
7	The Aliso Pacific Company LLC, and)
)
8	Andre Stecki,)
)
9	Respondents)

10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions
12 of RSA Chapter 397-A and RSA Chapter 541-A.

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 397-A:17, the Banking Department of the State of New
15 Hampshire (hereinafter the "Department") has the authority to issue an order
16 to show cause why license revocation and penalties for violations of New
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, the Department has the authority to issue a
19 complaint setting forth charges whenever the Department is of the opinion
20 that the licensee or person over whom the Department has jurisdiction is
21 violating or has violated any provision of RSA Chapter 397-A, or any rule or
22 order thereunder.

23 Pursuant to RSA 397-A:20,IV the Commissioner may issue, amend, or
24 rescind such orders as are reasonably necessary to comply with the
25 provisions of the Chapter.

1 Pursuant to RSA 397-A:21, the Commissioner has the authority to
2 suspend, revoke or deny any license and to impose administrative penalties
3 of up to \$2,500.00 for each violation of New Hampshire banking law and
4 rules.

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
6 that is or may be an unfair or deceptive act or practice under RSA Chapter
7 358-A and exempt under RSA 358-A:3,I or that may violate any of the
8 provisions of Titles XXXV and XXXVI and administrative rules adopted
9 thereunder. The Commissioner may hold hearings relative to such conduct and
10 may order restitution for a person or persons adversely affected by such
11 conduct.

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

13 The above named Respondents have the right to request a hearing on
14 this Order to Show Cause, as well as the right to be represented by counsel
15 at each Respondent's own expense. All hearings shall comply with RSA Chapter
16 541-A. Any such request for a hearing shall be in writing, and signed by the
17 Respondent or the duly authorized agent of the above named Respondent, and
18 shall be delivered either by hand or certified mail, return receipt
19 requested, to the Banking Department, State of New Hampshire, 53 Regional
20 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
21 10 days of the Department's receipt of the request. If the Respondent fails
22 to appear at the hearing after being duly notified, such person shall be
23 deemed in default, and the proceeding may be determined against the Respondent
24 upon consideration of the Order to Show Cause, the allegations of which may be
25 deemed to be true.

1 If any of the above named Respondents fails to request a hearing within
2 30 calendar days of receipt of such order or reach a formal written and
3 executed settlement with the Department within that time frame, then such
4 person shall likewise be deemed in default, and the orders shall, on the
5 thirty-first day, become permanent, and shall remain in full force and effect
6 until and unless later modified or vacated by the Commissioner, for good cause
7 shown.

8 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

9 The Staff Petition dated July 8, 2009 (a copy of which is attached
10 hereto) is incorporated by reference hereto.

11 **ORDER**

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

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

17 It is hereby ORDERED, that:

- 18 1. Respondent The Aliso Pacific Company LLC ("Respondent Aliso
19 Pacific") shall show cause why penalties in the amount of
20 \$5,000.00 should not be imposed against it;
- 21 2. Respondent Andre Stecki ("Respondent Stecki") shall show
22 cause why penalties in the amount of \$10,000.00 should not be
23 imposed against him;
- 24 3. The above named Respondents shall show cause why, in addition
25 to the penalties listed in Paragraphs 1 through 2 above, the

1 \$1,565.00 examination fee should not be paid to the
2 Department;

3 4. The above named Respondents shall show cause why, in addition
4 to the penalties listed in Paragraphs 1 through 3 above, the
5 fine for \$2,500.00 for the failure to file the financial
6 statement should not be paid to the Department;

7 5. Respondents shall be jointly and severally liable for the
8 above amounts alleged in Paragraphs 1 through 4 above;

9 6. The above named Respondents shall show cause why, in addition
10 to the penalties listed in Paragraphs 1 through 5 above,
11 Respondent Aliso Pacific's license should not be revoked.

12 It is hereby further ORDERED that:

13 7. Along with the administrative penalties listed for the above
14 named Respondents, the outstanding sum of \$4,065.00 shall be
15 immediately paid; and

16 8. Failure to request a hearing within 30 days of the date of
17 receipt or valid delivery of this Order shall result in a
18 default judgment being rendered and administrative penalties
19 imposed upon the defaulting Respondent(s).

21 SIGNED,

23 Dated: 07/08/09

 /s/
 PETER C. HILDRETH
 BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-224
)
 3 State of New Hampshire Banking)
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 4 Department,) Staff Petition
)
 5 Petitioner,) July 8, 2009
)
 6 and)
)
 7 The Aliso Pacific Company LLC, and)
)
 8 Andre Stecki,)
)
 9 Respondents)

10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent The Aliso Pacific Company LLC (hereinafter "Respondent
15 Aliso Pacific") was licensed as a Mortgage Banker from at least
16 October 28, 2005 until it surrendered its license on October 19,
17 2006.
- 18 2. Respondent Andre Stecki (hereinafter "Respondent Stecki") was the
19 President of Respondent Aliso Pacific, when licensed by the
20 Department.

21 Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

22 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to
23 Department Inquiries (1 Count)

- 24 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
25 herein.

1 4. The Department conducted an examination of Respondent Aliso
2 Pacific on August 8, 2006, while Respondent Aliso Pacific was
3 still licensed with the Department.

4 5. Though Respondent Aliso Pacific initially failed to facilitate the
5 examination, it eventually provided the Department with the
6 requested examination materials.

7 6. On February 16, 2007, the Department mailed the invoice for
8 \$1,565.00 to Respondent Aliso Pacific, via U.S. Certified Mail
9 Return Receipt requested, which Respondents apparently received
10 since it was never returned to the Department by the post office.

11 7. The Department, via U.S. mail, mailed another notice on February
12 16, 2007 and a third notice on July 6, 2007 (by U.S. Certified
13 Mail Return Receipt requested, as well). On July 30, 2007, the
14 post office returned to the Department the July 6, 2007 notice
15 sent by certified mail.

16 8. The above named Respondents did not respond to any of the notices
17 for payment of the \$1,565.00 invoice.

18 9. To date, the above named Respondents still owe the \$1,565.00
19 examination fee for the 3.13 day examination.

20 **Violation of RSA 397-A:13,II Failure to File Financial Statement (1 Count):**

21 **Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to**
22 **Department Inquiries (1 Count)**

23 10. Paragraphs 1 through 9 are hereby realleged as fully set forth
24 herein.

25 11. The Respondents' fiscal year end was December 31, 2005 and the

1 financial statement was due on or before March 31, 2006.

2 12. Respondent Aliso Pacific was licensed on the date the financial
3 statement filing was due the Department.

4 13. The Department sent Respondent Aliso Pacific a reminder letter on
5 January 30, 2006, with a follow-up on April 20, 2006 and the
6 final follow-up letter on May 23, 2006.

7 14. On May 24, 2006, the Department, via U.S. Certified Mail Return
8 Receipt requested, mailed a final letter. Respondents signed for
9 this document and returned the green return receipt to the
10 Department.

11 15. Respondents have failed to respond to the Department's reminder
12 letters regarding the financial statement.

13 16. To date, the accrued penalty for failure to file a financial
14 statement has reached the maximum cap of \$2,500.00 (\$25.00 a day,
15 maximum \$2,500.00).

16 **II. ISSUES OF LAW**

17 The staff of the Department alleges the following issues of law:

18 1. The Department realleges the above stated facts in Paragraphs 1
19 through 16 as fully set forth herein.

20 2. The Department has jurisdiction over the licensing and regulation
21 of persons engaged in mortgage banker or broker activities
22 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

23 3. RSA 397-A:12,V provides that the expense of such examination shall
24 be chargeable to and paid by the licensee. Each of the above
25 named Respondents violated this provision on at least one occasion

1 as alleged above. To date, the above named Respondents have
2 failed to pay the \$1,565.00 examination invoice.

3 4. RSA 397-A:13,II provides that each licensee shall file a financial
4 statement within 90 days from the date of its fiscal year end.
5 Each of the above named Respondents violated this statute on at
6 least one occasion as alleged above. The maximum fine has accrued
7 to \$2,500.00 as calculated by RSA 397-A:13,IV below.

8 5. RSA 397-A:13,IV provides that any mortgage banker or mortgage
9 broker failing to file either the annual report or the financial
10 statement required by RSA Chapter 397-A within the time prescribed
11 may be required to pay to the Department a penalty of \$25.00 for
12 each calendar day the annual report or financial statement is
13 overdue, up to a maximum penalty of \$2,500.00 per report or
14 statement. The above named Respondents failed to file a financial
15 statement, the fine of which has accrued to the maximum cap of
16 \$2,500.00.

17 6. RSA 397-A:13,VI provides that any officer, owner, manager or agent
18 of any licensee shall reply promptly in writing, or other
19 designated form, to any written inquiry from the Department.
20 Respondent Stecki violated this provision on at least two
21 occasions as alleged above.

22 7. RSA 397-A:17,I provides in part that the Commissioner may by
23 order, upon due notice and opportunity for hearing, assess
24 penalties or deny, suspend, or revoke a license or application if
25 it is in the public interest and the applicant, respondent, or

1 licensee, any partner, officer, member, or director, any person
2 occupying a similar status or performing similar functions, or any
3 person directly or indirectly controlling the applicant,
4 respondent, or licensee: (a) has violated any provision of RSA
5 Chapter 397-A or rules thereunder, or (b) has not met the
6 standards established in RSA Chapter 397-A.

7 8. RSA 397-A:18,I provides that the Department may issue a complaint
8 setting forth charges whenever the Department is of the opinion
9 that the licensee or person over whom the Department has
10 jurisdiction, has violated any provision of RSA 397-A or orders
11 thereunder.

12 9. RSA 397-A:21,IV provides that any person who, either knowingly or
13 negligently, violates any provision of Chapter 397-A, may upon
14 hearing, and in addition to any other penalty provided for by law,
15 be subject to an administrative fine not to exceed \$2,500.00, or
16 both. Each of the acts specified shall constitute a separate
17 violation, and such administrative action or fine may be imposed
18 in addition to any criminal penalties or civil liabilities imposed
19 by New Hampshire Banking laws.

20 10. RSA 397-A:21,V provides that every person who directly or
21 indirectly controls a person liable under this section, every
22 partner, principal executive officer or director of such person,
23 every person occupying a similar status or performing a similar
24 function, every employee of such person who materially aids in the
25 act constituting the violation, and every licensee or person acting

1 as a common law agent who materially aids in the acts constituting
2 the violation, either knowingly or negligently, may, upon notice
3 and opportunity for hearing, and in addition to any other penalty
4 provided for by law, be subject to suspension, revocation, or
5 denial of any registration or license, including the forfeiture of
6 any application fee, or the imposition of an administrative fine
7 not to exceed \$2,500, or both. Each of the acts specified shall
8 constitute a separate violation, and such administrative action or
9 fine may be imposed in addition to any criminal or civil penalties
10 imposed.

11 **III. RELIEF REQUESTED**

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

- 14 1. Find as fact the allegations contained in section I of this Staff
15 Petition;
- 16 2. Make conclusions of law relative to the allegations contained in
17 section II of this Staff Petition;
- 18 3. Pursuant to RSA 397-A:17, order each of the above named
19 Respondents to show cause why their license should not be revoked;
- 20 4. Assess fines and administrative penalties in accordance with RSA
21 397-A:21, for violations of Chapter 397-A, in the number and
22 amount equal to the violations set forth in section II of this
23 Staff Petition; and
- 24 5. Take such other administrative and legal actions as necessary for
25 enforcement of the New Hampshire Banking Laws, the protection of

