

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 358-A and
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
9 Commissioner may hold hearings relative to such conduct and may order
10 restitution for a person or persons adversely affected by such conduct. The
11 Commissioner may utilize all remedies available under the Consumer
12 Protection Act.

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

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

1 deemed to be true.

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

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

9 The Staff Petition dated December 31, 2008 (a copy of which is
10 attached 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 GNA Mortgage Group Inc ("Respondent GNA Mortgage")
19 shall show cause why penalties in the amount of \$2,500.00
20 should not be imposed against it;
- 21 2. Respondent Glenn E. Garafano ("Respondent Garafano") shall
22 show cause why penalties in the amount of \$5,000.00 should
23 not be 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 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-122
)
 3 State of New Hampshire Banking)
)
 4 Department,) Staff Petition
)
 5 Petitioner,) December 31, 2008
)
 6 and)
)
 7 GNA Mortgage Group Inc, and Glenn E.)
)
 8 Garafano,)
)
 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 GNA Mortgage Group Inc (hereinafter "GNA Mortgage")
 15 was licensed as a Mortgage Broker from at least 1999 (with an
 16 amended license date of September 19, 2005) until its license
 17 expired on December 31, 2007.
- 18 2. Respondent Glenn E. Garafano (hereinafter "Respondent Garafano")
 19 was the 100% owner and President of Respondent GNA Mortgage,
 20 when licensed by the 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 occasion as alleged above. To date, the above named Respondents
2 have failed to pay the \$500.00 examination invoice.

3 4. RSA 397-A:13,VI provides that any officer, owner, manager or agent
4 of any licensee shall reply promptly in writing, or other
5 designated form, to any written inquiry from the Department.
6 Respondent Garafano violated this provision on at least one
7 occasion as alleged above.

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

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

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

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

12 **III. RELIEF REQUESTED**

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

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

