

1 State of New Hampshire Banking Department

) Case No.: 08-131

2 In re the Matter of: )

3 State of New Hampshire Banking )

4 Department, )

5 Petitioner, )

6 and )

7 Pinnacle Financial Corporation (d/b/a )

8 Tristar Lending Group and d/b/a Netstar )

9 Funding), Jeffrey Joseph Vratana, Lisa )

10 Marie Vratana, Douglas Fritzgerald )

11 Long, Brenda Kaye Long, and James M. )

12 Girad, )

13 Respondents )

14 NOTICE OF ORDER

15 This Order commences an adjudicative proceeding under the provisions  
16 of RSA 397-A and RSA 541-A.

17 LEGAL AUTHORITY AND JURISDICTION

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

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

1 order thereunder.

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

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

9 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct  
10 that is or may be an unfair or deceptive act or practice under RSA 358-A and  
11 exempt under RSA 358-A:3,I or that may violate any of the provisions of  
12 Titles XXXV and XXXVI and administrative rules adopted thereunder. The  
13 Commissioner may hold hearings relative to such conduct and may order  
14 restitution for a person or persons adversely affected by such conduct. The  
15 Commissioner may utilize all remedies available under the Consumer  
16 Protection Act.

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

18 The above named Respondents have the right to request a hearing on  
19 this Order to Show Cause, as well as the right to be represented by counsel  
20 at each Respondent's own expense. All hearings shall comply with RSA 541-A.  
21 Any such request for a hearing shall be in writing, and signed by the  
22 Respondent or the duly authorized agent of the above named Respondent, and  
23 shall be delivered either by hand or certified mail, return receipt  
24 requested, to the Banking Department, State of New Hampshire, 53 Regional  
25 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within

1 10 days of the Department's receipt of the request. If the Respondent fails  
2 to appear at the hearing after being duly notified, such person shall be  
3 deemed in default, and the proceeding may be determined against the Respondent  
4 upon consideration of the Order to Show Cause, the allegations of which may be  
5 deemed to be true.

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

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

13 The Staff Petition dated December 31, 2008 (a copy of which is  
14 attached hereto) is incorporated by reference hereto.

15 **ORDER**

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

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

21 It is hereby ORDERED, that:

- 22 1. Respondent Pinnacle Financial Corporation (d/b/a Tristar  
23 Lending Group and d/b/a Netstar Funding) ("Respondent  
24 Pinnacle") shall show cause why penalties in the amount of  
25 \$10,000.00 should not be imposed against it;

- 1                   2. Respondent Jeffrey Joseph Vratana ("Respondent Mr.  
2                   Vratana") shall show cause why penalties in the amount of  
3                   \$10,000.00 should not be imposed against him;
- 4                   3. Respondent Lisa Marie Vratana ("Respondent Ms. Vratana")  
5                   shall show cause why penalties in the amount of \$10,000.00  
6                   should not be imposed against her;
- 7                   4. Respondent Douglas Fitzgerald Long ("Respondent Mr. Long")  
8                   shall show cause why penalties in the amount of \$10,000.00  
9                   should not be imposed against him;
- 10                  5. Respondent Brenda Kaye Long ("Respondent Ms. Long") shall  
11                  show cause why penalties in the amount of \$10,000.00 should  
12                  not be imposed against her;
- 13                  6. Respondent James M. Girad ("Respondent Girad") shall show  
14                  cause why penalties in the amount of \$17,500.00 should not be  
15                  imposed against him;
- 16                  7. The above named Respondents shall show cause why, in addition  
17                  to the penalties listed in Paragraphs 1 through 6 above, the  
18                  \$615.00 examination fee should not be paid to the Department;
- 19                  8. The above named Respondents shall show cause why, in addition  
20                  to the penalties listed in Paragraphs 1 through 7 above, the  
21                  accrued fine of \$20,200.00 for the failure to file  
22                  examination materials should not be paid to the Department;
- 23                  9. The above named Respondents shall be jointly and severally  
24                  liable for the above amounts alleged in Paragraphs 1 through  
25                  8 above;

1 10. The above named Respondents shall show cause why, in addition  
2 to the penalties listed in Paragraphs 1 through 9 above,  
3 Respondent Pinnacle's license should not be revoked.

4 It is hereby further ORDERED that:

5 11. Along with the administrative penalties listed for the above  
6 named Respondents, the outstanding sum of \$20,815.00 shall be  
7 immediately paid; and

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

12 SIGNED,

13  
14 Dated: 12/31/08

15 /s/  
16 PETER C. HILDRETH  
17 BANK COMMISSIONER  
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1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-131  
3 State of New Hampshire Banking )  
4 Department, ) Staff Petition  
5 Petitioner, ) December 31, 2008  
6 and )  
7 Pinnacle Financial Corporation (d/b/a )  
8 Tristar Lending Group and d/b/a Netstar )  
9 Funding), Jeffrey Joseph Vratana, )  
10 Lisa Marie Vratana, Douglas )

11 Fritzgerald Long, Brenda Kaye Long, and  
12 James M. Girad,

13 Respondents

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14 I. STATEMENT OF ALLEGATIONS

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

17 Facts Common on All Counts:

- 18 1. Respondent Pinnacle Financial Corporation (d/b/a Tristar Lending  
19 Group and d/b/a Netstar Funding) (hereinafter "Respondent  
20 Pinnacle") was licensed as a Mortgage Banker from at least May  
21 13, 2003 until it surrendered its license effective January 01,  
22 2008.
- 23 2. Respondent Jeffrey Joseph Vratana (hereinafter "Respondent Mr.  
24 Vratana") was a 25% owner and Director of Respondent Pinnacle,  
25 when licensed by the Department.

1 3. Respondent Lisa Marie Vratana (hereinafter "Respondent Ms.  
2 Vratana") was a 25% owner and Secretary of Respondent  
3 Pinnacle, when licensed by the Department.

4 4. Respondent Douglas Fitzgerald Long (hereinafter "Respondent Mr.  
5 Long") was a 25% owner and Chief Executive Officer of Respondent  
6 Pinnacle, when licensed by the Department.

7 5. Respondent Brenda Kaye Long (hereinafter "Respondent Ms. Long")  
8 was a 25% owner and Chief Compliance Officer of Respondent  
9 Pinnacle, when licensed by the Department.

10 6. Respondent James M. Girad (hereinafter "Respondent Girad") was  
11 the President of Respondent Pinnacle, when licensed by the  
12 Department.

13 **NOTICE OF EXAMINATION MATERIALS REQUEST**

14 **Violation of RSA 397-A:12,VII Failure to Facilitate Exam (1 Count):**

15 **Violation of RSA 397-A:12,III Examinations: Failure to Provide Requested**

16 **Files (1 Count):**

17 **Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested**

18 **Files (1 Count):**

19 7. Paragraphs 1 through 6 are hereby realleged as fully set forth  
20 herein.

21 8. The Department conducted an examination of Respondent Pinnacle on  
22 August 27, 2007.

23 9. On August 1, 2007, the Department sent the August 1, 2007 Notice  
24 of Examination to Respondent Pinnacle via U.S. Certified Mail  
25 Return Receipt requested, which the Respondent received on August

1           6, 2007.

2           10. The materials requested in the August 1, 2007 notice of  
3           examination were due on August 27, 2007, which is 21 days after  
4           the August 6, 2007 delivery of the notice of examination.

5           11. The above named Respondents provided certain examination materials  
6           to the Department but failed to include Schedule A and Schedule  
7           B, an accurate annual report and a proper officer questionnaire.

8           12. On October 26, 2007, the Department sent a reminder letter to  
9           Respondent Pinnacle requesting the materials that the Department  
10          did not receive as a result of the August 1, 2007 notice of  
11          examination.

12          13. Respondent Pinnacle received the October 26, 2007 reminder letter  
13          on November 1, 2007.

14          14. With no response, the Department successfully faxed a reminder  
15          letter to Respondent Pinnacle dated April 8, 2008, requesting the  
16          missing items.

17          15. On May 1, 2008, the Department received correspondence from  
18          Respondent Pinnacle indicating it would not submit documents  
19          because it was no longer licensed.

20          16. On June 23, 2008, the Department responded that although  
21          Respondent Pinnacle is no longer licensed, it was still required  
22          to submit the documents as stated in the Department's October 26,  
23          2007 correspondence.

24          17. Respondent Pinnacle received the Department's June 23, 2008  
25          correspondence at 12:34 p.m. on June 26, 2008.



1 18. To date, the above named Respondents have failed to respond to the  
2 June 23, 2008 Department correspondence.

3 19. To date, the above named Respondents have failed to file the  
4 missing documents with the Department (which the Department  
5 calculates to have been due on November 22, 2007 - 21 days after  
6 Respondents' receipt of the October 26, 2007 reminder letter).

7 20. To date, the above named Respondents currently owe \$20,200.00  
8 (\$50.00 a day x 404 days), and still accruing, for failing to  
9 provide examination materials.

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

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

13 21. Paragraphs 1 through 19 are hereby realleged as fully set forth  
14 herein.

15 22. As stated above, the Department conducted an examination of  
16 Respondent Pinnacle on August 27, 2007, while Respondent Pinnacle  
17 was still licensed with the Department.

18 23. On July 17, 2008, the Department mailed the report of examination  
19 and invoice for \$615.00 to Respondent Pinnacle, via U.S.  
20 Certified Mail Return Receipt requested, which Respondents  
21 received on July 21, 2008.

22 24. The above named Respondents failed to respond to the July 17, 2008  
23 correspondence from the Department.

24 25. The Department, via U.S. mail, mailed a second notice on August  
25 20, 2007 and a third notice on September 23, 2008.

1 26. The above named Respondents did not respond to any of the three  
2 notices for payment of the \$615.00 invoice.

3 27. To date, the above named Respondents still owe the \$615.00  
4 examination fee for the 1.23 day examination.

5 **II. ISSUES OF LAW**

6 The staff of the Department, alleges the following issues of law:

7 1. The Department realleges the above stated facts in Paragraphs 1  
8 through 27 as fully set forth herein.

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

12 3. RSA 397-A:11,II provides that requested files and business records  
13 must be received by the Department within 21 calendar days of  
14 request. The licensee will be subject to a \$50.00 a day fine  
15 every day after the 21-day period the records are not produced.  
16 Respondents currently owe \$18,750.00. Each of the above named  
17 Respondents violated this statute on at least one occasion as  
18 alleged above.

19 4. RSA 397-A:12,III requires licensees to comply with examination  
20 requests with or without prior notice. All books, papers, files,  
21 related material, and records of assets shall be subject to the  
22 Department's examination. Each of the above named Respondents  
23 violated this statute on at least one occasion as alleged above.

24 5. RSA 397-A:12,V provides that the expense of such examination shall  
25 be chargeable to and paid by the licensee. Each of the above

1 named Respondents violated this provision on at least one  
2 occasion as alleged above. To date, the above named Respondents  
3 have failed to pay the \$615.00 examination invoice.

4 6. RSA 397-A:12,VII provides that every person being examined, and  
5 all of the officers, directors, employees, agents, and  
6 representatives of such person shall make freely available to the  
7 Commissioner or his or her examiners, the accounts, records,  
8 documents, files, information, assets, and matters in their  
9 possession or control relating to the subject of the examination  
10 and shall facilitate the examination. Each of the above named  
11 Respondents violated this statute on at least one occasion as  
12 alleged above.

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

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

23 9. RSA 397-A:21,IV provides that any person who, either knowingly or  
24 negligently, violates any provision of Chapter 397-A, may upon  
25 hearing, and in addition to any other penalty provided for by

1 law, be subject to an administrative fine not to exceed  
2 \$2,500.00, or both. Each of the acts specified shall constitute  
3 a separate violation, and such administrative action or fine may  
4 be imposed in addition to any criminal penalties or civil  
5 liabilities imposed by New Hampshire Banking laws.

6 10. RSA 397-A:21,V provides that every person who directly or  
7 indirectly controls a person liable under this section, every  
8 partner, principal executive officer or director of such person,  
9 every person occupying a similar status or performing a similar  
10 function, every employee of such person who materially aids in the  
11 act constituting the violation, and every licensee or person acting  
12 as a common law agent who materially aids in the acts constituting  
13 the violation, either knowingly or negligently, may, upon notice  
14 and opportunity for hearing, and in addition to any other penalty  
15 provided for by law, be subject to suspension, revocation, or  
16 denial of any registration or license, including the forfeiture of  
17 any application fee, or the imposition of an administrative fine  
18 not to exceed \$2,500, or both. Each of the acts specified shall  
19 constitute a separate violation, and such administrative action or  
20 fine may be imposed in addition to any criminal or civil penalties  
21 imposed.

22 **III. RELIEF REQUESTED**

23 The staff of the Department requests the Commissioner take the following  
24 action:

- 25 1. Find as fact the allegations contained in section I of this Staff

Petition;

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

**IV. RIGHT TO AMEND**

The Department reserves the right to amend this Staff Petition and to request that the Commissioner take additional administrative action. Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

                /s/                  
Maryam Torben Desfosses  
Hearings Examiner

                                    12/31/08                                      
Date