

1 State of New Hampshire Banking Department

)Case No.: 08-138

2 In re the Matter of:)

3 State of New Hampshire Banking)

4 Department,)

5 Petitioner,)

6 and)

7 Boston Mortgage Consultants, LLC (d/b/a)

8 Snow Hill Financial), Thomas P.)

9 Cornell, and Richard E. Shelton,)

10 Respondents)

11 NOTICE OF ORDER

12 This Order to Show Cause commences an adjudicative proceeding under
13 the provisions of RSA Chapter 397-A and RSA Chapter 541-A.

14 LEGAL AUTHORITY AND JURISDICTION

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

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

25 Pursuant to RSA 397-A:20,IV, the Commissioner may issue, amend, or

1 rescind such orders as are reasonably necessary to comply with the
2 provisions of the Chapter.

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

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

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

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

1 consideration of the Order to Show Cause, the allegations of which may be
2 deemed to be true.

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

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

11 The Staff Petition dated January 22, 2010 (a copy of which is attached
12 hereto) is incorporated by reference hereto.

13 **ORDER**

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. Respondent Boston Mortgage Consultants, LLC (d/b/a Snow Hill
21 Financial) ("Respondent Boston Mortgage") shall show cause
22 why penalties in the amount of \$2,500.00 should not be
23 imposed against it;
- 24 2. Respondent Thomas P. Cornell ("Respondent Cornell") shall
25 show cause why penalties in the amount of \$2,500.00 should

1 not be imposed against him;

2 3. Respondent Richard E. Shelton ("Respondent Shelton") shall
3 show cause why penalties in the amount of \$2,500.00 should
4 not be imposed against him;

5 4. The above named Respondents shall show cause why, in addition
6 to the penalties listed in Paragraphs 1 through 3 above, the
7 remaining unpaid \$200.00 of the \$515.00 examination fee
8 should not be paid to the Department;

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

11 6. The above named Respondents shall show cause why, in addition
12 to the penalties listed in Paragraphs 1 through 5 above,
13 Respondent Boston Mortgage's license should not be revoked.

14 It is hereby further ORDERED that:

15 7. Along with the administrative penalties listed for the above
16 named Respondents, the outstanding sum of \$200.00 shall be
17 immediately paid; and

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

22 SIGNED,

23
24 Dated: 01/28/10

25 /s/
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-138
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) January 22, 2010
6 and)
7 Boston Mortgage Consultants, LLC (d/b/a)
8 Snow Hill Financial), Thomas P.)
9 Cornell, and Richard E. Shelton,)
10 Respondents)

11 I. STATEMENT OF ALLEGATIONS

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

14 Facts Common on All Counts:

- 15 1. Respondent Boston Mortgage Consultants, LLC (d/b/a Snow Hill
16 Financial) (hereinafter "Respondent Boston Mortgage") was
17 licensed as a Mortgage Broker from at least December 16, 2005
18 until its license expired on December 31, 2007.
- 19 2. Respondent Thomas P. Cornell (hereinafter "Respondent Cornell")
20 was the 50% owner and President of Respondent Boston Mortgage,
21 when licensed by the Department.
- 22 3. Respondent Richard E. Shelton (hereinafter "Respondent Shelton")
23 was the 50% owner and Vice President of Respondent Boston
24 Mortgage, when licensed by the Department.

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

2 4. Paragraphs 1 through 3 are hereby realleged as fully set forth
3 herein.

4 5. The Department conducted an examination of Respondent Boston
5 Mortgage on March 17, 2008, for activities that occurred while
6 Respondent Boston Mortgage was still licensed with the
7 Department.

8 6. On September 9, 2008, the Department mailed the report of
9 examination and invoice for \$515.00 to Respondent Boston
10 Mortgage, via U.S. Certified Mail Return Receipt requested, which
11 Respondents received.

12 7. The Department received a letter dated December 4, 2008 from
13 Respondent Cornell indicating he would be willing to pay pursuant
14 to a repayment plan of \$50.00 per month until the balance of
15 \$515.00 is paid off. The Department received this letter on
16 December 8, 2008.

17 8. On December 8, 2008, the Department wrote Respondent Cornell a
18 letter indicating that the Department is willing to accept a
19 first payment of \$115.00 and then \$100.00 monthly thereafter
20 until the balance is fully paid. Respondent Cornell signed and
21 returned the letter along with a check for \$115.00.

22 9. The Department received a payment of \$100.00 on March 2, 2009 and
23 a payment of \$100.00 on April 1, 2009. The Department has not
24 received the remaining balance of \$200.00.

25 10. To date, the above named Respondents still owe the \$200.00

1 remaining balance of the examination fee.

2 **II. ISSUES OF LAW**

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

- 4 1. The Department realleges the above stated facts in Paragraphs 1
5 through 10 as fully set forth herein.
- 6 2. The Department has jurisdiction over the licensing and regulation
7 of persons engaged in mortgage banker or broker activities
8 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 9 3. RSA 397-A:12,V provides that the expense of such examination shall
10 be chargeable to and paid by the licensee. Each of the above
11 named Respondents violated this provision on at least one occasion
12 as alleged above. To date, the above named Respondents have
13 failed to pay the remaining balance of the \$200.00 examination
14 invoice.
- 15 4. RSA 397-A:17,I provides in part that the Commissioner may by
16 order, upon due notice and opportunity for hearing, assess
17 penalties or deny, suspend, or revoke a license or application if
18 it is in the public interest and the applicant, respondent, or
19 licensee, any partner, officer, member, or director, any person
20 occupying a similar status or performing similar functions, or any
21 person directly or indirectly controlling the applicant,
22 respondent, or licensee: (a) has violated any provision of RSA
23 Chapter 397-A or rules thereunder, or (b) has not met the
24 standards established in RSA Chapter 397-A.
- 25 5. RSA 397-A:18,I provides that the Department may issue a complaint

1 setting forth charges whenever the Department is of the opinion
2 that the licensee or person over whom the Department has
3 jurisdiction, has violated any provision of RSA 397-A or orders
4 thereunder.

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

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

1 constitute a separate violation, and such administrative action or
2 fine may be imposed in addition to any criminal or civil penalties
3 imposed.

4 **III. RELIEF REQUESTED**

5 The staff of the Department requests the Commissioner take the following
6 action:

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

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22 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
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1 IV. RIGHT TO AMEND

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

6 Respectfully submitted by:

7
8 /s/
Maryam Torben Desfosses
9 Hearings Examiner

 01/22/10
Date