

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-200
)
 3 State of New Hampshire Banking)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Direct Lending Inc (d/b/a Direct)
)
 8 Branch), and Guste Shukeireh,)
)
 9 Respondents)

10 NOTICE OF ORDER

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

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

12 The above named Respondents have the right to request a hearing on
13 this Order to Show Cause, as well as the right to be represented by counsel
14 at each Respondent's own expense. All hearings shall comply with RSA 541-A.
15 Any such request for a hearing shall be in writing, and signed by the
16 Respondent or the duly authorized agent of the above named Respondent, and
17 shall be delivered either by hand or certified mail, return receipt
18 requested, to the Banking Department, State of New Hampshire, 53 Regional
19 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
20 10 days of the Department's receipt of the request. If the Respondent fails
21 to appear at the hearing after being duly notified, such person shall be
22 deemed in default, and the proceeding may be determined against the Respondent
23 upon consideration of the Order to Show Cause, the allegations of which may be
24 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 formal settlement with the
3 Department within that time frame, then such person shall likewise be deemed
4 in default, and the orders shall, on the thirty-first day, become permanent,
5 and shall remain in full force and effect until and unless later modified or
6 vacated by the Commissioner, for good cause shown.

7 STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

8 The Staff Petition dated June 1, 2009 (a copy of which is attached
9 hereto) is incorporated by reference hereto.

10 ORDER

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

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

16 It is hereby ORDERED, that:

- 17 1. Respondent Direct Lending Inc (d/b/a Direct Branch)
18 ("Respondent Direct Lending") shall show cause why penalties
19 in the amount of \$5,000.00 should not be imposed against it;
- 20 2. Respondent Guste Shukeireh ("Respondent Shukeireh") shall
21 show cause why penalties in the amount of \$7,500.00 should
22 not be imposed against him;
- 23 3. The above named Respondents shall show cause why, in addition
24 to the penalties listed in Paragraphs 1 through 2 above, the
25 \$1,665.00 examination fee should not be paid to the

1 Department;

2 4. The above named Respondents shall show cause why, in addition
3 to the penalties listed in Paragraphs 1 through 3 above, the
4 accrued remaining fine of \$300.00 for the late filing of
5 examination materials should not be paid to the Department;

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

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

11 It is hereby further ORDERED that:

12 7. Along with the administrative penalties listed for the above
13 named Respondents, the outstanding sum of \$1,965.00 shall be
14 immediately paid; and

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

19 SIGNED,

20
21 Dated: 06/01/09

22 /s/
PETER C. HILDRETH
23 BANK COMMISSIONER
24
25

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-200
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 3 State of New Hampshire Banking)
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 4 Department,) Staff Petition
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 5 Petitioner,) June 1, 2009
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 6 and)
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 7 Direct Lending Inc (d/b/a Direct)
)
 8 Branch), and Guste Shukeireh,)
)
 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 Direct Lending Inc (d/b/a Direct Branch) (hereinafter
15 "Respondent Direct Lending") was licensed as a Mortgage Banker
16 from at least June 12, 2006 until its license expired on
17 December 31, 2007.
- 18 2. Respondent Guste Shukeireh (hereinafter "Respondent Shukeireh")
19 was the Chief Executive Officer and President of Respondent
20 Vision One, when licensed by the Department.

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

22 Files in a Timely Manner (1 Count):

- 23 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
24 herein.
- 25 4. The Department conducted an examination of Respondent Direct

1 Lending on June 11, 2007, while Respondent Direct Lending was
2 still licensed with the Department.

3 5. Respondent Direct Lending received the May 14, 2007 notice of
4 examination on May 18, 2007.

5 6. The materials requested in the notice of examination were due on
6 June 8, 2007, which is 21 days after the May 18, 2007 delivery of
7 the notice of examination.

8 7. The examination materials arrived at the Department on August 6,
9 2007, which is 59 days late.

10 8. The total late statutory penalty due would be \$2,950.00 (\$50.00 a
11 day x 59 days). The Department only charged \$300.00, which to
12 date has not been paid.

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

14 **Violation of RSA 397-A:13, VI Failure of Officer and Owner to Respond to**

15 **Department Inquiries (1 Count):**

16 9. Paragraphs 1 through 8 are hereby realleged as fully set forth
17 herein.

18 10. The Department conducted an examination of Respondent Direct
19 Lending on June 11, 2007, while Respondent Direct Lending was
20 still licensed with the Department.

21 11. On January 18, 2008, the Department mailed the report of
22 examination and invoice for \$1,665.00 to Respondent Direct
23 Lending, via U.S. Certified Mail Return Receipt requested, which
24 Respondents received on January 22, 2008.

25 12. The Respondents failed to respond to the January 18, 2008

1 Department correspondence.

2 13. The Department then, via U.S. mail, mailed a second notice on
3 March 5, 2008 and a third notice on April 16, 2008.

4 14. The above named Respondents did not respond to any of the three
5 notices for payment of the \$1,665.00 invoice.

6 15. To date, the above named Respondents still owe the \$1,665.00
7 examination fee for the 3.33 day examination.

8 **II. ISSUES OF LAW**

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

10 1. The Department realleges the above stated facts in Paragraphs 1
11 through 15 as fully set forth herein.

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

15 3. RSA 397-A:11,II provides that requested files and business records
16 must be received by the Department within 21 calendar days of
17 request. The licensee will be subject to a \$50.00 a day fine
18 every day after the 21-day period the records are not produced.
19 Respondents currently owe \$300.00. Each of the above named
20 Respondents violated this statute on at least one occasion as
21 alleged above.

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

1 have failed to pay the \$1,665.00 examination invoice.

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

7 6. RSA 397-A:17,I provides in part that the Commissioner may by
8 order, upon due notice and opportunity for hearing, assess
9 penalties or deny, suspend, or revoke a license or application if
10 it is in the public interest and the applicant, respondent, or
11 licensee, any partner, officer, member, or director, any person
12 occupying a similar status or performing similar functions, or
13 any person directly or indirectly controlling the applicant,
14 respondent, or licensee: (a) has violated any provision of RSA
15 Chapter 397-A or rules thereunder, or (b) has not met the
16 standards established in RSA Chapter 397-A.

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

22 8. RSA 397-A:21,IV provides that any person who, either knowingly or
23 negligently, violates any provision of Chapter 397-A, may upon
24 hearing, and in addition to any other penalty provided for by
25 law, be subject to an administrative fine not to exceed

1 \$2,500.00, or both. Each of the acts specified shall constitute
2 a separate violation, and such administrative action or fine may
3 be imposed in addition to any criminal penalties or civil
4 liabilities imposed by New Hampshire Banking laws.

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

21 **III. RELIEF REQUESTED**

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

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

06/01/09
Date