

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-265
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Constitution Financial Group Inc,)
)
 8 Denise M. Leonard, and Jaclynn K.)
)
 9 Sulfaro,)
)
 10 Respondents)

11 NOTICE OF ORDER

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

14 LEGAL AUTHORITY AND JURISDICTION

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

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

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

1 provisions of the Chapter.

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

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

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 541-A.
18 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 the Respondent fails
24 to appear at the hearing after being duly notified, such person shall be
25 deemed in default, and the proceeding may be determined against the Respondent

1 upon 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 formal settlement with the
5 Department within that time frame, then such person shall likewise be deemed
6 in default, and the orders shall, on the thirty-first day, become permanent,
7 and shall remain in full force and effect until and unless later modified or
8 vacated by the Commissioner, for good cause shown.

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

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

12 **ORDER**

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

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

18 It is hereby ORDERED, that:

- 19 1. Respondent Constitution Financial Group Inc ("Respondent
20 Constitution Financial") shall show cause why penalties in
21 the amount of \$2,500.00 should not be imposed against it;
- 22 2. Respondent Denise M. Leonard ("Respondent Leonard") shall
23 show cause why penalties in the amount of \$5,000.00 should
24 not be imposed against her;
- 25 3. Respondent Jaclynn K. Sulfaro ("Respondent Sulfaro") shall

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-265
))
3 State of New Hampshire Banking)
))
4 Department,) Staff Petition
))
5 Petitioner,) December 31, 2008
))
6 and)
))
7 Constitution Financial Group Inc,)
))
8 Denise M. Leonard, and Jaclynn K.)
))
9 Sulfaro,)
))
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 Constitution Financial Group Inc (hereinafter
16 "Constitution Financial") was licensed as a Mortgage Banker from
17 at least 1999 until it surrendered its license on October 8,
18 2008.
- 19 2. Respondent Denise M. Leonard (hereinafter "Respondent Leonard")
20 was the Chief Executive Officer of Respondent Constitution
21 Financial, when licensed by the Department.
- 22 3. Respondent Jaclynn K. Sulfaro (hereinafter "Respondent Sulfaro")
23 was the President of Respondent Constitution Financial, when
24 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 Constitution
5 Financial on March 26, 2007, while Respondent Constitution
6 Financial was still licensed with the Department.

7 6. Respondent Constitution Financial requested a payment plan for the
8 \$2,665.00 examination fee for the 5.33 day examination.

9 7. On February 5, 2008, the Department received a check for \$500.00,
10 along with a letter dated February 1, 2008 from Respondent
11 Constitution Financial.

12 8. On February 5, 2008, the Department mailed correspondence to
13 Respondent Constitution Financial, requesting another partial
14 payment of \$500.00 by February 29, 2008 and a monthly payment of
15 \$500.00 thereafter, to be due the 29th of each month, until the
16 remaining balance of \$2,165.00 is paid in full.

17 9. On February 29, 2008, the Department received a \$500.00 partial
18 payment, bringing the balance to \$1,665.00.

19 10. On April 2, 2008, the Department received another partial payment
20 of \$500.00, bringing the balance to \$1,165.00.

21 11. On June 2, 2008, the Department received another partial payment
22 of \$500.00, bringing the current balance to \$665.00.

23 12. The Department has not received any additional payments from
24 Respondent Constitution Financial since June 2, 2008.

25 13. To date, the above named Respondents still owe the \$665.00

1 remaining balance.

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 13 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
12 occasion as alleged above. To date, the above named Respondents
13 have failed to pay the \$665.00 remaining unpaid examination
14 invoice.
- 15 4. RSA 397-A:18,I provides that the Department may issue a complaint
16 setting forth charges whenever the Department is of the opinion
17 that the licensee or person over whom the Department has
18 jurisdiction, has violated any provision of RSA 397-A or orders
19 thereunder.
- 20 5. RSA 397-A:21,IV provides that any person who, either knowingly or
21 negligently, violates any provision of Chapter 397-A, may upon
22 hearing, and in addition to any other penalty provided for by
23 law, be subject to an administrative fine not to exceed
24 \$2,500.00, or both. Each of the acts specified shall constitute
25 a separate violation, and such administrative action or fine may

1 be imposed in addition to any criminal penalties or civil
2 liabilities imposed by New Hampshire Banking laws.

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

19 **III. RELIEF REQUESTED**

20 The staff of the Department requests the Commissioner take the following
21 action:

- 22 1. Find as fact the allegations contained in section I of this Staff
23 Petition;
- 24 2. Make conclusions of law relative to the allegations contained in
25 section II of this Staff Petition;

