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State of New Hampshire Banking Department

In re the Matter of:)	Case No.: 08-319
)	
State of New Hampshire Banking)	
Department,)	Order to Show Cause
)	
Petitioner,)	
)	
and)	
)	
Sterling Coast to Coast Financial Group))	
)	
Inc, James J. Neylan, and Suzanne)	
)	
Neylan,)	
)	
Respondents)	

NOTICE OF ORDER

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

LEGAL AUTHORITY AND JURISDICTION

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

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

Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or 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 January 15, 2009 (a copy of which is attached
11 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 Sterling Coast to Coast Financial Group
20 ("Respondent Sterling Coast to Coast") shall show cause why
21 penalties in the amount of \$5,000.00 should not be imposed
22 against it;
- 23 2. Respondent James J. Neylan ("Respondent Mr. Neylan") shall
24 show cause why penalties in the amount of \$7,500.00 should
25 not be imposed against him;

1 3. Respondent Suzanne Neylan ("Respondent Ms. Neylan") shall
2 show cause why penalties in the amount of \$7,500.00 should
3 not be imposed against her;

4 4. The above named Respondents shall show cause why, in addition
5 to the penalties listed in Paragraphs 1 through 3 above, the
6 \$500.00 examination fee should not be paid to the Department;

7 5. The above named Respondents shall show cause why, in addition
8 to the penalties listed in Paragraphs 1 through 4 above, the
9 fine for \$200.00 for the late filing of the financial
10 statement should not be paid to the Department;

11 6. The above named Respondents shall be jointly and severally
12 liable for the above amounts alleged in Paragraphs 1 through
13 5 above;

14 7. The above named Respondents shall show cause why, in addition
15 to the penalties listed in Paragraphs 1 through 6 above,
16 Respondent Sterling Coast to Coast's license should not be
17 revoked.

18 It is hereby further ORDERED that:

19 8. Along with the administrative penalties listed for the above
20 named Respondents, the outstanding sum of \$700.00 shall be
21 immediately paid; and

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-319
)
 3 State of New Hampshire Banking)
)
 4 Department,) Staff Petition
)
 5 Petitioner,) January 15, 2009
)
 6 and)
)
 7 Sterling Coast to Coast Financial Group)
)
 8 Inc, James J. Neylan, and Suzanne)
)
 9 Neylan,)
)
 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 Sterling Coast to Coast Financial Group (hereinafter
16 "Respondent Sterling Coast to Coast") was licensed as a Mortgage
17 Banker from at least 2001 until its license expired on December
18 31, 2007.
- 19 2. Respondent James J. Neylan (hereinafter "Respondent Mr. Neylan")
20 was the President of Respondent Sterling Coast to Coast, when
21 licensed by the Department.
- 22 3. Respondent Suzanne Neylan (hereinafter "Respondent Ms. Neylan")
23 was an officer and director of Respondent Sterling Coast to
24 Coast, when licensed by the Department.

1 Violation of RSA 397-A:13, IV Failure to Pay Late Penalty Owed for Late

2 Filing of Financial Statement (1 Count):

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

5 5. Respondent Sterling Coast to Coast's financial statement was due
6 on or before April 2, 2007 based on its fiscal year end of
7 December 31, 2006.

8 6. Respondent Sterling Coast to Coast was still licensed at the time
9 its financial statement filing was due to the Department.

10 7. The Department received Respondent Sterling Coast to Coast's
11 financial statement on April 10, 2007 (8 days late), which
12 generated a fine of \$200.00 (\$25.00 a day x 8 days).

13 8. The Department sent invoices to Respondent Sterling Coast to Coast
14 in April, June and August of 2007.

15 9. To date, Respondent Sterling Coast to Coast has failed to pay the
16 \$200.00 late filing of a financial statement fee.

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

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

19 Department Inquiries (1 Count):

20 10. Paragraphs 1 through 9 are hereby realleged as fully set forth
21 herein.

22 11. The Department conducted an examination of Respondent Sterling
23 Coast to Coast on December 31, 2007, while Respondent Sterling
24 Coast to Coast was still licensed with the Department.

25 12. On March 28, 2008, the Department mailed the report of examination

1 and invoice for \$500.00 to Respondent Sterling Coast to Coast,
2 via U.S. Certified Mail Return Receipt requested, which
3 Respondents received on April 4, 2008.

4 13. The above named Respondents failed to respond to the March 28,
5 2008 correspondence from the Department.

6 14. The Department, via U.S. mail, mailed a second notice on April 29,
7 2008 and a third notice on June 24, 2008.

8 15. The above named Respondents did not respond to any of the three
9 notices for payment of the \$500.00 invoice.

10 16. To date, the above named Respondents still owe the \$500.00
11 examination fee for the one day examination.

12 **II. ISSUES OF LAW**

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

14 1. The Department realleges the above stated facts in Paragraphs 1
15 through 16 as fully set forth herein.

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

19 3. RSA 397-A:12,V provides that the expense of such examination shall
20 be chargeable to and paid by the licensee. Each of the above
21 named Respondents violated this provision on at least one
22 occasion as alleged above. To date, the above named Respondents
23 have failed to pay the \$500.00 examination invoice.

24 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage
25 broker failing to file either the annual report or the financial

1 statement required by RSA Chapter 397-A within the time
2 prescribed may be required to pay to the Department a penalty of
3 \$25.00 for each calendar day the annual report or financial
4 statement is overdue, up to a maximum penalty of \$2,500.00 per
5 report or statement. Each of the above named Respondents violated
6 this provision on at least one occasion as alleged above. The
7 above named Respondents filed a financial statement that was 8
8 days late, and incurred a penalty of \$200.00.

9 5. RSA 397-A:13,VI provides that any officer, owner, manager or agent
10 of any licensee shall reply promptly in writing, or other
11 designated form, to any written inquiry from the Department.
12 Respondent Mr. Neylan and Respondent Ms. Neylan each violated
13 this provision on at least one occasion as alleged above.

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

19 7. RSA 397-A:21,IV provides that any person who, either knowingly or
20 negligently, violates any provision of RSA Chapter 397-A, may
21 upon hearing, and in addition to any other penalty provided for
22 by law, be subject to an administrative fine not to exceed
23 \$2,500.00, or both. Each of the acts specified shall constitute
24 a separate violation, and such administrative action or fine may
25

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

3 8. 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;

