

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 08-366
)
 4 State of New Hampshire Banking)
)
 5 Department,)
) Adjudicative Decision:
 6 Petitioner,) Order to Pay Fines and Restitution
)
 7 and)
)
 8 Post Road Funding Inc, Ward W.)
)
 9 Weizel, and Paul T. Hatidani,)
)
 10 Respondents)
)
 11)

12 Procedural Background

13 Respondent Post Road Funding, Inc. and all other Respondents were
14 served with an Order to Show Cause and Cease and Desist Order on or about
15 August 27, 2008. The Respondents jointly and timely requested a hearing on
16 this Order and asked for a continuance for thirty days. The initial hearing
17 for September 5, 2008 was continued until October 7, 2008.

18 A hearing was held on October 7, 2008, but needed to be continued
19 after Petitioner finished its presentation of the matter. The hearing was
20 continued until October 22, 2008 but the proceedings began anew based on the
21 Banking Commissioner's ruling. Commissioner Hildreth served as Presiding
22 Officer.

23 On October 22, 2008, a hearing was held before the newly appointed
24 Presiding Officer, who heard testimony and accepted exhibits relevant to the
25 matter. At the conclusion of said hearing the record was left open for the

1 parties to submit proposed orders to include proposed findings of fact and
2 rulings of law and any other closing statements.

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4 ORDER

5 Having considered the record, including exhibits submitted by the
6 parties, the stipulations made by Respondents, and the testimony taken at
7 the hearing, I hereby find that the Petitioner has met its burden to prove
8 the factual and legal allegations in the Staff Petition dated August 22,
9 2008.

10 Further, I hereby:

- 11 1. DENY all of Respondents Post Road Funding, Inc. and Paul T. Hatidani's
12 Proposed Findings of Fact.
- 13 2. DENY Respondents Post Road Funding, Inc. and Paul T. Hatidani's
14 Proposed Ruling of Law.
- 15 3. GRANT Respondent Ward W. Weizel's Request for Findings of Fact
16 regarding the following paragraphs (number by Respondent Weizel to
17 correspond with the Staff Petition filed by The New Hampshire Banking
18 Department ("Banking Department")): 3, 5-9, 12-16, 18-23, 25-26, 25-
19 27, 45, and 48. Additionally, the following Requests are also GRANTED:
- 20 a. Respondent Ward W. Weizel's allegations that there is no
21 evidence that Respondent Ward W. Weizel had an active role with
22 Post Road Funding, Inc. after August 2006; and
- 23 b. Respondent Ward W. Weizel's allegations that there is no
24 evidence that Respondent Ward W. Weizel exercised any control
25 over Respondent Paul T. Hatidani after August, 2006.

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2 4. DENY Respondent Ward W. Weizel's Request for Findings of Fact
3 regarding the following paragraphs: 39, 49, 54, and 55. Additionally,
4 the following Requests are NEITHER DENIED NOR GRANTED:

5 a. The changes in the Post Road Funding Corporation were negotiated
6 between Respondents Hatidani and Weizel at arms length; and

7 b. Respondent Hatidani was represented by counsel during the
8 negotiations concerning the ownership and control of Post Road
9 Funding.

10 5. DENY all of Respondent Ward W. Weizel's "Requested Issues of Law as to
11 Respondent Weizel" regarding Notice and Request for Continuance.

12 6. DENY Respondent Ward W. Weizel's "Requested Issues of Law as to
13 Respondent Weizel" regarding Liability of Respondent Weizel as
14 follows:

15 a. Respondent Ward W. Weizel's allegations that although Respondent
16 Ward W. Weizel is a principal owner as defined by RSA 397-A, at
17 the time of these violations, he was a minority stock holder who
18 had no legal authority under Massachusetts or New Hampshire
19 corporate law to supervise Respondent Paul T. Hatidani and there
20 is no evidence that after August, 2006 that Respondent Ward W.
21 Weizel exercised control of any kind over Respondent Paul T.
22 Hatidani or any aspect of Post Road Funding, Inc.; and

23 b. Respondent Ward W. Weizel's allegations that Respondent Ward W.
24 Weizel did not knowingly or negligently violate RSA 397-A:21 I-
25 IV because as a matter of law he had no authority to supervise
any aspect of Post Funding, Inc.; and

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2 c. Respondent Ward W. Weizel's allegations that the intent of the
3 statute is to punish those who actively participate in the
4 violations and Respondent Ward W. Weizel did not do so.

5 7. GRANT Respondent Ward W. Weizel's "Requested Issues of Law as to
6 Respondent Weizel" regarding Liability of Respondent Weizel as
7 follows:

8 a. Respondent Ward W. Weizel did not supervise the corporation or
9 Respondent Paul T. Hatidani and that Respondent Ward W. Weizel
10 was not a partner, principle executive officer or director of
11 such person of the corporation as defined in RSA 397-A:21.

12 8. GRANT Petitioner's Proposed Findings of Fact paragraphs numbered 1
13 through 17, 20, 21 and 22.

14 9. GRANT WITH CAVEAT Petitioner's Proposed Findings of Fact paragraphs
15 numbered 18 and 19.

16 10. GRANT Petitioner's Proposed Rulings of Law paragraphs lettered A
17 through J, X and Y.

18 11. NEITHER DENY NOR GRANT Petitioner's Proposed Rulings of Law as
19 follows:

20 a. Respondents violated RSA 397-A:16, IV by the unauthorized
21 retention of commissions for services rendered on two occasions
22 as indicated in the Proposed Findings of Fact above.

23 b. Respondents violated RSA 293-A:15.01 via RSA 397-A:2,II because
24 the mortgage loans brokered by Respondents did not comply with
25 other New Hampshire state law on two occasions as indicated in
the Proposed Findings of Fact above.

- 1 c. Respondents violated RSA 293-A:15.01 via RSA 397-A:2,III because
2 the persons subject to or licensed by RSA Chapter 397-A did not
3 comply with other New Hampshire state law on two occasions as
4 indicated in the Proposed Findings of Fact above.
- 5 d. Respondents violated RSA 397-A:11,I by failing to maintain
6 records on fifty-six occasions as indicated in the Proposed
7 Findings of Fact above.
- 8 e. Respondents violated the Gramm-Leach-Bliley Act, Title V, Section
9 501(a) via RSA 397-A:2,III on fifty-six occasions as indicated in
10 the Proposed Findings of Fact above.
- 11 f. Respondents violated RSA 397-A:6,I by failing to supervise others
12 on four occasions as indicated in the Proposed Findings of Fact
13 above.
- 14 g. Respondents violated RSA 397-A:17,I(f) by committing fraud on
15 nine occasions as indicated in the Proposed Findings of Fact
16 above.
- 17 h. Respondents violated RSA 397-A:17,I(k) by engaging in dishonest
18 and unethical practices on nine occasions as indicated in the
19 Proposed Findings of Fact above.
- 20 i. Respondents violated RSA 397-A:12 on one occasion by failing to
21 pay the examination fee as indicated in the Proposed Findings of
22 Fact above.
- 23 j. Respondents Hatidani and Weizel each violated RSA 397-A:13,VI by
24 failing to respond to Department inquiries on eight occasions as
25 indicated in the Proposed Findings of Fact above.

1 k. Respondent Post Road Funding, Inc. is subject to an
2 administrative fine of \$400,500.00 and joint and several
3 liability for \$1,200,500.00 for the multiple violations of RSA
4 Chapter 397-A pursuant to RSA 397-A:21,IV.

5 l. Respondent Paul T. Hatidani is subject to an administrative fine
6 of \$475,000.00 (\$400,000 for Respondent Post Road Funding, Inc.
7 and \$75,000 for Respondent Paul T. Hatidani alone) and joint and
8 several liability for \$1,240,500.00 for the multiple violations
9 of RSA Chapter 397-A pursuant to RSA 397-A:21,V.

10 m. Respondent Ward W. Weizel is subject to an administrative fine of
11 \$475,000.00 (\$400,000 for Respondent Post Road Funding, Inc. and
12 \$75,000 for Respondent Ward W. Weizel alone) and joint and
13 several liability for \$1,240,500.00 for the multiple violations
14 of RSA Chapter 397-A pursuant to RSA 397-A:21,V.

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17 I HEREBY ORDER the following:

18 1. Post Road Funding, Inc. shall pay an administrative fine
19 for multiple violations of RSA Chapter 397-A in the amount
20 of \$100,000.00;

21 2. Paul T. Hatidani shall pay an administrative fine for
22 multiple violations of RSA Chapter 397-A in the amount of
23 \$100,000.00;

24 3. The Respondents Post Road Funding, Inc. and Paul T.
25 Hatidani shall be joint and severally liable for the
aforementioned administrative fine. However, a hearing

