

1 State of New Hampshire Banking Department

2	In re the Matter of:) Case No.: 08-366
)
3	State of New Hampshire Banking) Order to Show Cause with Immediate
) Suspension
4	Department,)
) Cease and Desist Order
5	Petitioner,)
)
6	and)
)
7	Post Road Funding Inc, Ward W. Weizel,)
)
8	and Paul T. Hatidani,)
)
9	Respondents)
)

10
11 NOTICE OF ORDER

12 This Order commences an adjudicative proceeding under the provisions of
13 RSA 397-A, RSA 541-A, BAN 200 and JUS 800 as applicable.

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 Banking Department of the State of New
20 Hampshire (hereinafter the "Department") has the authority to issue and cause
21 to be served an order requiring any person engaged in any act or practice
22 constituting a violation of RSA 397-A or any rule or order thereunder, to
cease and desist from such violations.

23 Pursuant to RSA 397-A:17 and RSA 541-A:30 the Bank Commissioner
24 ("Commissioner) may by order summarily postpone or suspend any license or
25 application pending final determination of any order to show cause, or other
order, or of any other proceeding under this section, provided the Commissioner

1 finds that the public interest would be irreparably harmed by delay in issuing
2 such order.

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 of
5 up to \$2,500.00 for each violation of New Hampshire banking law and 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 Act.

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

14 The above named Respondents have the right to request a hearing on this
15 Order to Show Cause with Immediate Suspension and Cease and Desist Order
16 (hereinafter "Order"), as well as the right to be represented by counsel.
17 Any such request shall be in writing, and signed by the Respondents or by the
18 duly authorized agent of the above named Respondents, and shall be delivered
19 either by hand or certified mail, return receipt request, to the New
20 Hampshire Banking Department, 53 Regional Drive, Suite 200, Concord, NH
21 03301. In accordance with RSA 541-A, a hearing shall be held not more than
22 ten (10) days of such request. If any of the Respondents fails to appear at
23 the hearing after being duly notified, such person shall be deemed in
24 default, and the proceeding may be determined against the defaulting
25 Respondent(s) upon consideration of the Order, the allegations of which may
be deemed to be true.

If any of the Respondents fails to request a hearing within thirty (30)
calendar days of receipt of this Order or reach formal settlement with the

1 Department within that timeframe, then such Respondent shall likewise be
2 deemed in default, and the Order shall, on the thirty-first (31st) day become
3 permanent, and shall remain in full force and effect until and unless later
4 modified or vacated by the Commissioner, for good cause shown.

5 Pursuant to RSA 541-A, the Department shall hold a hearing within ten
6 days on the issue of the immediate suspension. That hearing is noticed under
7 separate order.

8 After said hearing and within 20 days of the date of the hearing the
9 Commissioner shall issue a further order vacating this Order or making it
10 permanent as the facts require and making such findings as are necessary. All
11 hearings shall comply with 541-A.

12 Pursuant to RSA 541-A:30, the Department shall hold a hearing within ten
13 (10) working days after the date of this Order suspending the Respondents'
14 license. A record of this proceeding shall be made by a certified shorthand
15 court reporter provided by this Department.

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

17 The Staff Petition dated August 22, 2008 (a copy of which is attached
18 hereto) is incorporated by reference hereto.

19 **ORDER**

20 WHEREAS, finding it necessary and appropriate and in the public
21 interest, and consistent with the intent and purposes of the New Hampshire
22 Banking laws, and

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

25 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

1 FINDING a substantial likelihood that delay will cause harm to the
2 public health, safety or welfare, requiring emergency action it is hereby
3 ORDERED:

- 4 1. **Respondent's license is immediately SUSPENDED;** and
- 5 2. Pursuant to RSA 541-A:30, III, an adjudicative hearing
6 regarding only the issue of the suspension shall be held
7 within ten (10) working days of the date of this Order.

8 It is hereby further ORDERED that:

- 9 3. Respondent Post Road Funding, Inc ("Respondent Post Road
10 Funding") shall show cause why penalties in the amount of
11 \$400,500.00 should not be imposed it individually and
12 therefore, \$1,200,500.00 jointly and severally;
- 13 4. Respondent Ward W. Weizel ("Respondent Weizel") shall show
14 cause why penalties in the amount of \$475,000.00 (\$400,000 for
15 Respondent Post Road Funding and \$75,000 for Respondent Weizel
16 alone) should not be imposed against him personally and
17 therefore, \$1,240,500.00 jointly and severally;
- 18 5. Respondent Paul T. Hatidani ("Respondent Hatidani") shall show
19 cause why penalties in the amount of \$475,000.00 (\$400,000 for
20 Respondent Post Road Funding and \$75,000 for Respondent
21 Hatidani alone) should not be imposed against him personally
22 and therefore, \$1,240,500.00 jointly and severally;
- 23 6. Respondent Post Road Funding's license should not be revoked;
24 and
- 25 7. All of the above named Respondents shall immediately **Cease and
Desist** from all violations of New Hampshire law and the rules
promulgated thereunder.

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-366
)
 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) August 22, 2008
)
 6 and)
)
 7 Post Road Funding Inc, Ward W. Weizel,)
)
 8 and Paul T. Hatidani,)
)
 9 Respondents)
)
 10)
)
 11)

12 STATEMENT OF ALLEGATIONS

13 The Staff of the Banking Department, State of New Hampshire (hereinafter
14 referred to as the "Department") alleges the following facts:

15 Facts Common on All Counts:

- 16 1. Respondent Post Road Funding, Inc. ("Respondent Post Road Funding")
 17 is licensed as a Mortgage Broker and at all times relevant to this
 18 action has held a Department license since at least February 2005.
- 19 2. Respondent Post Road Funding's principal office is currently
 20 located at 1111 Main Street, Springfield, Massachusetts 01103.
- 21 3. Respondent Ward W. Weizel ("Respondent Weizel") is currently
 22 President of Respondent Post Road Funding and a principal owner.
- 23 4. Respondent Paul T. Hatidani ("Respondent Hatidani") is a principal
 24 owner of Respondent Post Road Funding and a member of the Board of
 25 Directors.

1 Violation of RSA 397-A:12, VII Failure to Facilitate Exam (3 Counts):

2 Violation of RSA 397-A:12, III Failure to Provide Requested Files (3 Counts):

3 Violation of RSA 397-A:13, II Failure to File Financial Statement (2 Counts):

4 Violation of RSA 397-A:13, V Failure to File Additional Documents (3 Counts):

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

7 6. The Department attempted to conduct an examination of Respondent
8 Post Road Funding on December 24, 2007.

9 7. On December 3, 2007, the Department sent the November 30, 2007
10 Notice of Examination to Respondent Post Road Funding via U.S.
11 Certified Mail Return Receipt, which Respondent Hatidani of
12 Respondent Post Road Funding signed for and received on December 5,
13 2007.

14 8. The November 30, 2007 Notice of Examination required the Respondent
15 to submit the following documents:

16 a. A list of all New Hampshire files of loans that the licensee
17 originated, funded, closed, denied, or that were withdrawn,
18 canceled or serviced by the licensee during the period 18 months
19 prior to the date of this notice;

20 b. A copy of the most recent year-end financial statement, SEC 10-K
21 and 10-Q if applicable, and most recent Federal Income Tax
22 return;

23 c. A copy of the most recent quarterly financial statement;

24 d. Work papers and copies of source documents to support the
25 figures submitted on the company's most recently filed New
Hampshire Annual Report; the work papers shall demonstrate the

1 actual calculation of the numbers for verification by the
2 department; and

3 e. A list on Schedules A and B of the license application form of
4 the current direct owners, indirect owners and all principals of
5 the company.

6 9. With no response from any of the above named Respondents, a second
7 notice dated February 28, 2008 was submitted to Respondent Post
8 Road Funding via U.S. Certified Mail Return Receipt and delivered
9 at 11:37 a.m. on March 3, 2008 as evidenced by Track and Confirm
10 label 7007 2680 0001 1062 4192.

11 10. Again with no response, a third attempt was made by the Department
12 on April 29, 2008 via facsimile with a facsimile transmittal
13 confirmation of April 29, 2008 at 8:37 and by email with an
14 electronic mail delivery confirmation.

15 **Violation of RSA 397-A:13, II Failure to File Financial Statement (1 Count):**

16 11. Paragraphs 1 through 10 are hereby realleged as fully set forth
17 herein.

18 12. Respondent Post Road Funding's financial statement was due on or
19 before March 31, 2008.

20 13. Respondent Post Road Funding was licensed on the date the financial
21 statement was due.

22 14. On January 24, 2008, the Department sent Respondent Post Road
23 Funding a reminder letter notifying it of the upcoming requirement
24 to file the financial statement.

25 15. On April 9, 2008, the Department sent a notice to Respondent Post
Road Funding that the financial statement was not received and that

1 a fine had begun to accrue.

2 16. On May 8, 2008, the Department sent a final notice advising
3 Respondent Post Road Funding that the financial statement had still
4 not been received and if it was not received by May 30, 2008, a
5 referral to legal would be made.

6 **Violation of RSA 397-A:5, III (c) Failure to Post Continuous Surety Bond (1**
7 **Count):**

8 **Violation of RSA 397-A:10, IV Failure to Update Information on File with**
9 **Commissioner (2 Counts):**

10 17. Paragraphs 1 through 16 are hereby realleged as fully set forth
11 herein.

12 18. On January 22, 2008, the Department was notified by The Hartford of
13 a surety bond cancellation to be effective February 17, 2008.

14 19. On February 13, 2008, the Department sent Respondent Post Road
15 Funding a notice that the bond must be reinstated or replaced
16 immediately and the originally-executed bond sent to the
17 Department.

18 20. On February 20, 2008, Respondent Post Road Funding signed and
19 received the Department's February 13, 2008 notice to reinstate
20 bond.

21 21. On March 19, 2008, the Department made a notation in the Licensing
22 Database that Respondent Post Road Funding has not contacted the
23 Licensing Division to inform it of the status of the bond
24 reinstatement and that Respondent Post Road Funding does not have a
25 \$20,000 broker bond in place.

1 22. To date, the Department has not received the required bond
2 reinstatement.

3 23. Upon information and belief Respondent Post Road Funding is
4 currently without bonding by any surety leaving New Hampshire
5 consumers without recourse should Respondent Post Road Funding,
6 Respondent Weizel and Respondent Hatidani default in their
7 obligations.

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

9 24. Paragraphs 1 through 23 are hereby realleged as fully set forth
10 herein.

11 25. On July 22, 2008, an invoice and letter of explanation was prepared
12 for Respondent Post Road Funding indicating that Respondent Post
13 Road Funding owed \$500.00 for a one day exam, which was scheduled
14 for December 24, 2007.

15 26. On July 23, 2008, the July 22, 2008 invoice was sent by U.S.
16 Certified Mail Return Receipt requested.

17 27. A K. Davis signed for and received the July 22, 2008 invoice on
18 July 25, 2008.

19 **Violation of RSA 397-A:10, III Failure to Inform Commissioner of Office**

20 **Closure (1 Count):**

21 **Violation of RSA 397-A:10, IV Failure to Update Information on File with**

22 **Commissioner (3 Counts):**

23 **Violation of RSA 397-A:10, I Conducting Business under an Unauthorized Trade**

24 **Name or Name (1 Count):**

25 **Violation of RSA 397-A:10-a I (a) Failure to Properly Surrender License (1**
Count):

1 Violation of RSA 397-A:16, IV Unauthorized Retention of Commissions for

2 Services Rendered (2 Counts):

3 Violation of RSA 293-A:15.01 via RSA 397-A:2, II Mortgage Loans Brokered Do

4 Not Comply with Other New Hampshire State Law (2 Counts):

5 Violation of RSA 293-A:15.01 via RSA 397-A:2, III Persons Subject to or

6 Licensed by RSA Chapter 397-A Must Comply with Other New Hampshire State Law

7 (2 Counts):

8 Violation of RSA 397-A:11, I Failure to Maintain Records (56 Counts):

9 Violation of Gramm-Leach-Bliley Act, Title V, Sec. 501(a) via RSA 397-A:2,

10 III (56 Counts):

11 28. Paragraphs 1 through 27 are hereby realleged as fully set forth
12 herein.

13 29. On Monday, August 18, 2008, the Department sent examiners to
14 Respondent Post Road Funding's Springfield, Massachusetts location.

15 30. Respondent Post Road Funding had indicated in its 2006 Annual
16 Report it had brokered 59 New Hampshire loans.

17 31. Department examiners asked for the 59 New Hampshire loans and
18 Respondent Hatidani was only able to produce three loans.

19 32. Respondent Hatidani indicated he did not know where the other loan
20 files were and that he possibly made a mistake about the
21 number of reported loans on his 2006 Annual Report.

22 33. To this date, the Department does not have a record of the location
23 of the remaining 56 loan files.

24 34. On Tuesday, August 19, 2008, the Department received by facsimile a
25 letter stating it's from Respondent Post Road Funding and
Respondent Hatidani but the facsimile information and timestamp

1 states it is from Millennium Mortgage with a facsimile number of
2 413-532-0089.

3 35. The August 19, 2008 facsimile from Respondent Post Road Funding and
4 Respondent Hatidani states "I would like to inform you that, with
5 effect from 08/01/2008 we have closed down our Company for lack of
6 business, and we will be mailing back your license ASAP. We have
7 no pending files in the pipeline and if you need anything please
8 call at 413-737-0500."

9 36. The Department's record for Respondent Post Road Funding does not
10 include the facsimile or telephone number on the August 19, 2008
11 facsimile.

12 37. Further, the Department has not authorized nor approved Millennium
13 Mortgage as a trade name or any other name and this name is not
14 listed on its principal office license.

15 38. Respondent Post Road Funding has failed to notify the Department of
16 the use of this name until August 19, 2008.

17 39. As to the office closure, Respondent Post Road Funding, Respondent
18 Weizel and Respondent Hatidani each failed to notify the Department
19 no later than ten (10) days prior to the effective date of such
20 office closing, the closure of which Respondents have indicated in
21 the August 19, 2008.

22 40. The New Hampshire Secretary of State Corporation Division's website
23 shows Respondent Post Road Funding has been on administrative
24 suspension since August 1, 2007 and its principal office address is
25 still listed as 340 Main Street, Suite 500 in Worcester, MA 01606.

41. The Department's license database indicates the 340 Main Street,
Staff Petition - 7

1 Suite 500 was an older address and had been changed to 1111 Main
2 Street, Springfield, Massachusetts 01103.

3 42. Respondent Post Road Funding, Respondent Weizel and Respondent
4 Hatidani never informed the Department of its administrative
5 suspension with the New Hampshire Secretary of State's Office or
6 Corporation Division.

7 43. The Department is under a good faith belief that New Hampshire
8 loans were brokered from August 1, 2007 to August 19, 2008 and fees
9 collected by Respondents.

10 44. Respondent Post Road Funding reported a gross revenue of \$11,201;
11 therefore, some or all of those revenues earned and/or collected
12 from August 1, 2007 should be refunded to the New Hampshire
13 consumers.

14 45. Respondent Hatidani and Respondent Weizel, on a 2007 Report of
15 Mortgage Originators, have stated they each originated loans in
16 2007.

17 46. Since Respondent Post Road Funding was on administrative suspension
18 (due to failing to filing an annual report, or sustaining a
19 registered agent, or both), it did not have authority to transact
20 business in the State of New Hampshire.

21 Violation of RSA 397-A:6, I Failure to Supervise (4 Counts):

22 Violation of RSA 397-A:17, I(f) Fraud (9 Counts):

23 Violation of RSA 397-A:17, I (k) Dishonest or Unethical Practices (9
24 Counts):

25 47. Paragraphs 1 through 46 are hereby realleged as fully set forth
herein.

1 48. On review of the loan file of one consumer (Consumer A) received as
2 a result of the examination by the Massachusetts Division of Banks,
3 the following practices were observed relating to documents in the
4 file:

5 a. Evidence that Respondents were hiding past due amounts on
6 mortgage accounts by taping blank pieces of paper to those
7 portions of statements revealing the past due amounts;

8 b. Evidence that Respondents were creating annuity statements by
9 taping pieces of different statements together on a piece of
10 paper;

11 c. Evidence that Respondents were creating bank statements with
12 higher balances by taping pieces of different statements
13 together on a piece of paper and using someone else's bank
14 statement balances as Consumer A's created statement;

15 d. Evidence that Respondents were creating bank statements with
16 mortgage payments by taping pieces of paper together;

17 e. Evidence that Respondents were creating a payment history from
18 debits through the bank; and

19 f. Evidence that Respondents were advising borrowers to back date
20 disclosures.

21 49. On review of the loan file of Consumer B, Consumer C and Consumer D
22 received as a result of the August 18, 2008 visit by Department
23 Examiners to Respondent Post Road Funding's Springfield,
24 Massachusetts location, the following practice was observed
25 relating to documents in the file:

a. Evidence that Respondents cut and pasted Consumer signatures

1 onto required on multiple disclosure documents and loan files.

2 **Violation of RSA 397-A:13, VI Failure of Officers and Owners to Respond to**

3 **Department Inquiries (8 Counts):**

4 50. Paragraphs 1 through 49 are hereby realleged as fully set forth
5 herein.

6 51. Respondent Hatidani failed to respond to the following Notice of
7 Examination letters:

- 8 a. November 30, 2008;
9 b. February 28, 2008; and
10 c. April 29, 2008.

11 52. Respondent Hatidani failed to respond to the following Notice to
12 File Financial Statement:

- 13 a. January 24, 2008;
14 b. April 9, 2008; and
15 c. May 8, 2008.

16 53. Respondent Hatidani failed to respond to the July 22, 2008 Notice
17 of Invoice for one day of the failed examination.

18 54. Respondent Weizel failed to respond to the following Notice of
19 Examination letters:

- 20 a. November 30, 2008;
21 b. February 28, 2008; and
22 c. April 29, 2008.

23 55. Respondent Weizel failed to respond to the following Notice to File
24 Financial Statement:

- 25 a. January 24, 2008;
b. April 9, 2008; and

1 c. May 8, 2008.

2 56. Respondent Weizel failed to respond to the July 22, 2008 Notice of
3 Invoice for one day of the failed examination.

4 **ISSUES OF LAW**

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

- 6 1. The Department realleges the above stated facts in paragraphs 1
7 through 56 above.
- 8 2. The Department has jurisdiction over the licensing and regulation
9 of persons engaged in mortgage broker activities pursuant to RSA
10 397-A:2 and RSA 397-A:3.
- 11 3. RSA 397-A:16, IV requires that pursuant to RSA 397-A:3, only
12 mortgage brokers and mortgage bankers licensed under the provisions
13 of RSA Chapter 397-A shall be entitled to retain commissions for
14 services rendered. Each of the above named Respondents violated
15 this statute on at least two occasions by retaining commissions
16 when unauthorized to transact business in the State of New
17 Hampshire.
- 18 4. RSA 397-A:3 requires those in the business of making or brokering
19 mortgage loans secured by real property located in this state, and
20 not exempt from licensure, to obtain a license from the Department.
- 21 5. RSA 397-A:2, II requires any mortgage loans made or brokered under
22 RSA Chapter 397-A to be further governed by any other applicable
23 laws of the state of New Hampshire.
- 24 6. RSA 397-A:2, III requires persons subject to or licensed under RSA
25 Chapter 397-A to abide by applicable federal laws and regulations,
the laws and rules of the State of New Hampshire, and the orders of

1 the Commissioner. Any violation of such law, regulation, order, or
2 rule is a violation of RSA Chapter 397-A. Each of the above named
3 Respondents violated this statute on multiple occasions as stated
4 above by having a New Hampshire Secretary of State administrative
5 suspension placed against Respondent Post Road Funding and by not
6 being able to locate the fifty six loan files Department examiners
7 asked for and that Respondent Post Road Funding claimed on its 2006
8 Annual Report.

9 7. RSA 293-A:15.30 states a Certificate of Authority (to transact
10 business) may be revoked by the secretary of state if the
11 corporation has failed to file its annual report and/or failed to
12 sustain a registered agent.

13 8. The Gramm-Leach-Bliley Act, Title V, Sec. 501(a) states that it is
14 the policy of the Congress that each financial institution has an
15 affirmative and continuing obligation to respect the privacy of its
16 customers and to protect the security and confidentiality of those
17 customers' nonpublic personal information.

18 9. RSA 397-A:5, III (c) requires licensee to post a continuous surety
19 bond in the amount of \$20,000 to the Department. Each of the above
20 named Respondents violated this statute one time by allowing the
21 surety bond to be cancelled.

22 10. RSA 397-A:6, I mandates that licensees supervise their employees,
23 agents, loan originators, and branch offices. Each of the above
24 named Respondents failed to adequately supervise and therefore
25 violated this statute on at least 4 occasions (4 files) as alleged
above.

1 11. RSA 397-A:10, I provides that no licensee shall conduct the
2 business of a mortgage banker or mortgage broker under a trade name
3 or any other name different from the name stated in its principal
4 office license or branch office license without immediately
5 notifying the Commissioner, who shall then amend the license
6 accordingly. Each of the above named Respondents violated this
7 statute on at least one occasion by submitting a letter to the
8 Department using Millennium Mortgage's facsimile name and time
9 stamp.

10 12. RSA 397-A:10, III provides that licensees shall provide written
11 notice to the Department of any proposed closing of any licensed
12 office no later than ten (10) business days prior to the effective
13 date of such change. Each of the above named Respondents violated
14 this statute on one occasion by submitting a facsimile dated August
15 19, 2008 to the Department stating it closed its office on August
16 1, 2008.

17 13. RSA 397-A:10, IV provides that persons licensed under RSA Chapter
18 397 are under a continuing obligation to update information on file
19 with the Commissioner. Each of the above named Respondents failed
20 to update the Commissioner on at least three occasions by failing
21 to inform the Commissioner of the plan to close the principal
22 location, failing to notify the Commissioner of the use of the
23 trade name Millennium Mortgage, and failing to notify the
24 Commissioner of the New Hampshire Secretary of State Corporation
25 Division's administrative suspension of Post Road Funding, Inc.

1 14. RSA 397-A:10-a, I (a) provides that a licensee who ceases to engage
2 in the business of a mortgage banker or mortgage broker at any time
3 during a license year for any cause...shall surrender such license in
4 person or by registered or certified mail to the Commissioner
5 within 15 calendar days of such cessation, and shall cause to be
6 published in a newspaper of general circulation in the licensee's
7 market area a notice to such effect. Each of the above named
8 Respondents violated this statute on one occasion by failing to
9 properly surrender the license.

10 15. RSA 397-A:12, III requires licensees to comply with examination
11 requests with or without prior notice. All books, papers, files,
12 related material, and records of assets shall be subject to the
13 Department's examination. Each of the above named Respondents
14 violated this statute on at least three occasions by not responding
15 to the Department's three requests.

16 16. RSA 397-A:12, V provides that the expense of such examination shall
17 be chargeable to and paid by the licensee. Each of the above named
18 Respondents violated this statute one time by failing to pay the
19 \$500.00 billed examination fee.

20 17. RSA 397-A:12, VII provides that every person being examined, and
21 all of the officers, directors, employees, agents, and
22 representatives of such person shall make freely available to the
23 Commissioner or his or her examiners, the accounts, records,
24 documents, files, information, assets, and matters in their
25 possession or control relating to the subject of the examination
and shall facilitate the examination. Each of the above named

1 Respondents violated this statute on at least three occasions by
2 not facilitating the examination.

3 18. RSA 397-A:13, II provides that each licensee shall file a financial
4 statement within 90 days from the date of its fiscal year end.
5 Each of the above named Respondents violated this statute by
6 failing to submit the requested financial statement in three
7 separate requests.

8 19. RSA 397-A:13, V provides that in addition to the annual report and
9 financial statement, the Department may require such additional
10 special or regular reports as it may deem necessary under RSA
11 Chapter 397-A. Each of the above named Respondents violated this
12 provision on at least 3 occasions by failing to file three
13 additional documents requested by the Department for the December
14 24, 2007 examination.

15 20. RSA 397-A:13, VI provides that any officer, owner, manager or agent
16 of any licensee shall reply promptly in writing, or other
17 designated form, to any written inquiry from the Department.
18 Respondent Hatidani and Respondent Weizel each violated this
19 provision on at least 8 occasions each by each failing to respond
20 to Department notices concerning examination, financial statements,
21 cancelled bond and examination fee invoice.

22 21. Pursuant to RSA 397-A:17, the Commissioner may issue an order
23 requiring a person to whom any license has been granted or any
24 person under the Commissioner's jurisdiction to show cause why the
25 license should not be revoked, suspended, or penalties imposed, or
both, for violations of RSA Chapter 397-A. Pursuant to RSA 397-

1 A:17 (a) and (b), Respondent Post Road Funding is subject to
2 license revocation for violating provision of RSA Chapter 397-A and
3 for not meeting the standards established by RSA Chapter 397-A.

4 22. Pursuant to RSA 397-A:17, the Department may take action for
5 immediate suspension of Respondent Post Road Funding's license if
6 the Department finds that the public interest would be irreparably
7 harmed by delay in issuing such order.

8 23. Pursuant to RSA 397-A:17, I(f), licensees engaging in business in
9 New Hampshire are prohibited from making fraudulent
10 misrepresentations or concealing material particulars required to
11 be furnished to a borrower. Each of the above named Respondents
12 violated this statute at least 9 times as alleged above since
13 pursuant to RSA 397-A:15, IV, borrowers have a right for a copy of
14 documentation in the licensee's file relative to the borrower's
15 loan.

16 24. Pursuant to RSA 397-A:17, I(k), licensees engaging in business in
17 New Hampshire are prohibited from engaging in unethical business
18 practices. Each of the above named Respondents violated this
19 statute at least 9 times as alleged above.

20 25. Pursuant to RSA 397-A:17, I(l) licensees must abide by all federal
21 laws or rules thereunder. The Gramm-Leach-Bliley Act, Title V,
22 requires financial institutions to maintain the integrity of
23 nonpublic personal information. Each of the above named Respondents
24 violated this federal law by losing loan files in at least 56
25 instances and therefore violated RSA Chapter 397-A.

1 26. RSA 397-A:17, II allows the Department to immediately suspend a
2 license for 30 days pending the investigation of that licensee.

3 27. RSA 397-A:18 the Commissioner may issue a Cease and Desist order
4 against any licensee or person who has reasonable cause to believe
5 is in violation of the provisions of the chapter or any rule or
6 order under RSA Chapter 397-A.

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

17 29. RSA 397-A:21, IV provides that every person who directly or
18 indirectly controls a person liable under this section, every
19 partner, principal executive officer or director of such person,
20 every person occupying a similar status or performing a similar
21 function, every employee of such person who materially aids in the
22 act constituting the violation, and every licensee or person acting
23 as a common law agent who materially aids in the acts constituting
24 the violation, either knowingly or negligently, may, upon notice
25 and opportunity for hearing, and in addition to any other penalty
provided for by law, be subject to suspension, revocation, or

1 denial of any registration or license, including the forfeiture of
2 any application fee, or the imposition of an administrative fine
3 not to exceed \$2,500, or both. Respondents Weizel and Hatidani are
4 each subject to revocation and/or administrative fines for the
5 above stated violations

6 **RELIEF REQUESTED**

7 III. The staff of the Department requests the Commissioner take the following
8 Action:

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

RIGHT TO AMEND

IV. 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
Staff Attorney

 August 22, 2008
Date