

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-378  
) )  
3 State of New Hampshire Banking )  
) )  
4 Department, ) Order to Show Cause and  
) Cease and Desist Order  
5 Petitioner, )  
) )  
6 and )  
) )  
7 First Call Mortgage Company, Inc., ) Consent Order (only as to Peter S.  
) Lynch and Carolyn A. Lynch as Joint  
8 Kathleen L. Donovan, Carl D. ) Tenants)  
) )  
9 McFadden, George Vanderheiden, Peter )  
) )  
10 S. Lynch and Carolyn A. Lynch as )  
) )  
11 Joint Tenants, James Arthur )  
) )  
12 Lesmerises, David Allen Kesler, )  
) )  
13 Dennis Wright, )  
) )  
14 Respondents )  
) )

15 CONSENT ORDER

16 I. For purposes of settling the above-referenced matter, the New  
17 Hampshire Banking Department (hereinafter referred to as "the  
18 Department") and only Respondent Peter S. Lynch and Carolyn A. Lynch  
19 as joint tenants (hereinafter referred to as "Respondent Mr. and Mrs.  
20 Lynch") do hereby enter this Agreement and stipulate to the following:

- 21 1. Respondent Mr. and Mrs. Lynch (as joint tenants) were, as of  
22 August 24, 2007, a 13% owner of Respondent First Call Mortgage  
23 Company, Inc., a licensee under RSA Chapter 397-A.  
24 2. RSA 397-A:10,II requires each licensee to submit written  
25 notification to the Department of the addition or deletion of

1 any person with a 10% or more ownership interest in the licensee  
2 and to provide the name and address of each person within 30  
3 days after such change. RSA 397-A:10,IV also imposes a  
4 continuing obligation on a licensee to update information on  
5 file with the Commissioner.

6 3. RSA 397-A:10,II requires each person acquiring a 10% or more  
7 ownership interest in a licensee to authorize the Commissioner  
8 to conduct a background check.

9 4. Respondent First Call Mortgage Company, Inc. did not give the  
10 required notice to the Department of the addition of Respondent  
11 Mr. and Mrs. Lynch and their 10% or more ownership interest in  
12 the licensee within the 30 day period.

13 5. Respondent Mr. and Mrs. Lynch did not give the required  
14 authorization to the Commissioner to conduct a background check.

15 6. The Department contends that the obligation of Respondent Mr.  
16 and Mrs. Lynch to give the authorization to conduct a background  
17 check is separate and apart from the obligation of Respondent  
18 First Call Mortgage Company, Inc. to give notice of the addition  
19 of a person with a 10% or more ownership interest in the  
20 licensee.

21 7. Respondent Mr. and Mrs. Lynch contend that their obligation to  
22 give the authorization to conduct a background check is required  
23 after Respondent First Call Mortgage Company, Inc. provides  
24 notice of the addition of any person, such as the Respondent Mr.  
25 and Mrs. Lynch, with a 10% or more ownership interest in the

1 license.

2 8. Respondent Mr. and Mrs. Lynch affirm that at no time during  
3 their ownership of an interest in Respondent First Call Mortgage  
4 Company, Inc. have they been or are directly or indirectly  
5 involved with the day-to-day operations or management decisions  
6 of Respondent First Call Mortgage Company, Inc.

7 9. Without admitting or denying liability under RSA Chapter 397-A,  
8 in order to amicably resolve and close the matters recited  
9 hereinabove, Respondent Mr. and Mrs. Lynch agree to enter into  
10 this Consent Order.

11 II. Respondent Mr. and Mrs. Lynch agree to the following terms and  
12 conditions and the Department accepts the same:

13 1. Respondent Mr. and Mrs. Lynch agree that they have voluntarily  
14 entered into this Consent Order without reliance upon any  
15 discussions between the Department and Respondent Mr. and Mrs.  
16 Lynch, without promise of a benefit of any kind (other than  
17 concessions contained in this Consent Order), and without  
18 threats, force, intimidation, or coercion of any kind.  
19 Respondent Mr. and Mrs. Lynch further acknowledge their  
20 understanding of the nature of the violation alleged in the  
21 September 24, 2008 Staff Petition, including the penalties  
22 provided by law.

23 2. Respondent Mr. and Mrs. Lynch agree to waive any and all rights  
24 to a hearing and appeal regarding the allegations set forth in  
25 the September 24, 2008 Staff Petition.

1           3. Respondent Mr. and Mrs. Lynch agree that all terms of this  
2           Consent Order are contractual and none is a mere recital.

3           4. Respondent Mr. and Mrs. Lynch represent and warrant that they  
4           have all the necessary rights, powers and ability to carry out  
5           all of the terms of this Consent Order which are applicable to  
6           Respondent Mr. and Mrs. Lynch.

7           5. Contemporaneously with the execution of this Consent Order,  
8           Respondent Mr. and Mrs. Lynch have paid the Department  
9           \$2,500.00.

10          6. This Consent Order shall become effective immediately upon the  
11          date of its issuance.

12          7. The provisions of this Consent Order shall remain effective and  
13          enforceable except to the extent that, and until such time as,  
14          any provisions of this Consent Order shall have been modified,  
15          terminated, suspended, or set aside by the Bank Commissioner or  
16          upon an order of a court of competent jurisdiction.

17 This Consent Order represents the resolution of and discharge of any basis  
18 for any civil or administrative proceeding by the Department against  
19 Respondent Mr. and Mrs. Lynch for alleged violations arising as a result of  
20 or in connection with any actions or omissions by Respondent Mr. and Mrs.  
21 Lynch through the date of this Consent Order as it applies to the  
22 allegations in this action; provided, however, this release does not apply  
23 to facts not known by the Department or not otherwise provided by Respondent  
24 Mr. and Mrs. Lynch to the Department as of the date of this Consent Order.  
25 The Department expressly reserves its right to pursue any administrative,

1 civil or criminal action or remedy available to it should Respondent Mr. and  
2 Mrs. Lynch breach this Consent Order or in the future violate the Act or  
3 rules and orders promulgated thereunder.

4  
5 **WHEREFORE**, based on the foregoing, we have set our hands to this Agreement,  
6 with it taking effect upon the signature of Peter C. Hildreth, Bank  
7 Commissioner.

8  
9 Recommended this 5th day of March, 2009 by

10 \_\_\_\_\_  
                  /s/

11 Maryam Torben Desfosses, Hearings Examiner, Banking Department

12 Executed this 9th day of March, 2009.

13 \_\_\_\_\_  
                  /s/

14 Respondent Mr. Peter S. Lynch (as a joint tenant)

15 Executed this 9th day of March, 2009.

16 \_\_\_\_\_  
                  /s/

17 Respondent Mrs. Carolyn A. Lynch (as a joint tenant)

18  
19  
20 **SO ORDERED,**

21 Entered this 12th day of March, 2009.

22 \_\_\_\_\_  
                  /s/

23 Peter C. Hildreth,  
24 Bank Commissioner