

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

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

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

12 The above named Respondents have the right to request a hearing on
13 this Order to Show Cause, as well as the right to be represented by counsel
14 at each Respondent's own expense. All hearings shall comply with RSA Chapter
15 541-A. Any such request for a hearing shall be in writing, and signed by the
16 Respondent or the duly authorized agent of the above named Respondent, and
17 shall be delivered either by hand or certified mail, return receipt
18 requested, to the Banking Department, State of New Hampshire, 53 Regional
19 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
20 10 days of the Department's receipt of the request. If the Respondent fails
21 to appear at the hearing after being duly notified, such person shall be
22 deemed in default, and the proceeding may be determined against the Respondent
23 upon consideration of the Order to Show Cause, the allegations of which may be
24 deemed to be true.

25 If any of the above named Respondents fails to request a hearing within

1 30 calendar days of receipt of such order or reach a formal written and
2 executed settlement with the Department within that time frame, then such
3 person shall likewise be deemed in default, and the orders shall, on the
4 thirty-first day, become permanent, and shall remain in full force and effect
5 until and unless later modified or vacated by the Commissioner, for good cause
6 shown.

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

8 The Staff Petition dated July 1, 2009 (a copy of which is attached
9 hereto) is incorporated by reference hereto.

10 **ORDER**

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

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

16 It is hereby ORDERED, that:

- 17 1. Respondent TLP Funding Corporation ("Respondent TLP Funding")
18 shall show cause why penalties in the amount of \$5,000.00
19 should not be imposed against it;
- 20 2. Respondent Behzad B. Saboorian ("Respondent Saboorian") shall
21 show cause why penalties in the amount of \$7,500.00 should
22 not be imposed against him;
- 23 3. Respondent Emad A. Bastawros ("Respondent Bastawros") shall
24 show cause why penalties in the amount of \$7,500.00 should
25 not be imposed against him;

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-396
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) July 1, 2009
6 and)
7 TLP Funding Corporation, Behzad B.)
8 Saboorian, and Emad A. Bastawros,)
9 Respondents)

10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent TLP Funding Corporation (hereinafter "TLP Funding")
15 was licensed as a Mortgage Banker from at least January 17, 2007
16 until it surrendered its license on August 18, 2008.
- 17 2. Respondent Behzad B. Saboorian (hereinafter "Respondent
18 Saboorian") was the 50% owner and President of Respondent TLP
19 Funding, when licensed by the Department.
- 20 3. Respondent Emad A. Bastawros (hereinafter "Respondent
21 Bastawros") was the 50% owner and Chief Executive Officer of
22 Respondent TLP Funding, when licensed by the Department.

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

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

3 Department Inquiries (1 Count):

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

6 5. The Department conducted an examination of Respondent TLP Funding
7 on January 4, 2008, while Respondent TLP Funding was still
8 licensed with the Department.

9 6. On May 22, 2008, the Department mailed the report of examination
10 and invoice for \$500.00 to Respondent TLP Funding, via U.S.
11 Certified Mail Return Receipt requested, which Respondents
12 received on June 2, 2008.

13 7. The Department also mailed the report of examination and invoice
14 for \$500.00 via UPS, which Respondents received on May 27, 2008.

15 8. The above named Respondents failed to respond to either
16 correspondence from the Department.

17 9. The Department mailed a second notice on June 24, 2008 and a third
18 notice on August 1, 2008.

19 10. The above named Respondents did not respond to any of the four
20 notices for payment of the \$500.00 invoice.

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

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

2 Filing of Financial Statement(1 Count):

3 12. Paragraphs 1 through 11 are hereby realleged as fully set forth
4 herein.

5 13. Respondent TLP Funding's financial statement was due on or before
6 March 31, 2008.

7 14. Respondent TLP Funding was still licensed at the time its
8 financial statement filing was due to the Department.

9 15. The Department received Respondent TLP Funding's financial
10 statement 45 days late, which generated a fine of \$1,125.00
11 (\$25.00 a day x 45 days).

12 16. To date, Respondent TLP Funding has failed to pay the \$1,125.00
13 late filing of a financial statement fee.

14 **II. ISSUES OF LAW**

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

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

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

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

1 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage
2 broker failing to file either the annual report or the financial
3 statement required by RSA Chapter 397-A within the time
4 prescribed may be required to pay to the Department a penalty of
5 \$25.00 for each calendar day the annual report or financial
6 statement is overdue, up to a maximum penalty of \$2,500.00 per
7 report or statement. Each of the above named Respondents violated
8 this provision on at least one occasion as alleged above. The
9 above named Respondents filed a financial statement that was 45
10 days late, and incurred a penalty of \$1,125.00.

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

16 6. RSA 397-A:17,I provides in part that the Commissioner may by
17 order, upon due notice and opportunity for hearing, assess
18 penalties or deny, suspend, or revoke a license or application if
19 it is in the public interest and the applicant, respondent, or
20 licensee, any partner, officer, member, or director, any person
21 occupying a similar status or performing similar functions, or
22 any person directly or indirectly controlling the applicant,
23 respondent, or licensee: (a) has violated any provision of RSA
24 Chapter 397-A or rules thereunder, or (b) has not met the
25 standards established in RSA Chapter 397-A.

1 7. RSA 397-A:18,I provides that the Department may issue a complaint
2 setting forth charges whenever the Department is of the opinion
3 that the licensee or person over whom the Department has
4 jurisdiction, has violated any provision of RSA 397-A or orders
5 thereunder.

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

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

1 not to exceed \$2,500, or both. Each of the acts specified shall
2 constitute a separate violation, and such administrative action or
3 fine may be imposed in addition to any criminal or civil penalties
4 imposed.

5 **III. RELIEF REQUESTED**

6 The staff of the Department requests the Commissioner take the following
7 action:

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

