

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-030  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Order to Show Cause  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Fairfield Financial Mortgage Group Inc )  
 )  
 8 (d/b/a FFMGI Mortgage Group), Charles )  
 )  
 9 L. Levesque, Lisa A. Levesque, and )  
 )  
 10 Randy Hurinker, )  
 )  
 11 Respondents )

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12 NOTICE OF ORDER

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

15 LEGAL AUTHORITY AND JURISDICTION

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

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

25 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or

1 rescind such orders as are reasonably necessary to comply with the  
2 provisions of the Chapter.

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

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

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

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

1 deemed to be true.

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

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

10 The Staff Petition dated June 11, 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 Fairfield Financial Mortgage Group Inc (d/b/a  
20 FFMGI Mortgage Group) ("Respondent Fairfield Financial")  
21 shall show cause why penalties in the amount of \$2,500.00  
22 should not be imposed against it;
- 23 2. Respondent Charles L. Levesque ("Respondent C.L. Levesque")  
24 shall show cause why penalties in the amount of \$5,000.00  
25 should not be imposed against him;

1           3. Respondent Lisa A. Levesque ("Respondent L.A. Levesque")  
2           shall show cause why penalties in the amount of \$5,000.00  
3           should not be imposed against her;

4           4. Respondent Henry Hurinker ("Respondent Hurinker") shall show  
5           cause why penalties in the amount of \$5,000.00 should not be  
6           imposed against him;

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           \$2,800.00 examination fee should not be paid to the  
10          Department;

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

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

17          It is hereby further ORDERED that:

18          8. Along with the administrative penalties listed for the above  
19          named Respondents, the outstanding sum of \$2,800.00 shall be  
20          immediately paid; and

21  
22  
23          [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

1 9. Failure to request a hearing within 30 days of the date of  
2 receipt or valid delivery of this Order shall result in a  
3 default judgment being rendered and administrative penalties  
4 imposed upon the defaulting Respondent(s).

5  
6 SIGNED,

7  
8 Dated: 06/11/09

9 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

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12 I. STATEMENT OF ALLEGATIONS

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

15 Facts Common on All Counts:

- 16 1. Respondent Fairfield Financial Mortgage Group Inc (d/b/a FFMGI  
17 Mortgage Group) (hereinafter "Respondent Fairfield Financial")  
18 was licensed as a Mortgage Banker from at least May 29, 2002  
19 (with an amended license date of October 11, 2005) until it  
20 surrendered its license on December 22, 2008.
- 21 2. Respondent Charles L. Levesque (hereinafter "Respondent C.L.  
22 Levesque") was the 100% owner, President and control person of  
23 Respondent Fairfield Financial, when licensed by the Department.
- 24 3. Respondent Lisa A. Levesque (hereinafter "Respondent L.A.  
25 Levesque") was the Secretary and control person of Respondent

1 Fairfield Financial, when licensed by the Department.

2 4. Respondent Randy Hurinker (hereinafter "Respondent Hurinker")  
3 was the Chief Operating Officer and control person of Respondent  
4 Fairfield Financial, when licensed by the Department.

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

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

7 **Department Inquiries (1 Count):**

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

10 6. The Department conducted an examination of Respondent Fairfield  
11 Financial on April 28, 2008, while Respondent Fairfield Financial  
12 was still licensed with the Department.

13 7. On September 24, 2008, the Department mailed the report of  
14 examination and invoice for \$2,800.00 to Respondent Fairfield  
15 Financial, via U.S. Certified Mail Return Receipt requested,  
16 which Respondents received on September 26, 2008.

17 8. The above named Respondents failed to respond to the September 24,  
18 2008 correspondence from the Department.

19 9. The Department, via U.S. mail, mailed a second notice on November  
20 21, 2008 and a third notice on January 20, 2009.

21 10. The above named Respondents did not respond to any of the three  
22 notices for payment of the \$2,800.00 invoice.

23 11. To date, the above named Respondents still owe the \$2,800.00  
24 examination fee for the 5.6 day examination.

25

1 **II. ISSUES OF LAW**

2 The staff of the Department alleges the following issues of law:

- 3 1. The Department realleges the above stated facts in Paragraphs 1  
4 through 11 as fully set forth herein.
- 5 2. The Department has jurisdiction over the licensing and regulation  
6 of persons engaged in mortgage banker or broker activities  
7 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 8 3. RSA 397-A:12,V provides that the expense of such examination shall  
9 be chargeable to and paid by the licensee. Each of the above  
10 named Respondents violated this provision on at least one  
11 occasion as alleged above. To date, the above named Respondents  
12 have failed to pay the \$2,800.00 examination invoice.
- 13 4. RSA 397-A:13,VI provides that any officer, owner, manager or agent  
14 of any licensee shall reply promptly in writing, or other  
15 designated form, to any written inquiry from the Department.  
16 Respondent C.L. Levesque, Respondent L.A. Levesque and Respondent  
17 Hurinker each violated this provision on at least one occasion as  
18 alleged above.
- 19 5. RSA 397-A:17,I provides in part that the Commissioner may by  
20 order, upon due notice and opportunity for hearing, assess  
21 penalties or deny, suspend, or revoke a license or application if  
22 it is in the public interest and the applicant, respondent, or  
23 licensee, any partner, officer, member, or director, any person  
24 occupying a similar status or performing similar functions, or  
25 any person directly or indirectly controlling the applicant,



1           respondent, or licensee: (a) has violated any provision of RSA  
2           Chapter 397-A or rules thereunder, or (b) has not met the  
3           standards established in RSA Chapter 397-A.

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

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

17          8. RSA 397-A:21,V 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

1 provided for by law, be subject to suspension, revocation, or  
2 denial of any registration or license, including the forfeiture of  
3 any application fee, or the imposition of an administrative fine  
4 not to exceed \$2,500, or both. Each of the acts specified shall  
5 constitute a separate violation, and such administrative action or  
6 fine may be imposed in addition to any criminal or civil penalties  
7 imposed.

8 **III. RELIEF REQUESTED**

9 The staff of the Department requests the Commissioner take the following  
10 action:

- 11 1. Find as fact the allegations contained in section I of this Staff  
12 Petition;
- 13 2. Make conclusions of law relative to the allegations contained in  
14 section II of this Staff Petition;
- 15 3. Pursuant to RSA 397-A:17, order each of the above named  
16 Respondents to show cause why their license should not be revoked;
- 17 4. Assess fines and administrative penalties in accordance with RSA  
18 397-A:21, for violations of Chapter 397-A, in the number and  
19 amount equal to the violations set forth in section II of this  
20 Staff Petition; and
- 21 5. 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.

