

1 State of New Hampshire Banking Department

)Case No.: 09-103

2 In re the Matter of:

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3 State of New Hampshire Banking

)

)Order to Show Cause

4 Department,

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5 Petitioner,

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6 and

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)

7 Efficient Lending Corp. (d/b/a

)

)

8 Efficient Lending), Robert Clark

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)

9 Crenshaw, Daniel J. Crenshaw, and

)

)

10 Cherise Marie MacPherson,

)

)

11 Respondents

)

12 NOTICE OF ORDER

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

15 LEGAL AUTHORITY AND JURISDICTION

16 Pursuant to RSA 397-A:17, the Commissioner of the New Hampshire
17 Banking Department (hereinafter the "Department") has the authority to issue
18 an order to show cause why license revocation and penalties for violations
19 of New 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,IV, the Commissioner may issue, amend, or

1 rescind such orders as are reasonably necessary to comply with the
2 provisions of RSA Chapter 397-A.

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 Chapter
9 358-A and exempt under RSA 358-A:3,I or that may violate any of the
10 provisions of Titles XXXV and XXXVI and administrative rules adopted
11 thereunder. The Commissioner may hold hearings relative to such conduct and
12 may order restitution for a person or persons adversely affected by such
13 conduct.

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

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

1 consideration of the Order to Show Cause, the allegations of which may be
2 deemed to be true.

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

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

11 The Staff Petition dated February 1, 2010 (a copy of which is attached
12 hereto) is incorporated by reference hereto.

13 **ORDER**

14 WHEREAS, finding it necessary and appropriate and in the public
15 interest, and consistent with the intent and purposes of the New Hampshire
16 banking laws; and

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

19 It is hereby ORDERED, that:

- 20 1. Respondent Efficient Lending Corp. (d/b/a Efficient Lending)
21 ("Respondent Efficient Lending") shall show cause why
22 penalties in the amount of \$5,000.00 should not be imposed
23 against it;
- 24 2. Respondent Robert Clark Crenshaw ("Respondent R.C. Crenshaw")
25 shall show cause why penalties in the amount of \$7,500.00

1 should not be imposed against him;

2 3. Respondent Daniel J. Crenshaw ("Respondent D.J. Crenshaw")
3 shall show cause why penalties in the amount of \$7,500.00
4 should not be imposed against him;

5 4. Respondent Cherise Marie MacPherson ("Respondent MacPherson")
6 shall show cause why penalties in the amount of \$7,500.00
7 should not be imposed against her;

8 5. The above named Respondents shall show cause why, in addition
9 to the penalties listed in Paragraphs 1 through 4 above, the
10 fine for \$2,500.00 for the failure to file the 2008 financial
11 statement should not be paid to the Department;

12 6. The above named Respondents shall show cause why, in addition
13 to the penalties listed in Paragraphs 1 through 5 above,
14 statutory penalties of \$2,500.00 should not be imposed for
15 failing to file the 2008 annual report;

16 7. Respondents shall be jointly and severally liable for the
17 above amounts alleged in Paragraphs 1 through 6 above;

18 8. The above named Respondents shall show cause why, in addition
19 to the penalties listed in Paragraphs 1 through 7 above,
20 Respondent Efficient Lending's license should not be revoked.

21 It is hereby further ORDERED that:

22 9. Along with the administrative penalties listed for the above
23 named Respondents, the outstanding sum of \$5,000.00 shall be
24 immediately paid; and

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-103
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) February 1, 2010
6 and)
7 Efficient Lending Corp. (d/b/a)
8 Efficient Lending), Robert Clark)
9 Crenshaw, Daniel J. Crenshaw, and)
10 Cherise Marie MacPherson,)
11 Respondents)

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 Efficient Lending Corp. (d/b/a Efficient Lending)
17 (hereinafter "Respondent Efficient Lending") was licensed as a
18 Mortgage Banker from at least January 1, 2008 (with an amended
19 license date of December 2, 2008) until it surrendered its
20 license on June 29, 2009.
- 21 2. Respondent Robert Clark Crenshaw (hereinafter "Respondent R.C.
22 Crenshaw") was the 100% owner, control person and President of
23 Respondent Efficient Lending, when licensed by the Department.
- 24 3. Respondent Daniel J. Crenshaw (hereinafter "Respondent D.J.
25 Crenshaw") was the Secretary, Treasurer, Director and control

1 person of Respondent Efficient Lending, when licensed by the
2 Department.

3 4. Respondent Cherise Marie MacPherson (hereinafter "Respondent
4 MacPherson") was the Compliance Manager and control person of
5 Respondent Efficient Lending, when licensed by the Department.

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

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

9 6. The Respondents' fiscal year end was December 31, 2008 and the
10 financial statement was due on or before March 31, 2009 on the
11 NMLS.

12 7. On April 4, 2009, the NMLS notified Respondents of Respondents'
13 failure to file the financial statement.

14 8. On April 29, 2009, the Department sent a reminder letter regarding
15 the financial statement.

16 9. Respondents subsequently surrendered their license on June 29,
17 2009.

18 10. The above named Respondents neither responded to the reminder
19 letters nor submitted the 2008 financial statement.

20 11. To date, the accrued penalty for failure to file a financial
21 statement has reached the maximum cap of \$2,500.00 (\$25.00 a day,
22 maximum \$2,500.00).

1 Violation of RSA 397-A:13,I Failure to File Annual Report (1 Count):

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

3 Department Inquiries (1 Count):

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

6 13. Respondent Efficient Lending was licensed in 2008, and thus
7 subject to the filing of a 2008 annual report with the
8 Department.

9 14. The 2008 annual report was due on or before March 31, 2009.

10 15. On January 9, 2009, the Department emailed the Respondents a
11 username and password for filing Respondent Efficient Lending's
12 2008 annual report online.

13 16. On February 26, 2009 and on March 3, 2009, the Department emailed
14 Respondents again regarding the 2008 annual report.

15 17. On June 3, 2009, via U.S. Certified Mail Return Receipt
16 requested, the Department sent correspondence to Respondents
17 regarding the 2008 annual report. Respondents received the
18 correspondence on June 15, 2009.

19 18. To date, Respondent Efficient Lending has failed to file the 2008
20 annual report.

21 19. To date, the penalty for failing to file an annual report has
22 accrued to the cap of \$2,500.00 (\$25.00 per day; maximum
23 \$2,500.00).

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 19 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:13,I provides that a licensee shall file its annual
9 report on or before February 1 each year concerning operations for
10 the preceding year or license period ending December 31. Each of
11 the above named Respondents violated this provision on at least
12 one occasion as alleged above. The fine has accrued to \$2,500.00
13 as calculated pursuant to RSA 397-A:13,IV below.
- 14 4. RSA 397-A:13,II provides that each licensee shall file a financial
15 statement within 90 days from the date of its fiscal year end.
16 Each of the above named Respondents violated this statute on at
17 least one occasion as alleged above. The maximum fine has accrued
18 to \$2,500.00 as calculated by RSA 397-A:13,IV below.
- 19 5. RSA 397-A:13,VI provides that any officer, owner, manager or agent
20 of any licensee shall reply promptly in writing, or other
21 designated form, to any written inquiry from the Department.
22 Respondent Perkins violated this provision on at least 4 occasions
23 as alleged above. Respondent R.C. Crenshaw, Respondent D.J.
24 Crenshaw and Respondent MacPherson each violated this provision on
25 at least one occasion as alleged above.

1 6. RSA 397-A:17,I provides in part that the Commissioner may by
2 order, upon due notice and opportunity for hearing, assess
3 penalties or deny, suspend, or revoke a license or application if
4 it is in the public interest and the applicant, respondent, or
5 licensee, any partner, officer, member, or director, any person
6 occupying a similar status or performing similar functions, or any
7 person directly or indirectly controlling the applicant,
8 respondent, or licensee: (a) has violated any provision of RSA
9 Chapter 397-A or rules thereunder, or (b) has not met the
10 standards established in RSA Chapter 397-A.

11 7. RSA 397-A:18,I provides that the Department may issue a complaint
12 setting forth charges whenever the Department is of the opinion
13 that the licensee or person over whom the Department has
14 jurisdiction, has violated any provision of RSA Chapter 397-A or
15 orders thereunder.

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

24 9. RSA 397-A:21,V provides that every person who directly or
25 indirectly controls a person liable under this section, every

1 partner, principal executive officer or director of such person,
2 every person occupying a similar status or performing a similar
3 function, every employee of such person who materially aids in the
4 act constituting the violation, and every licensee or person acting
5 as a common law agent who materially aids in the acts constituting
6 the violation, either knowingly or negligently, may, upon notice
7 and opportunity for hearing, and in addition to any other penalty
8 provided for by law, be subject to suspension, revocation, or
9 denial of any registration or license, including the forfeiture of
10 any application fee, or the imposition of an administrative fine
11 not to exceed \$2,500, or both. Each of the acts specified shall
12 constitute a separate violation, and such administrative action or
13 fine may be imposed in addition to any criminal or civil penalties
14 imposed.

15 **III. RELIEF REQUESTED**

16 The staff of the Department requests the Commissioner take the following
17 action:

- 18 1. Find as fact the allegations contained in section I of this Staff
19 Petition;
- 20 2. Make conclusions of law relative to the allegations contained in
21 section II of this Staff Petition;
- 22 3. Pursuant to RSA 397-A:17, order each of the above named
23 Respondents to show cause why their license should not be revoked;
- 24 4. Assess fines and administrative penalties in accordance with RSA
25 397-A:21, for violations of RSA Chapter 397-A, in the number and

