

STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT

CONSUMER CREDIT ADMINISTRATION
DIVISION
REPORT OF EXAMINATION



Examined By: Kerry R. Molin
Nicole Lessard
Joseph Rouleau

Examination Date: June 11, 2007

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The information contained herein is based upon records of licensee, upon statements made to the examiner by management, officers, and employees; and upon information derived from sources which the examiner considered reliable and correct.

The subject licensee shall under no circumstances publish, or make public in any manner, this report of examination or any portion thereof. This examination remains the property of the State of New Hampshire Banking Department. RSA 383:10-b.

PETER C. HILDRETH
BANK COMMISSIONER

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The State of New Hampshire Banking Department

Mortgage Banker
REPORT OF EXAMINATION

DATE	6/11/2007
NAME OF LICENSEE	Financial Resources & Assistance of the Lakes Region, Inc.
ADDRESS	15 Northview Drive
CITY, STATE, ZIP	Meredith, NH, 03253
LICENSE NUMBER	5902-MB
EXAMINER IN CHARGE	Kerry R. Molin
TAX ID NUMBER	

REGULATORY AUTHORITY AND SCOPE OF EXAMINATION:

This examination was conducted, without prior knowledge, pursuant to New Hampshire RSA 383: 9 and under the provisions of RSA 397-A:12. A review of the licensee's current regulated business activities, operational practices and financial condition was undertaken to determine compliance with NH RSA 397-A.

The examination took place at the licensee's principal office located in Meredith, NH during the period of June 11 - June 19, 2007 and at the New Hampshire Banking Department office on June 20 - 29, 2007. The contact persons were Scott D. Farah, President and owner; and Susan N. LeDuc, Regulatory Specialist, from the law firm: Gallagher, Callahan & Gartrell, P.C., Concord, NH.

A sample of loans closed during the previous 13 months was selected for examination. A sample of Denied and Withdrawn application files were also examined. The following documents were reviewed: work papers to verify the information submitted in the 2006 Annual Report; a copy of the Audited Financial Statements for the twelve month period ending December 31, 2006 and 2005, prepared by the CPA firm - Connor & Associates, PC; reconciliation of the Preferred Shares of Stock Outstanding and shares redeemed; a copy of the Company Handbook; Addendum to Employee Handbook - GLBA Information Security; company policies and procedures; a copy of the loan package and disclosures; home state registration issued by the NH Secretary of State; an organization chart; a list of loan originators; a list of locations outside of New Hampshire; a summary description of company operations; a list of other states issuing a mortgage license; a list of correspondent lenders; a list of shareholders; an itemized list of fees and purpose; a list of approved service providers; a copy of the NH Balloon Note disclosure; the web site located at www.franational.com; a copy of media advertisement distributed in New Hampshire; a summary of the consumer complaints; a copy of the affiliate business disclosure; a list of loan products available in New Hampshire; a list of legal and agency enforcement actions; a list of Investors; Citizens Bank Operations account statements for the months of January, February, and March 2007; inactive accounts held at Citizens Bank and Bank of America; a list of All employees; a list of New Hampshire employees; and a copy of the third party service agreements in place with the credit bureau, cleaning service, and the computer consulting company.

The following summary of the findings presented in the May 18, 2006 Report of Examination were reviewed to determine compliance: failure to notify the department of changes in the ownership of preferred stock; the use of an unlicensed corporate name and un-registered trade

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names; advertisement licensing disclosures; failure to report significant events; implementation of the Gramm-Leach-Bliley Act and the safe guarding of consumer information; filing inaccurate Annual Reports; missing loan file documents; failure to document the issuance of a balloon note disclosure; failure to report the Yield Spread Premium (YSP) on the Good Faith Estimate (GFE) as a dollar amount or dollar range; the incorrect reporting of mortgage broker fees on line #801 of the HUD settlement statement and GFE; misuse of lines #801-#807 of the HUD settlement statement; the HUD incorrectly reports payments to the licensee instead of the 3rd party service provider; missing appraisal invoices to verify the cost; failure to maintain a control list of Denied /Withdrawn applications to verify pipeline; missing 1st quarter Financial Statements (balance sheet, income statement, and cash flow statement); failure to provide a notice the details of a consumer complaint; and there were no contracts with third party service providers.

The New Hampshire Banking Commissioner announced the adoption of a Regulatory Guidelines on Nontraditional Mortgage Products effective November 13, 2006. The guidelines can be found on the department's website located at www.nh.gov/banking . Written policies and procedures must be adopted in order to meet the requirements.

BACKGROUND:

Financial Resources & Assistance of the Lakes Region, Inc., was organized as a New Hampshire corporation on May 18, 1989. The company is 100% owned Scott D. Farah, President and CEO. The company is licensed as a mortgage banker, but serves primarily as a mortgage broker. The licensee business is divided into residential and commercial lending services. The commercial lending activities comprise approximately sixty percent of the company's revenues while consumer lending and brokering activity make up the other forty percent. Mr. Farah also, operates an insurance business called Insurance Options, Inc. from the same location. The law offices of Michael Gould and Michael Burke, PA are sub-leased from the licensee at the same location. The law firm served as the settlement agent for about 75 percent of the loan closings in the sample. Financial Resources & Assistance of the Lakes Region, Inc. is currently licensed to conduct residential mortgage activity in 13 states including New Hampshire. The company commenced operations in Meredith, New Hampshire with the issuance of First Mortgage Banker and Broker license #5902-MBB and Second Mortgage Home Loan Lender license #5903-MHL prior to 1997. A new combined license #5902-MB was issued for 2006. A new branch office located in Manchester, NH was opened for business with the issuance of license #11508-MB-BCH on February 22, 2006. The Manchester branch office was closed effective January 31, 2007. The company surrendered Small Loan Lender license #6082-SM on September 6, 2006.

OBSERVATIONS:

1. **Pursuant to NH RSA 397-A: 10, III & IV, Change in name; Ownership; Location,** A visit to the branch office located at 1045 Elm Street, Suite 304 N, Manchester, NH, license #11508-MB-BCH, on June 11, 2007 indicates the office has been closed. The company failed to notify the department 10 business days in advance of the closing. The company failed to keep the licensing information on file up to date. Notice of the branch closing has not been provided to the NH banking department -Licensing Division. *A notice was sent on June 15, 2007.*

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2. Pursuant to NH RSA 397-A: 10-a, I, (a), License Surrender, The company failed to surrender branch office license #11508-MB-BCH issued to the office located at 1045 Elm Street, Suite 304 N, Manchester, NH. The office was closed January 31, 2007. *Documentation was submitted on June 15, 2007, which included the surrender of license #11508-MB-BCH.*
3. Pursuant to NH RSA 397-A: 10, I Change in name; Ownership; Location, The web page located at www.franational.com indicates the use of the unlicensed corporate name: Financial Resources, Inc. A similar observation was cited in the previous examination. *The web site was revised and corrected on June 13, 2007.*

The signage for the branch office, license #11508-MB-BCH, located at 1045 Elm Street, Suite 304 N, Manchester, NH indicates the use of the unregistered trade name: "Financial Resources".

The 2006-2007 edition of the Concord Laconia Plymouth "Your Local Directory" contains white pages and yellow pages that indicate the use of the unregistered trade name "Financial Resources". *A copy of a request for correction was received on June 14, 2007.*

The July 2006 edition of the Verizon phone book white pages and yellow pages indicate the use of the unregistered trade name: "Financial Resources". *A copy of the request for correction was received on June 15, 2007.*

Flyers, marketing materials, and correspondence use the unregistered trade name: "Financial Resources".

The third party service contract between CBCInnovis, Inc. for Credit Reporting Services is in the unregistered name of "Financial Resources", signed April 4, 2007. *A revised and amended agreement was received June 14, 2007.*

Loan documents and disclosure forms contained the unregistered trade name: "Financial Resources and Assistance".

The following loans indicate the licensee served as Lender and is reported under the name "Financial Resources & Assistance, Inc.": [REDACTED], and [REDACTED]

The Banker license issued by the NH Banking Department and the Certificate of Corporate Registration issued by the NH Secretary of State are issued in the name "Financial Resources & Assistance of the Lakes Region, Inc." An amendment to the license application must be filed to add any Trade Name that is used to conduct mortgage banker and / or broker activities. A copy of the Certificate of Authority issued to the licensee by the NH Secretary of State is required to be sent to the banking department along with the return of the original licenses for amendment. A similar observation has been cited in the four previous examinations.

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4. Pursuant to NH RSA 397-A: 10, IV, Change in name; Ownership; Location The licensee failed to report the error in capital stock that was identified in the February 2007 audit of the records for the year ending December 31, 2006 within 30 days. The audit indicated 55.5 shares of preferred shares @ \$1,000 each was subscribed and not issued; were not booked to the financial statements. The holder of 34 preferred shares was identified as David Mount. The owner of the remaining 21.5 shares (as reported by the trustee/safekeeping agent), is unknown by the licensee. *Information received verbally on 6/18/07 from management, indicates the shares are held by: Trust Company of America, Englewood, CO. Licensee could not prove or disprove this issue with written documentation. This a possible escheat issue.*
5. Pursuant to NH RSA 397-A:11, I, Record Keeping, The following withdrawn loan application files were not available for examination: [REDACTED]; and [REDACTED]. The control list indicates the applications were withdrawn 6/1/06 and 10/1/06, respectively. Management indicates the date of withdrawal was a clerical error. The applications were taken during the year 2004. The NH statute requires record retention for a period of 3 years.
6. Pursuant to NH RSA 397-A: 2, III referencing Regulation B, the Equal Credit Opportunity Act, 12 C.F.R. §202. 9 (a) and §202.12 (b), The licensee does not identify or distinguish Denied loan applications from Withdrawn loan applications. The files are referred to in general as "Dead Sheets". A sample of "dead sheets" (Withdrawn or Denied loan files) were reviewed. The files do not provide sufficient information to determine, if the loan was Denied by the Lender or Withdrawn by the consumer. Adverse action letters must be sent to an applicant within 30 days of the date of application. The following files appear to be a denied loans, which do not contain adverse action notices: [REDACTED]; [REDACTED]; and [REDACTED].
7. Pursuant to NH RSA 397-A: 13, V Reports, The following items that were requested in the June 11, 2007, Phase I, "Notice of Examination" are missing or incomplete:
 - a. Provide a copy of the most recent Federal Income Tax Return. *A copy of IRS Form 7004 extending the filing date of the 2006 Return for 6 months was received on 6/18/07. A copy of the 2006 Federal Income Tax Return should be provided when available.*
 - b. Provide a copy of the most recent quarterly financial statement; *Management indicated on 6/18/07 they do not prepare quarterly financial statements. The company relies on the CPA to provide audited figures for the 12 month period ending December 31. No interim figures are available. A similar observation was cited in the previous examination.*
 - c. Work papers and copies of source documents to support the figures submitted on the company's most recently filed NH Annual Report; the work papers shall demonstrate the actual calculation of the numbers for verification by the department; *Work papers and documents were received on June 15, 2007. The documents failed to include the dollar*

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amount for loans where the licensee acted in the capacity as the lender and provide the source of funds.

- d. A list on Schedules A and B of the license application form for the current owners, indirect owners and all principals of the company. *Received Schedules A and B June 15, 2007.*
- e. Provide a list of all NH files for loans that the licensee originated, funded, closed, denied, or that were withdrawn, canceled or serviced, or foreclosed upon by the licensee during the period 18 months prior to the date of this notice.

The loan file for [REDACTED] in the amount of \$280,000 is secured with real estate located in the State of Virginia. The loan was included on the NH list of closed loans.

A list identifying the loans funded by the licensee is missing. (5 loans were reported in 2006 Annual Report totaling \$725,400.) *A list was received on 6/15/07.*

The licensee created a dead file control list, which does not distinguish loan applications which have been Denied from those Withdrawn.

Applications are filed in Alpha order by the client's last name. The files are not segregated by state. The licensee conducts business in the following 14 states, GA, ID, MD, MA, ME, MI, NH, NM, NC, OK, PA, TX (license issued in name of Scott David Farah), VA, and WA. The control list should be reviewed for accuracy in order to complete reports accurately and to select a sample of files for review. Files must be identifiable by state.

The following items that were requested in the June 11, 2007, Phase II, "Notice of Examination"—Officer Questionnaire are missing or incomplete:

- #12 The description of company operations indicates that "stated" loans will use Salary.com in order to verify the income for that position. Evidence of compliance could not be located in any of the "stated" loan files. The description also states it is company policy to request CPA letters, appropriate. Verification letters issued by a CPA were found in a majority of the loan files. The description also states, if a borrower owns their own business, a copy of the certificate of registration issued by NH Secretary of State would be requested and verified. Verification of the filing with the NH Secretary of State was found in about half of the stated loan files reviewed.
- #42 Bank statement reconciliations were not available for the months of January, February, and March 2007. The General Ledger and bank statements are reconciled every 6 months. *Reconciliations should be performed at minimum, quarterly, in order to determine errors and any discrepancies in a timely manner.*
- #49 Provide copies of all contracts or agreements in place with any third party service provider. *There were no contracts or agreements provided for title/ loan closing agents.*

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#53 Provide a copy of the written policies and procedures in place that are in accordance with the Commissioner's order of November 13, 2006 concerning the Guidance on Non-traditional Mortgage Products. *The response does not completely address the Commissioner's Order.*

8. Pursuant to NH RSA 397-A: 2, III referencing the Standards for Safeguarding Customer Information 16 C.F.R. § 314 – Policy Standards for Safeguarding Consumer Information. The licensee's Gramm-Leach-Bliley Act, Part 314, Information Security Policy is incomplete. The policy does not include the monitoring of service providers which serve in the capacity as the closing agent. The policy does not indicate evaluations and adjustments will be preformed at least annually and adjust as needed.
9. Pursuant to NH RSA 397-A: 2, III referencing the New Hampshire Banking Commissioner's order of November 13, 2006 in regards to non-traditional mortgage products. The licensee has started to develop Policies and Procedures to address non-traditional mortgages. Evidence could not be located in the loan files, which indicates the borrower's were informed and educated by the licensee of the characteristics of the selected loan product. There is no proof in the files that the loan product chosen was the best option for the borrower. Documentation verifying the borrower's ability to repay the loan was not found in the files. Amortization schedules of payments to be collected during the life of the loan were not seen in the files. Compliance could not be determined.
10. Pursuant to NH RSA 397-B:2, I Application of Chapter and NH RSA 397-B:4, I (a) Registration; Fees; Term; Renewal The licensee served in the capacity as banker/lender, where it closed and provided the source of funds for 1 loan in 2005 and 5 loans in 2006. The loans were sold to the following investors:
- | <u>Borrower</u> | <u>Yr/Closed</u> | <u>Loan \$</u> | <u>Investor</u> | <u>Servicer</u> | <u>Status</u> |
|-----------------|------------------|----------------|--------------------------------------|------------------------------------|-----------------------------|
| ██████████ | 2005 | 142,000 | ██████████
Franconia, NH | ██████████
Franconia, NH | Paid off 4/06 |
| ██████████ | 2006 | 117,400 | ██████████
Newland, NC | CL and M, Inc.
Gilford, NH | Paid off 9/06 |
| ██████████ | 2006 | 130,000 | ██████████
West Friendship, MD | CL and M, Inc.
Gilford, NH | Open -payoff
due 7/30/07 |
| ██████████ | 2006 | 166,000 | IRA f/b/o ██████████
Maitland, FL | Equity Trust Company
Elyria, OH | Paid off 6/07 |
| ██████████ | 2006 | 215,000 | ██████████
Mirror Lake, NH | CL and M, Inc.
Gilford, NH | Paid off 3/07 |
| ██████████ | 2006 | 97,000 | ██████████
Mirror Lake, NH | CL and M, Inc.
Gilford, NH | Paid off 3/07 |
- A review of the files indicates the loans were issued to consumers and secured by 1 to 4 family, owner occupied residence. The licensee is dealing with the unregistered Mortgage Servicer -CL and M, Inc., Gilford, NH.

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11. Pursuant to NH RSA 397-A: 11, I, Record Keeping. The following documents were missing from the designed loan file:

A copy of the loan application was missing from the following files: [REDACTED]; and [REDACTED]

A copy of the borrower's Credit Report was missing from the following files: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]

A copy of the Good Faith Estimate (GFE) was missing from the following files: [REDACTED]; and [REDACTED]

A copy of the licensee's New Hampshire Balloon Note disclosure was missing from the following files: [REDACTED] and [REDACTED]

A copy of the Appraisal was missing from the following files: [REDACTED]
[REDACTED]
[REDACTED], and [REDACTED]

A copy of Underwriting Guidelines form 1008 was missing from the following files: [REDACTED]
[REDACTED] and [REDACTED]

A copy of the initial Truth in Lending statement (TIL) was missing from the following files: [REDACTED] and [REDACTED]

A copy of the final Truth in Lending statement (TIL) was missing from the following files: [REDACTED] and [REDACTED]

A copy the Credit Report invoice was missing from the following files: [REDACTED] and [REDACTED]

A copy of the Real Estate Appraisal invoice was missing from the following files: [REDACTED] and [REDACTED]

A copy of the "Right of Rescission" was missing from the following files: [REDACTED] and [REDACTED]

12. Pursuant to NH Code of Administrative Rule, Ban 2504.01. The following loans contained a Note with a repayment schedule that includes a balloon payment at maturity: [REDACTED]. The files did not contain a copy of the licensee's New Hampshire Balloon Payment Disclosure Statement. Compliance could not be determined.

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- 13. Pursuant to NH RSA 397-A: 2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. 3500.7, (c) and Appendix A, B, & C.** The Good Faith Estimate (GFE) contained a yield spread premium (YSP) disclosure which reads, "0-2%", "0-3%", "0-4%", or 3-4%. RESPA allows for fees to be disclosed as a dollar amount or a dollar range. The following files all contained a GFE which reported the YSP range of 0 -2%:

[REDACTED]

The following files contained a GFE which reported the YSP range of 0 -3%:

[REDACTED] and

The following files contained a GFE which reported the YSP range of 0-4%:

[REDACTED]

The following files contained a GFE which reported the YSP range of 3-4%:

[REDACTED]

The following files contained a GFE which reported the YSP range of 0-5%:

[REDACTED]

The GFE report fees paid to the Broker on Line #801 for the following loans:

[REDACTED]; and

[REDACTED] Line #801 is restricted for use to report fees paid to the Lender. Similar observations were reported in the previous examination.

- 14. Pursuant to NH RSA 397-A: 2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. 3500.7, (c)** The Good Faith Estimate provided for the following loans failed to disclose the Yield Spread Premium (YSP) paid by the Lender:

[REDACTED]

A fee must be disclosed on the GFE in order to be collected.

- 15. Pursuant to NH RSA 397-A: 2, III referencing the Real Estate Settlement Procedures Act ("RESPA") and Regulation X, 24 C.F.R. §3500.2, §3500.8, and Appendix A,** the HUD settlement statement issued for the following loans disclosed a loan origination fee on line 801 payable to the Broker: [REDACTED] and [REDACTED]. Lines 801 and 802 are designated for fees payable to the "Lender". Broker fees should be disclosed on lines 808 and higher. A similar observation was cited in the previous examination.

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16. Pursuant to NH RSA 397-A: 2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. 3500.8 and Appendix A, B, & C. The HUD Settlement Statement reports fees on Lines # 801 to #807 incorrectly for the following loans:

[REDACTED]

[REDACTED] and [REDACTED] Lines #801 - #807 are restricted to be used for those items defined in Appendix A. A similar observation was cited in the previous examination.

17. Pursuant to NH RSA 397-A: 2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. §3500.7(a)(2), §3500.8 and Appendix A. The Appraisal fee was not reported on the HUD settlement statement as paid p.o.c. (Paid outside of closing) for the following loans: [REDACTED] and [REDACTED]

18. Pursuant to NH RSA 397-A:2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. §3500.8, and Appendix A, Section L, the HUD -1 settlement statement incorrectly reports payments to the licensee instead of the 3rd party service provider for the following loans: [REDACTED]

[REDACTED] The ultimate recipient of the fee must be disclosed on the HUD-1. Similar observations were reported in the previous examination.

The HUD -1 settlement statement fails to indicate the 3rd party service provider for the following loans: [REDACTED]

19. Pursuant to NH RSA 397-A:2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. § 3500.14, A copy of the vendor invoices for the borrower's credit report fee and the real estate appraisal fee were reviewed. The Real Estate Appraisal fee listed on the GFE and the HUD-1 could not be supported by invoice issued by the service provider for the following files: [REDACTED] (HUD \$350 vs. cost \$325)

The Credit report fee listed on the GFE and HUD-1 could not be supported by invoice (s) Issued by the service provider for the following files: [REDACTED] (HUD \$15 vs. cost \$12.45); [REDACTED] HUD \$15 vs. cost \$12.45),

Fees collected and reported on the HUD cannot exceed the actual cost to perform the service.

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20. Pursuant to NH RSA 397-A:2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C.F.R. § 3500.7 (e), The licensee does not issue a complete Relationship Disclosure statement. The review of the sample of loan files indicates the use of the law firm: Gould & Burke, PLLC as the closing agent on approximately 80% of the loans; and Korkosz Appraisal Services is used to provide a statement of value on about 50% of the loans. A copy of a credit report is obtained from the credit reporting service, CBCInnovis, for each borrower. A particular provider statement must be issued to identify the parties and the relationship.

Examiner (Signature)

Kerry Molin

Kimothy Griffin

STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT

CONSUMER CREDIT ADMINISTRATION
DIVISION
REPORT OF EXAMINATION

MORTGAGE BANKERS

License Type

5902 MB

License Number

Financial Resources Mortgage, Inc

Licensee

00000000

Tax ID Number

Meredith
City

New Hampshire
State

Examined By: Lorry D. Cloutier
Nicole Jeanson

Examination Date: November 17, 2008

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The information contained herein is based upon records of licensee, upon statements made to the examiner by management, officers, and employees; and upon information derived from sources which the examiner considered reliable and correct.

The subject licensee shall under no circumstances publish, or make public in any manner, this report of examination or any portion thereof. This examination remains the property of the State of New Hampshire Banking Department. RSA 383:10-b.

PETER C. HILDRETH
BANK COMMISSIONER

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The State of New Hampshire Banking Department

**MORTGAGE BANKER
REPORT OF EXAMINATION**

EXAMINATION DATE	11/17/2008
NAME OF LICENSEE	FINANCIAL RESOURCES MORTGAGE, INC
ADDRESS	15 NORTHVIEW DRIVE
CITY, STATE, ZIP	MEREDITH, NEW HAMPSHIRE, 03253
LICENSE NUMBER	5902-MB
EXAMINER IN CHARGE	LORRY D. CLOUTIER
TAX ID NUMBER	

REGULATORY AUTHORITY AND SCOPE OF EXAMINATION:

This regularly scheduled examination was conducted pursuant to New Hampshire RSA 383:9 and under the provisions of RSA 397-A:12. This was a targeted examination and was limited in scope. The scope of the exam included a review of the officer questionnaire including the licensee's operational and compliance policies and bank statements, 2007 annual report, the licensee's website located at www.frmortgageinc.com, previous examination concerns, and the requested loan files.

The previous examination of Financial Resources Mortgage, Inc took place on June 11, 2007. Some of the observations that were listed in report of examination include, but are not limited to: the licensee did not notify the department of their Manchester location closing, the licensee failed to provide tax returns and quarterly financial statements, compliance with nontraditional mortgages could not be determine, their safeguarding policy was insufficient, and they were dealing with an unlicensed servicer, C, L and M, Inc.

A review of the licensee's current regulated business activities, operational practices and financial condition was undertaken to determine compliance with NH RSA 397-A, the Gramm-Leach-Bliley Act, and portions of the Real Estate Settlement Procedures Act. This included an analysis of loan files originated by the licensee between November 28, 2005 and December 9, 2008. The exam took place between November 17, 2008 and March 16, 2009.

BACKGROUND:

Financial Resources Mortgage Inc is a corporation formed in the state of New Hampshire and was issued its Mortgage Banker license with the New Hampshire Banking Department since at least 1997. On January 3, 2008, the licensee notified the Department that they were changing their name from Financial Resources and Assistance of the Lakes Region Inc to Financial Resources National, Inc. On October 31, 2008 the department was notified that the company had to change their name from Financial Resources National, Inc to Financial Resources Mortgage, Inc due to the licensee not being able to renew in Virginia with the word "national" being part of their name.

The examination was conducted at the licensee's principal licensed office at 15 Northview Drive, Meredith, NH. The contacts for this examination were Scott Farah, President, and Susan LeDuc, Regulatory Specialist.

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OBSERVATIONS:

Unlicensed Activity

During the examination, the examiners found that the licensee was working with three unlicensed entities. In the [REDACTED] mortgage file, the licensee was working with the unlicensed lender Sun State Capital Management, LLC. In the [REDACTED] loan, the licensee was working with the unlicensed lender RGM Investment Realty Trust. The following loans used the unlicensed servicer C, L and M, Inc: [REDACTED], [REDACTED], and [REDACTED].

C, L and M, Inc has a forced trade name of Commercial Project Loan Servicing, and lists the President as Donald E. Dodge with the Secretary of State. This company was incorporated under the laws of Nevada on June 13, 2005. Currently, C, L and M, Inc share the same office building with the licensee. Even though the entity lists its business activity with the Secretary of State as "commercial loan consulting and servicing as well as all other lawful business", as seen in the exam, they have serviced loans that were residential instead of commercial. This unlicensed servicer was also cited in the previous examination. *This is a repeat violation.*

Sun State Capital Management, LLC was a lender in a residential mortgage and thus is required to be licensed. The entity is not registered with the Secretary of State, however it does list an address of 256 Commerce Drive, #443, Peachtree City, Georgia 03269 on the HUD.

RGM Investment Realty Trust was a lender in a residential mortgage and thus is required to be licensed. The entity, according to the HUD, lists an address of 9 Hamlins Crossing West, Dover, MA 02030

All of the loans listed above were marked as primary residences on the applications.

1. **NH RSA 397-A: 3, I.** *Any person not exempt under RSA 397-A: 4 that, in its own name or on behalf of other persons, engages in the business of making or brokering mortgage loans secured by real property located in this state shall be required to obtain a license from the department.*

The licensee is working with unlicensed entities.

2. **NH RSA 397-B: 2, I.** *This chapter shall provide for the banking department's regulation of mortgage servicing companies that engage in the business of servicing first or second mortgage loans secured by real property located in the state of New Hampshire, which is or shall be occupied in whole or in part as a primary domicile or place of residence by the mortgagor and which consists of not more than 4 living units. Persons registered under this chapter shall be responsible for the supervision of their employees, agents, and branch offices.*

The licensee is working with the unlicensed servicer, C, L and M, Inc.

3. **NH RSA 397-A: 12, VIII.** *Upon receipt of a written report of examination, the licensee shall have 30 days or such additional reasonable period as the commissioner for good cause may allow, within which to review the report, recommend any changes and set*

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forth in writing the remedial course of action the licensee will pursue to correct any reported deficiencies outlined in the report.

The licensee is still working with the unlicensed servicer, C, L and M, Inc.

Loan Files

Yield Spread Premiums (YSP):

Licensees are required to disclose the YSP on the Good Faith Estimate (GFE) as a reasonable dollar amount or dollar range. The following loans listed unreasonable dollar amount ranges on the GFE: [REDACTED] and [REDACTED]. The [REDACTED] file lists the YSP range from \$100 to \$5,638. The [REDACTED] file lists the YSP range from \$1 to \$4,600.

Balloon Disclosures:

All balloon loans are required to contain a New Hampshire balloon disclosure. This disclosure need to be provided to consumers within three days of application. The following three loans did not contain the required disclosure: [REDACTED], [REDACTED], and [REDACTED].

A similar issue was cited in the previous examination. The licensee stated in their response to the last exam that "FR&A has enhanced its quality control review process with a checklist to ensure that all required documents are provided and either retained in file or are replaced in the file before filing."

Construction Loans:

The following three loans contained short-term notes of 1 year: [REDACTED], [REDACTED], and [REDACTED]. The applications for all of these loans state that they are all primary residence. The short-term notes are all titled "Promissory Note: Commercial Construction Loan Agreement." This title could be confusing and misleading to borrowers.

4. NH RSA 397-A: 2, III referencing the Real Estate Settlement Procedures Act, Regulation X, 24 C. F. R. § 3500.7 (c), (2) Content of Good Faith Estimate. *A good faith estimate consists of an estimate, as a dollar amount or range, of each charge which the borrower will normally pay or incur at or before settlement based upon common practice in the locality of the mortgaged property. Each such estimate must be made in good faith and bear a reasonable relationship to the charge a borrower is likely to be required to pay at settlement, and must be based upon experience in the locality of the mortgaged property.*

The YSP dollar amount range was unreasonable in the [REDACTED] and [REDACTED] loan files.

5. NH RSA 397-A: 12, IV and NH Code of Administrative Rule, Ban 2504.01. *A mortgage banker or mortgage broker who receives an application for a loan containing a balloon payment shall give a written disclosure statement to the borrower.*

The [REDACTED], [REDACTED], and [REDACTED] loan files did not contain the required balloon disclosure.

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6. **NH RSA 397-A: 12, VIII.** *Upon receipt of a written report of examination, the licensee shall have 30 days or such additional reasonable period as the commissioner for good cause may allow, within which to review the report, recommend any changes and set forth in writing the remedial course of action the licensee will pursue to correct any reported deficiencies outlined in the report.*

The licensee failed to provide consumers with the required balloon disclosure after they stated that they had corrected the issue.

7. **NH RSA 397-A: 17, I (f).** *Had made fraudulent misrepresentations, has circumvented or concealed, through whatever subterfuge or device, any of the materials particulars or the nature thereof required to be stated or furnished to a borrower under the provisions of this chapter.*

The licensee is using "commercial construction loan agreements" for primary residence loans.

Recordkeeping

Licensees are required to maintain records that will allow the department to determine compliance. All of the loan files are stored together in alphabetical order only separated by residential, commercial, and "dead" property. On the first day of the examination, the examiners tried to locate files on the loan list provided during Phase I to the department. The examiners were not able to locate any of the files in the storage room. When the examiners requested these loans from Rhonda Vappi, Office Manager, she retrieved these loan files from her office. Ms. Vappi explained that she had pulled these files because she knew that we might need them for the upcoming examination and wanted to have them accessible.

Later that day, the examiners had received an updated loan list with all of the files that were closed. The examiners were again told that these files would be in either the files from Ms. Vappi office or in the file cabinets. The examiners were able to locate some of these files but still had loans that they were not able to locate. The next day the examiners gave the list of missing files to Susan LeDuc, Regulatory Specialist. She was able to locate these files in the offices of processors and loan originators, for both residential and commercial mortgages. Having difficulty locating all of the requested files was an issue cited in the previous examination and continued to be a problem through out this examination.

The licensee had some issues with their databases as well. When Ms. Vappi produced the inprocess list, it contained a number of loan files that were improperly labeled as primary residences. The licensee explained that the "primary" was a default and was not always corrected, making it difficult to differentiate the loans in their correct category.

Additionally, the [REDACTED] (NH) loan file contained loan documents for [REDACTED] a California loan file.

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8. **NH RSA 397-A: 11, I.** *The licensee shall maintain such records as will enable the department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted pursuant to it. Such records shall be maintained in a readily accessible location and made available for the examination at the licensee's New Hampshire principal office or its New Hampshire branch office location or the office of its New Hampshire agent for a period of at least 3 years after the loan is closed, if the loan is retained in the licensee's loan portfolio, or 3 years after the loan is paid in full, if the loan is retained in the licensee's loan portfolio. Licensees may maintain photocopies, microfilm, or microfiche copies of original documents.*

The licensee needs maintain and have their loan files readily available.

Safeguarding of Consumer Information

Since the previous examination the licensee has improved and updated their safeguarding policy. The licensee's policy states that "This Information Security Plan will be subject to periodic review and adjustment by the Compliance Officer and Coordinators." The examiners asked Ms. LeDuc if the licensee tests and reviews the safeguarding policy. If so, could they have a copy of the most recent review? In her response she stated, "GLB testing of safeguards is performed but not currently documented. Documentation will be maintained in the future."

In addition to testing their safeguarding policy, the licensee needs to maintain contracts with third party servicer providers and other companies that share and have access to the building. When the examiners asked for these contracts, a number of them were given to the examiners. However, the examiners were missing the contracts with DAK Financial Group and C, L and M, Inc. Before the end of the examination, the licensee executed contracts with these entities and provided the examiners with the missing contracts.

Finally, the licensee has a locked storage/conference room on the basement level where they store their loan files. Throughout the examination, the licensee had to locate files that were not stored in the storage room. These files were located in the processors' and loan originators' offices, which do not have locks. The licensee needs to physically safeguard consumers' information.

9. **NH RSA 397-A: 2, III referencing the Gramm-Leach-Bliley Act, and Standards for Safeguarding Customer Information, 16 C.F.R. §314.4 (c).** *The licensee is required to regularly test safeguards in place.*

The licensee could not provide any written documentation that testing of safeguard controls had been performed.

10. **NH RSA 397-A: 2, III referencing the Gramm-Leach-Bliley Act, and Standards for Safeguarding Customer Information, 16 C.F.R. §314.4 (d).** *The licensee is required to monitor service providers and enter into contracts that require service providers to implement and maintain appropriate safeguards.*

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The licensee did not originally have contracts with DAK Financial Group and C, L and M, Inc.

11. **NH RSA 397 –A: 2, III referencing Title V: Privacy - Subtitle A: Disclosure of Nonpublic Personal Information.** *Declares it is the policy of Congress that each financial institution has an affirmative, continuing obligation to respect the privacy and to protect the confidentiality of customer nonpublic personal information.*

The licensee is not physically protecting customers' nonpublic personal information.

Records on files with the Department

Quarterly Financial Statements:

Licensees are required as part of the examination to provide a copy of the most recent quarterly financial statements. The licensee was not able to provide this information to the examiners. Scott Farah, President, stated that the financial are only prepared for the year-end. Mr. Farah also stated that the accountant comes to the office once every-quarter to reconcile the accounts. The examiners suggested that the accountant could prepare quarterly financial statements at this time. This issue was cited in the previous examination.

Financial Statements:

In addition to not providing the quarterly financial statements, the licensee failed to provide year-end financial statements. The examiners requested this information the first day of the on-site examination, February 23, 2009. The licensee repeatedly stated that the information would be provided, however at the close of this examination, March 16, 2009, the licensee was unable to provide the request financial statements.

Annual Report:

For the Phase 1 portion of the examination licensee are required to provide work papers to support their most recent annual report. In their response to Phase 1 request, Mr. Farah states "the work papers requested cannot be provided as the Annual Report is produced from data electronically populated from Closed File Database."

The 2007 Annual Report requests all originators that have originated loan in 2007. The loan list provided to the Department shows that James Escoto originated loans in 2007. This originator was not listed on the 2007 Annual Report. Additionally, from the loan list provided by the licensee during the examination, the number of loans and dollar totals do not match what was reported to the Department on the 2007 annual report. The licensee needs to verify this information and submit an amended annual report.

12. **NH RSA 397-A: 13, V.** *In addition to the annual report and financial statement, the banking department may require such additional regular or special reports as it may deem necessary to the proper supervision of mortgage banker, mortgage broker, and originator licensees under this chapter.*

- a. The licensee failed to provide quarterly financial statements.

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b. The licensee failed to provide year-end financial statements.

13. **NH RSA 397-A: 12, VIII.** *Upon receipt of a written report of examination, the licensee shall have 30 days or such additional reasonable period as the commissioner for good cause may allow, within which to review the report, recommend any changes and set forth in writing the remedial course of action the licensee will pursue to correct any reported deficiencies outlined in the report.*

The licensee failed to provide quarterly financial statements.

14. **NH RSA 397-A: 13, I.** *Each licensee shall file, under oath, an annual report with the banking department on or before March 31 each year concerning operations for the preceding year or license period ending December 31 upon the form prescribed by the banking department. The annual report shall include a list of all individuals, and the address of work location or an undertaking to provide the address immediately upon the department's request, of each such individual, who act as originators for the licensee.*

The licensee needs to amend their 2007 annual report.

15. **NH RSA 397-A: 12, VII.** *Every person being examined, and all of the officers, directors, employees, agents, and representatives of such person shall make freely available to the commissioner or his or her examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination.*

The licensee failed to provide their financial statements.

16. **NH RSA 397-A: 5, III (c).** *Each mortgage banker or mortgage broker applicant shall be required to submit to the department detailed financial information sufficient for the commissioner to determine the applicant's ability to conduct the business of a mortgage banker or a mortgage broker with financial integrity.*

Compliance could not be determined.

Examiner (Signature)	Date	(Signature)	Date
Nicole M. Jeanson	3/18/09	Kimothy Griffin	3/15/09