

**STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT**

**CONSUMER CREDIT ADMINISTRATION
DIVISION
REPORT OF EXAMINATION**

MORTGAGE BANK

License Type

5902-MB

License Number

Financial Resources Mortgage, Inc

Licensee

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 license 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 1 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	[Signature]	3/15/09

STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT



Meredith
City

New Hampshire
State

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], [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]; [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	Todd Workman Franconia, NH	Todd Workman Franconia, NH	Paid off 4/06
██████████	2006	117,400	Robert Keating Newland, NC	CL and M, Inc. Gilford, NH	Paid off 9/06
██████████	2006	130,000	John Boender West Friendship, MD	CL and M, Inc. Gilford, NH	Open -payoff due 7/30/07
██████████	2006	166,000	IRA f/b/o Ray Kloepper Maitland, FL	Equity Trust Company Elyria, OH	Paid off 6/07
██████████	2006	215,000	Richard Frucci Mirror Lake, NH	CL and M, Inc. Gilford, NH	Paid off 3/07
██████████	2006	97,000	Richard Frucci 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.

THIS REPORT C ONTAINS INFORMATION THAT IS STRICTLY CONFIDENTIAL

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

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]

and [REDACTED] Lines #801 - #807 are restricted to be use 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 R. Molen

[Handwritten Signature]

STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT



Meredith
City

New Hampshire
State

Examined By: Kerry R. Molin
Anna-Maria Tsorvas
Joseph Rouleau

Examination Date: May 18, 2006

THIS REPORT OF EXAMINATION IS STRICTLY CONFIDENTIAL

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

THIS REPORT OF EXAMINATION IS STRICTLY CONFIDENTIAL

The State of New Hampshire Banking Department

**Mortgage Banker
REPORT OF EXAMINATION**

DATE	5/18/2006
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	[REDACTED]

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. 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 May 18 –June 2, 2006 and at the New Hampshire Banking Department office on June 12 & 13, 2006. The contact person was Scott D. Farah, President and owner.

A sample of loans closed during the previous 18 months was selected for examination. A sample of Denied and Withdrawn application files were also examined. The following documents were reviewed: company policies and procedures; home state registration issued by the NH Secretary of State; an organization chart; a description of the internal audit/ compliance function; a list of loan originators; 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 Balloon Note disclosure; a copy of the internally prepared financial statements for the twelve month period ending December 31, 2005; a copy of the Audited Financial Statements for the twelve month period ending December 31, 2004 and 2003, prepared by the CPA firm –Connor & Associates, PC; bank account statements for 2005; work papers to verify the information submitted in the 2005 and 2004 Annual Reports; a copy of the 2004 Form 1120 Federal Income Tax Return; a copy of media advertisement distributed in New Hampshire; the web site located at www.franh.com; 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 legal suits settled out of court; and a list of locations outside of New Hampshire that conduct New Hampshire Business.

The following summary of the findings presented in the October 11, 2004 Report of Examination were reviewed to determine compliance: advertisement licensing disclosures; failure to report significant events; the use of an unlicensed corporate name and un-registered trade names; the filing of complete financial statements in a timely manner; implementation of the Gramm-Leach-Bliley Act and the safe guarding of consumer information; the incorrect reporting of mortgage broker fees on the HUD settlement statement; the HUD incorrectly reporting payments to the licensee instead of the 3rd party service provider; and the maintenance of a consumer complaint file;

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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 half of the company's revenues while consumer lending and brokering activity make up the other half. 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 occasionally serves as a settlement agent.

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 company was also issued a Small Loan Lender license #6082-SM to its principal office prior to 1997.

OBSERVATIONS:

- 1. Pursuant to NH RSA 397-A: 10, IV, Change in Name; Ownership; Location.**
The licensee failed to amend its license application within 30 days of a change in ownership. The licensee has been retiring the number of shares of preferred stock outstanding. An amendment to the license application explaining the required changes has not been received by the NH banking department -Licensing Division. *A notice was received on June 7, 2006.*
- 2. Pursuant to NH RSA 397-A: 10, I and IV, Change in Name; Ownership; Location.**
The Signs on the door, the fence and in front of the building indicate the use of the unlicensed corporate name: "Financial Resources, Inc." The following unregistered trade names were also used on loan documents and verifications: "Financial Resources" and "Financial Resources & Assistance". The Broker 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 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 two previous examinations.
- 3. Pursuant to NH RSA 397-A: 14 a, III Advertising.** The licensee's web site located at www.franh.com does not contain the required statement, "Licensed by the New Hampshire banking department" (effective August 21, 2003). A similar observation was cited at the previous examination. *A copy of the correction was received on June 7, 2006.*

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4. Pursuant to NH RSA 397-A:20, II and the NH Code of Administrative Rules, Part Ban 2407, licensees are required to notify the NHBD of various significant events within one business day or 5 business days of the occurrence depending on the issue. The licensee failed to report the Ronald and Howard Stone civil suite as addressed in the April 25, 2006 Concord Monitor Article. The licensee also failed to notify the NH banking department regarding the suite naming the licensee as a co-defendant in the Chase Manhattan Bank vs. James Moore, et al., dated November 1, 2001. A similar observation was cited in the previous examination.

5. Pursuant to NH RSA 397-A:2, III referencing the Gramm-Leach-Bliley Act as implemented by the Federal Trade Commission 16 C.F.R. § 314, financial institutions, such as mortgage companies, must have a written policy outlining their privacy and security procedures and practices. The licensee's Information Security policy is incomplete. The policy provided does not reflect the licensee business organization and operations. The document indicates Nancy O'Connor was named as the Safeguard Program Coordinator. Risk Assessment has not been identified. *A work paper was provided on June 12, 2006 without a final report.* A plan has not been designed, implemented and or tested. Service provider contracts have not been created, reviewed and monitored. The policy should be evaluated periodically and adjustments made where needed. A similar observation was cited in the previous examination.

6. Pursuant to NH RSA 397-A: 13, I Annual Report. The loan list provided to select the sample of files for review contained loans secured with Investment property. Management indicated the 2004 First and Second Mortgage Banker & Broker Annual Reports and the 2005 Mortgage Banker Annual Report were overstated with the inclusion of loans secured with Investment property. Investment property is not regulated under this statute and therefore must not be included. The figures reported on the 2004 and 2005 Annual Reports must be amended and resubmitted.

7. Pursuant to NH RSA 397-A: 11, I, Record Keeping. The following documents were missing from the designed loan file:
 - A copy of the Good Faith Estimate (GFE) was missing from the following files:
[REDACTED]

 - A copy of the final Truth in Lending statement (TIL) was missing from the following files:
[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] and [REDACTED] (received 6/7/06); and
[REDACTED] and [REDACTED] (received 6/7/06).

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A copy of the Appraisal Invoice was missing from the following files:

[REDACTED] and [REDACTED] (received 6/7/06); and
[REDACTED] and [REDACTED] (received 6/7/06).

8. 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.

9. 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%" or "0-3%." RESPA allows for fees to be disclosed as a dollar amount, a dollar range, or a percentage. The following files all contained a GFE which reported the range 0 -2%:
[REDACTED] and [REDACTED]. The following files all contained a GFE which reported the range 0 -3%:
[REDACTED]

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

[REDACTED]
Line #801 is restricted to fees paid to the Lender.

10. 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]. The ultimate recipient of the fee must be disclosed on the HUD-1.

11. 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, the HUD - 1 settlement document for the following loans where the licensee serves in the capacity as Lender report fees incorrectly on lines #801-#807: [REDACTED]. Lines #801 -807 are restricted to the items as detailed in the HUD Settlement guide.

12. 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]

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13. **Pursuant to NH RSA 397-A: 13, V Reports**, The following documents or responses to the "Notice of Examination" and Officer Questionnaire were incomplete or missing:

The licensee does not maintain a control list of Denied / Withdrawn applications to keep track of what is in its pipeline. 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, VA, and WA. A control list should be maintained to select a sample of files for review. Files must be segregated by state.

The following items and questions on the Mortgage Officer Questionnaire are incomplete or missing:

- #1 No response. Received information 5/24/06. Reviewed Employee handbook, Privacy Policy and Security policy. Information Security policy is not adequate. Gramm-Leach-Bliley Act, Safeguards 16 C.F.R. 314 (compliance 5/23/03) Written Consumer Safeguard policy in place -incomplete
Designate employee(s) to coordinate program.
Named: Nancy O'Connor -Safeguard Program Coordinator
Risk Assessment -not identified. *Received work paper 6/12/06 without report.*
Design, implement and testing -*not identified.*
Service provider monitoring/ contracts -*not done.*
Evaluations and Adjustments -*not seen.*
- #8 No response. Received internal audit report information 5/24/06. The response indicates employees are provided compliance training as part of the annual employee review. *A copy of an annual employee review was not provided.*
- #9 Incomplete. The list is missing the names and addresses of the 7 Preferred shareholders. *Received preferred shareholder list on 6/1/06 as of December 31, 2005.*
- #10 Incomplete -The list of Originators is missing the address of their work location. *Revised 6/2/06 and amended*
- #16 Incomplete -The names and percent of ownership of the 7 preferred stockholders is missing. *Received preferred shareholder list on 6/1/06 as of December 31, 2005.*
- #18 No response. Received information 5/24/06 which indicates approved service providers. There was no response to Part II. Are any of the service providers related or affiliated? *Revised statement received 6/2/06 which addressed Part II.*
- #27 No response. Licensee failed to provided Financial Statements (balance sheet, cash flow statement and income statement) for the 1st Quarter ending March 31, 2006.
- #28 No response. Licensee failed to provide work papers and source documents to verify the 2005 Annual Report and the 2004 Annual Report.

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Licensee failed to provide work papers and supporting documents to verify the 2005 internally prepared financial statements. Response received 5/24/06. Incomplete - documents missing.

Received 2005 & 2004 annual report response 6/1/06. 2005 -2nd Mtg report includes investment property. The licensee served as the Lender for the loan to [REDACTED]. The [REDACTED] loan is on the loan report in the amount of \$130,000, but closed at \$142,250. The annual reports indicate all loans were closed in the capacity as "Broker". Income from NH properties was not segregated until 1/1/06. No information was provided to verify the 2004 figures reported for All jurisdictions. No income reports provided to verify figures. Annual Report amendments are required for 2005 and 2004.

Received documents 6/1 & 6/2/06 to verify the internally prepared December 31, 2005 Statement of Condition. There were numerous errors and adjustments required. *Licensee does not maintain a General Ledger and financial records. The CPA reconciles bank statements quarterly and prepares audited financial statements on a cash basis for the year ending December 31.*

#33 No response. Received summary of written consumer complaint information 5/24/06. The issues were not reported as a significant event when appropriate.

#44 No response. Received information 5/24/06. The response does not address the question. What are the procedures in place to notify the applicant a loan has been denied or withdrawn? *Received revision 6/2/06.*

#45 No response. Received response 5/24/06. Failed to provide a copy of an Operating account register. The licensee does not maintain a general ledger and general journal. Records are kept manually. Income and expense are recorded in the Check registers only. Multiple accounts used at multiple financial institutions.

#49 Incomplete -missing telephone number, fax number, and internet address for branch offices located outside New Hampshire. *Revised document received 6/2/06.*

#52 No response. Received contract information 5/24/06 for third party service providers. *No written contract with the Computer Servicer and with the Credit Bureau. Received additional information regarding computer servicer. No contract in place. Individual retiring October 1, 2006. Information Security agreement to be created by current provider and by replacement.*

The Officer Questionnaire is missing the last page which requires a signature and notarization. *Received information 5/24/06. Completed in the unlicensed name of "Financial Resources"*

Examiner (Signature)

Henry R. Molina

THIS REPORT OF EXAMINATION IS STRICTLY CONFIDENTIAL

The State of New Hampshire Banking Department

**Small Loan Lender
REPORT OF EXAMINATION**

DATE	5/18/2006
NAME OF LICENSEE	Financial Resources & Assistance of the Lakes Region, Inc.
ADDRESS	15 Northview Drive
CITY, STATE, ZIP	Meredith, NH, 03253
LICENSE NUMBER	6082-SM
EXAMINER IN CHARGE	Kerry R. Molin
TAX ID NUMBER	[REDACTED]

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 399-A:10. A review of the licensee's current regulated business activities, operational practices and financial condition was undertaken to determine compliance with NH RSA 399-A.

The examination took place at the licensee's principal office located in Meredith, NH during the period of May 18 –June 2, 2006 and at the New Hampshire Banking Department office on June 13 & 14, 2006. The contact person was Scott D. Farah, President and owner.

The following documents were reviewed: company policies and procedures; home state registration issued by the NH Secretary of State; an organization chart; a description of the internal audit/ compliance function; a list of loan originators; 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 Balloon Note disclosure; a copy of the internally prepared financial statements for the twelve month period ending December 31, 2005; a copy of the Audited Financial Statements for the twelve month period ending December 31, 2004 and 2003, prepared by the CPA firm – Connor & Associates, PC; bank account statements for 2005; work papers to verify the information submitted in the 2005 and 2004 Annual Reports; a copy of the 2004 Form 1120 Federal Income Tax Return; a copy of media advertisement distributed in New Hampshire; the web site located at www.franh.com; 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 legal suits settled out of court; and a list of locations outside of New Hampshire that conduct New Hampshire Business.

THIS REPORT OF EXAMINATION IS STRICTLY CONFIDENTIAL

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 half of the company's revenues while consumer lending and brokering activity make up the other half. 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 occasionally serves as a settlement agent.

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 company was also issued a Small Loan Lender license #6082-SM to its principal office prior to 1997.

OBSERVATIONS:

1. **Pursuant to NH RSA 399-A: 4, VIII (a) Investigation of Application; License Requirements.** The licensee reported it has not closed any small loans during the time period under examination, so no consumer applications or small loan files were available for examination to determine compliance with RSA 399-A. Management indicated the Small Loan license was in the process of being surrendered. The licensee surrendered its Small Loan license on June 7, 2006.

Examiner (Signature)

Sherry R. Malin

Scott D. Farah

STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT



Examined By: H. Kurt Gillies

Examination Date: 11. October 2004

THIS REPORT OF EXAMINATION IS STRICTLY CONFIDENTIAL

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

THIS REPORT OF EXAMINATION IS STRICTLY CONFIDENTIAL

The State of New Hampshire Banking Department

**First Mortgage Banker and Broker
REPORT OF EXAMINATION**

DATE	10/11/2004
NAME OF LICENSEE	Financial Resources & Assistance of the Lakes Region, Inc.
ADDRESS	15 Northview Drive
CITY, STATE, ZIP	Meredith, NH, 03253
LICENSE NUMBER	5902-MBB
EXAMINER IN CHARGE	H. Kurt Gillies
TAX ID NUMBER	██████████40

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. 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 as well as applicable federal acts and regulations. The scope of the examination included review of legal documents used to conduct consumer credit business, corporate registration and current lending licenses in other states, consumer complaints filed against the licensee, declined or withdrawn application files, corporate information including a set of audited financial statements for the two fiscal years ended December 31, 2002 and 2003 as well as an un-audited financial statement for the six months ended June 30, 2004, and a Form 1120 U.S. corporate income tax return for 2002. Also reviewed was an employee handbook, a list of lenders with whom the licensee corresponds, local media and website advertising, three completed executive officer questionnaires for the various licensed activities the company may engage in, a list of loan originators employed or retained by the licensee, public privacy policies and custody practices of confidential consumer information obtained by the licensee for lending or brokering purposes. An analysis of a sample of 17 first mortgage loan files originated by the licensee during the 18 month period between March 1, 2003 and August 31, 2004 was also conducted. The examination took place between October 11, 2004 and April 21, 2005.

BACKGROUND:

Financial Resources & Assistance of the Lakes Region, Inc., ("FR&A") is a corporation formed in New Hampshire on May 18, 1989. The company is owned by a sole shareholder, Mr. Scott D. Farah, who also serves as its President. FR&A functions as a first mortgage banker and broker and is also engaged in commercial lines. Commercial lending activities comprise approximately half of the company's revenues while consumer lending and brokering activity make up the other half. Mr. Farah also, operates an insurance business called Insurance Options, co-located with FR&A. The law offices of Michael Gould and Michael Burke, PA are also, co-located with FR&A, operating under a sub-lease agreement according to Mr. Farah. FR&A is currently licensed to conduct residential mortgage activity in 13 states including New Hampshire. The company operates from one location only relative to its New Hampshire business, its licensed principal office in Meredith. FR&A has been licensed as a first and second mortgage banker and broker as well as a small loan lender by the New Hampshire Banking Department ("NHBD") since at least 1997 according to NHBD records. The examination was conducted at the licensee's office in Meredith, NH.

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OBSERVATIONS:

1. Pursuant to NH RSA 397-A:14-a, any advertisement media must contain the disclosure that the licensee is "Licensed by the New Hampshire banking department". Review of some FR&A media, both hardcopy and website, revealed the statutory disclosure was not present.
2. Pursuant to NH RSA 397-A:20, II and the NH Code of Administrative Rules, Part Ban 2407, licensees are required to notify the NHBD of various significant events within one business day of the occurrence. FR&A answered question 10 in the General section of its first mortgage broker/banker officer questionnaire to the effect the licensee is undergoing investigation by another NH state agency; the Bureau of Securities Regulation. President Farah has further stated FR&A was in the midst of a civil suit whereby the purported issues were somehow preventing the licensee from providing the NHBD a complete set of private corporate financial statements for fiscal year 2003. Review of the licensee's records at the NHBD indicates the licensee failed to notify the NHBD of either the investigation or civil suit in accordance with state law.
3. Pursuant to NH RSA 397-A:10, I, licensees are required to conduct their business only under a business or trade name as stated in their license. FR&A was cited for improper disclosure of its business name during the previous NHBD examination conducted in May 2003. Despite representations made in the licensee's response to the previous report of examination that the licensee would correct such improprieties, FR&A continues to disclose business names such as "Financial Resources Inc." and "Financial Resources" on various documentation, including but not limited to mortgage loan applications, good faith estimates, truth in lending disclosure statements, borrower signature authorizations, fair lending notices, borrowers' certification and authorization disclosures, mortgage loan origination agreements and privacy policy disclosures that do not comport with the company's name on its banking license, namely "Financial Resources and Assistance of the Lakes Region, Inc."
4. Pursuant to NH RSA 397-A:17 (e), "The commissioner may by order, upon due notice and opportunity for hearing, assess penalties or deny, suspend, or revoke a license if it is in the public interest and the applicant or licensee...[if the licensee] has made a false or misleading statement to the commissioner or in any reports to the commissioner." In a letter dated August 19, 2003, signed by President Scott Farah and sent to the NHBD in response to the banking department's report of examination conducted on May 19, 2003, FR&A stated relative to its business name and use of the name,
"-CHANGE IN NAME-We are in the process of applying for a d/b/a to stay in compliance with this guideline. We would prefer to use Financial Resources, Inc. on all our forms, letterhead, business cards, etc. If, in the event we are denied the d/b/a, we will change our forms, etc to Financial Resources and Assistance of the Lakes Region, Inc."
During the course of this current examination the NH Secretary of State's office, Corporate Division, was contacted via telephone by the examiner. Speaking with an employee in the Corporate Division the examiner was told that not only had the Secretary of State's office not approved any changes in the use of FR&A's business name but had also, not received any application from FR&A requesting a trade name (d/b/a), since the prior examination in 2003.

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5. Pursuant to NH RSA 397-A:13, licensees are required to file a financial statement within 90 days from the date of their fiscal year end. FR&A's fiscal year end is December 31. Financial statements are to include a balance sheet, income statement, statement of changes in owners' equity and a cash flow statement. The licensee filed a financial statement in 2004 within the mandated time period however, not all of the required financial documents were submitted. The documents submitted to the NHBD by FR&A appeared to be excerpts from an audit conducted by a local external CPA firm. The missing documents needed to complete the financial statement were requested from FR&A by the NHBD prior to and again during this examination. Those documents were finally provided on November 8, 2004.
6. Pursuant to NH RSA 397-A:12, III, FR&A was requested to provide a copy of its 2003 federal income tax return for this examination. The licensee was unable to comply with this request and submitted a written statement from its income tax preparer that FR&A's 2003 income tax return is still being prepared and that proper federal extension forms have been filed with the Internal Revenue Service. Copies of the Internal Revenue Service extension forms were requested by the examiners but not provided by the licensee. FR&A provided only a copy of a letter from Phyllis Johansson, manager of the H&R Block branch office in Laconia, NH. In the letter, Ms. Johansson states "the proper federal extension forms have been filed with Internal Revenue Service." FR&A must, as part of its response to this exam, provide the NHBD with copies of the federal extension forms and a copy of its 2003 income tax return upon its completion by H&R Block.
7. Pursuant to NH RSA 397-A:12, I, review of randomly sampled mortgage loan files revealed a letter addressed to Mr. Scott Ferah [sic] from one of its correspondent lenders, First Franklin Financial, claiming that misrepresentations were made relative to a borrower's income as evidenced in documentation FR&A provided to First Franklin Financial. As a consequence, First Franklin Financial asked FR&A to refinance or pay off the loan within 30 days of the date of the letter (12/15/2003). FR&A is requested to provide a full written explanation of the circumstances surrounding its handling of, response to and ultimate resolution of the alleged misrepresentations First Franklin Financial references in its letter to the licensee.
8. Pursuant to the Gramm-Leach-Bliley Act §§ 501 and 502(b)(2) as implemented by the Federal Trade Commission 16 C.F.R. § 314, the examination of FR&A included a review of the licensee's handling, custody and disposal of any confidential documents and information pertaining to its consumer credit activities. The licensee provided an oral presentation as to how sensitive documents and confidential information were collected, retained and disposed of. The banking department examiner in charge was advised that the process of disposing of sensitive documentation required the physical shredding of such documents by two designated employees using a machine at FR&A for that purpose. The examiner in charge asked President Scott Farah if he could physically inspect and collect trash from a dumpster used by the licensee to dispose of waste material from the FR&A office. This was requested in order to verify the disposal process of sensitive confidential consumer mortgage documentation. President Farah gave the bank examiners permission orally, to do so. The bank examiners took custody of two large plastic bags of trash picked from the previously mentioned dumpster located behind the licensee's office. Subsequent analysis of the contents of the two trash bags revealed dozens of sensitive documents containing confidential private consumer information that had not been shredded or

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otherwise disposed of properly. The documents included consumer credit reports, tax returns, real estate appraisals, insurance information and completed uniform residential loan applications from consumers in New Hampshire and other states in which FR&A operates as a mortgage licensee. Specific individual's documents found subject to NHBD jurisdiction (those dated later than May 23, 2003) include: (see attached spread sheet also)



- 9. Pursuant to the Gramm-Leach-Bliley Act as implemented by the Federal Trade Commission 16 C.F.R. § 314, financial institutions such as mortgage companies must have a written policy outlining their privacy and security procedures and practices. FR&A does not currently have such a written policy.
- 10. Pursuant to the Real Estate Settlement Procedures Act ("RESPA"), Regulation X, 24 C.F.R. § 3500.8 and Appendix A, Line Item Instructions, Section L, Line 801 is used to record items charged by the Lender. Review of HUD-1 documents found in 17 FR&A loan files examined, eleven disclosed FR&A as the entity charging an amount for a loan origination fee. FR&A acted as the broker only in all transactions noted, never as the Lender. Mortgage broker fees should be disclosed on any one of line numbers 808 through 811, not on line 801. The eleven borrower names, line item and item number and amounts charged are as follows:

<u>Name of Borrower</u>	<u>Loan Origination Fee (line #801)</u>
	\$1,840.00
	\$2,900.00
	\$3,077.00
	\$2,878.40
	\$2,175.00
	\$1,000.00
	\$2,218.00
	\$ 800.00
	\$4,592.00
	\$3,000.00
	\$1,600.00

- 11. Pursuant to RESPA, Regulation X, 24 C.F.R. § 3500.8 and Appendix A, Line Item Instructions, Section L, all items except for those paid to and retained by the Lender, the name of the person or firm ultimately receiving the payment [for the services rendered] should be disclosed on the HUD-1. Review of HUD-1 documents found in 17 FR&A loan files examined, revealed eleven disclosed FR&A as the entity receiving an amount for a real estate appraisal and/or a credit report. FR&A acted as the broker only in all transactions noted, never as the ultimate recipient of the service rendered, in this case as

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the real estate appraiser or as the credit reporting agency. The eleven borrower names, line item description and amounts charged are as follows:

<u>Name of Borrower</u>	<u>Appraisal Fee</u>	<u>Credit Report Fee</u>
[REDACTED]	\$100.00	\$ 15.00
[REDACTED]	—	\$300.00
[REDACTED]	\$300.00	\$ 16.00
[REDACTED]	—	\$ 15.00
[REDACTED]	\$300.00	\$ 15.00
[REDACTED]	—	\$ 15.00
[REDACTED]	\$300.00	\$ 15.00
[REDACTED]	—	\$ 15.00
[REDACTED]	\$250.00	\$ 15.00
[REDACTED]	—	\$ 15.00
[REDACTED]	—	\$ 15.00

12. Pursuant to RESPA, Regulation X, 24 C.F.R. § 3500.7 and Appendix C, Footnotes, if a good faith estimate is being disclosed by a mortgage broker who is not an exclusive agent of the lender, the lender's name will not appear at the top of the form, but the following statement must appear: "This Good Faith Estimate is being provided by [in this case] Financial Resources and Assistance of the Lakes Region, Inc., a mortgage broker, and no lender has yet been found." Review of the 17 FR&A loan files containing a GFE issued by FR&A, revealed eight to not contain the required disclosure. The eight borrower names on the GFE's noted are as follows:

[REDACTED]

13. Pursuant to NH RSA 397-A:15-a and RSA 397-A:17 (e), licensees are required to maintain a complaint file containing records of any and all consumer complaints that are filed with the licensee. FR&A was requested to provide copies of its records relative to complaints received during the previous 18 months. The licensee responded that no complaints were available as none had been received. Information received by the examiner from the NHBD database however, indicated that three complaints had been filed with the NHBD naming FR&A as the subject of a complaint. These complaints were from the following individuals: [REDACTED] an [REDACTED]

14. Pursuant to NH RSA 397-A:3, 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 first mortgage loans secured by real property located in New Hampshire are required to obtain a license from the NHBD. The world wide web site "financialresourcesinc.net" is a form of advertising media used by a company called "Financial Resources, Inc.". The site contains reference to a webpage called "About Us". About Us makes explicit reference to the company's founder Scott Farah, that the company is a New Hampshire

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corporation, that the corporation's personnel can answer questions "concerning refinancing first mortgage loans, VA, FHA, Conventional, Conforming and Non-Conforming or any of the programs available." The page states further that "we all need counseling on a home purchase." These quotes are statements that refer unambiguously to residential mortgage activities that under New Hampshire law require a license from the NHBD before engaging in those activities. "Financial Resources, Inc." is not licensed by the NHBD to engage in any residential first mortgage activities as a banker or broker. The only company that is licensed currently to engage in first mortgage activity is "Financial Resources and Assistance of the Lakes Region, Inc." This latter company is also, the only name authorized by the NHBD to be used on any and all advertising, disclosures and legal correspondence used by the licensee in its business relationships with consumers and any other parties engaged or retained by FR&A relative to its residential mortgage activities.

Examiner (Signature)

H. Kent Gillies

Assistant Director of Consumer Credit (Signature)

[Signature]

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The State of New Hampshire Banking Department

**Second Mortgage Home Loan Lender
REPORT OF EXAMINATION**

DATE	10/11/2004
NAME OF LICENSEE	Financial Resources & Assistance of the Lakes Region, Inc.
ADDRESS	15 Northview Drive
CITY, STATE, ZIP	Meredith, NH, 03253
LICENSE NUMBER	5903-MHL
EXAMINER IN CHARGE	H. Kurt Gillies
TAX ID NUMBER	[REDACTED]

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 398-A:1-c. A review of the licensee's current regulated business activities, operational practices and financial condition was undertaken to determine compliance with NH RSA 398-A. The scope of the examination included review of legal documents used to conduct consumer credit business, corporate registration and current lending licenses in other states, consumer complaints filed against the licensee, declined or withdrawn application files, corporate information including a set of audited financial statements for the two fiscal years ended December 31, 2002 and 2003 as well as an un-audited financial statement for the six months ended June 30, 2004, and a Form 1120 U.S. corporate income tax return for 2002. Also reviewed was an employee handbook, a list of lenders with whom the licensee corresponds, local media and website advertising, three completed executive officer questionnaires for the various licensed activities the company may engage in, a list of loan originators employed or retained by the licensee, public privacy policies and custody practices of confidential consumer information obtained by the licensee for lending or brokering purposes. An analysis of a sample of 1 second mortgage loan files originated by the licensee during the 18 month period between March 1, 2003 and August 31, 2004 was also conducted. The examination took place between October 11, 2004 and April 21, 2005.

BACKGROUND:

Financial Resources & Assistance of the Lakes Region, Inc., ("FR&A") is a corporation formed in New Hampshire on May 18, 1989. The company is owned by a sole shareholder, Mr. Scott D. Farah, who also serves as its President. FR&A functions as a first mortgage banker and broker and is also engaged in commercial lines. Commercial lending activities comprise approximately half of the company's revenues while consumer lending and brokering activity make up the other half. Mr. Farah also, operates an insurance business called Insurance Options, co-located with FR&A. The law offices of Michael Gould and Michael Burke, PA are also, co-located with FR&A, apparently operating under a sub-lease agreement. FR&A is currently licensed to conduct residential mortgage activity in 13 states including New Hampshire. The company operates from one location only relative to its New Hampshire business, its licensed principal office in Meredith. FR&A has been licensed as a first and second mortgage banker and broker as well as a small loan lender by the New Hampshire Banking Department ("NHBD") since at least 1997 according to NHBD records. The examination was conducted at the licensee's office located in Meredith, NH.

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OBSERVATIONS:

1. Pursuant to RSA 398-A:1-e, I, licensees are required to file on or before February 1 of each year an annual report concerning business operations for the previous calendar year. FR&A submitted an annual report that stated that the licensee did not originate, broker or fund any second mortgage loans during 200. The annual report was filed with the NHBD on February 27, 2004. Review of loan files and documents during the course of this examination revealed the licensee originated at least one second mortgage loan for borrower [REDACTED], which was closed on October 31, 2003 for \$18,000. FR&A must review its records to verify whether any other such loans were originated, brokered or funded by the licensee during calendar year 2003. Upon verification of the correct number and dollar volume of these second mortgage loans, FR&A must file an amended annual report for calendar year 2003 with the NHBD immediately.

2. Pursuant to RSA 398-A:1-e, III, licensees are required to file a financial statement within 90 days from the date of their fiscal year end. FR&A's fiscal year end is December 31. Financial statements are to include a balance sheet, income statement, statement of changes in owners' equity and a cash flow statement. The licensee filed a financial statement in 2004 within the mandated time period however, not all required documents were submitted. The documents submitted to the NHBD by FR&A appear to be excerpts from an audit conducted by a local external CPA firm. The missing year end complete financial statement was requested from FR&A by the NHBD prior to and again during this examination. Those documents were finally provided on November 8, 2004.

3. Pursuant to RSA 398-A:13, I, and the NH Code of Administrative Rules, Part Ban 2407, licensees are required to notify the NHBD of various significant events within one business day of the occurrence. FR&A answered questions 10 and 11 in the General section of its second mortgage home loan lender officer questionnaire to the effect the licensee is not undergoing investigation by another NH state agency. The licensee's President has further stated FR&A was in the midst of a civil suit whereby the purported issues were somehow preventing the licensee from providing the NHBD a complete set of private corporate financial statements for fiscal year 2003. In the "Notes to Financial Statements" FR&A disclosed that "the State of New Hampshire's Bureau of Securities Regulation issued a Staff Petition for Relief on November 8, 2001 alleging, among other things, that the issuance and sale of certain promissory notes constitute the unregistered sale of securities and that the Company was not licensed under New Hampshire law to engage in such activities..." Review of the licensee's records at the NHBD does not indicate the licensee notified the NHBD of either the investigation or civil suit in accordance with state law.

Examiner (Signature)

H. Kent Gillies

Assistant Director of Consumer Credit (Signature)

[Signature]

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The State of New Hampshire Banking Department

**Small Loan Lender
REPORT OF EXAMINATION**

DATE	10/11/2004
NAME OF LICENSEE	Financial Resources & Assistance of the Lakes Region, Inc.
ADDRESS	15 Northview Drive
CITY, STATE, ZIP	Meredith, NH, 03253
LICENSE NUMBER	6082-SM
EXAMINER IN CHARGE	H. Kurt Gillies
TAX ID NUMBER	[REDACTED]

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 399-A:10. A review of the licensee's current regulated business activities, operational practices and financial condition was undertaken to determine compliance with NH RSA 399-A. The scope of the examination included review of legal documents used to conduct consumer credit business, corporate registration and current lending licenses in other states, consumer complaints filed against the licensee, declined or withdrawn application files, corporate information including a set of audited financial statements for the two fiscal years ended December 31, 2002 and 2003 as well as an un-audited financial statement for the six months ended June 30, 2004, and a Form 1120 U.S. corporate income tax return for 2002. Also reviewed was an employee handbook, a list of lenders with whom the licensee corresponds, local media and website advertising, three completed executive officer questionnaires for the various licensed activities the company may engage in, a list of loan originators employed or retained by the licensee, public privacy policies and custody practices of confidential consumer information obtained by the licensee for lending or brokering purposes. The examination took place between October 11, 2004 and April 21, 2005.

BACKGROUND:

Financial Resources & Assistance of the Lakes Region, Inc., ("FR&A") is a corporation formed in New Hampshire on May 18, 1989. The company is owned by a sole shareholder, Mr. Scott D. Farah, who also serves as its President. FR&A functions as a first mortgage banker and broker and is also engaged in commercial lines. Commercial lending activities comprise approximately half of the company's revenues while consumer lending and brokering activity make up the other half. Mr. Farah also, operates an insurance business called Insurance Options, co-located with FR&A. The law offices of Michael Gould and Michael Burke, PA are also, co-located with FR&A, apparently operating under a sub-lease agreement. FR&A is currently licensed to conduct residential mortgage activity in 13 states including New Hampshire. The company operates from one location only relative to its New Hampshire business, its licensed principal office in Meredith. FR&A has been licensed as a first and second mortgage banker and broker as well as a small loan lender by the New Hampshire Banking Department ("NHBD") since at least 1997 according to department records. The examination was conducted at the licensee's office located in Meredith, NH.

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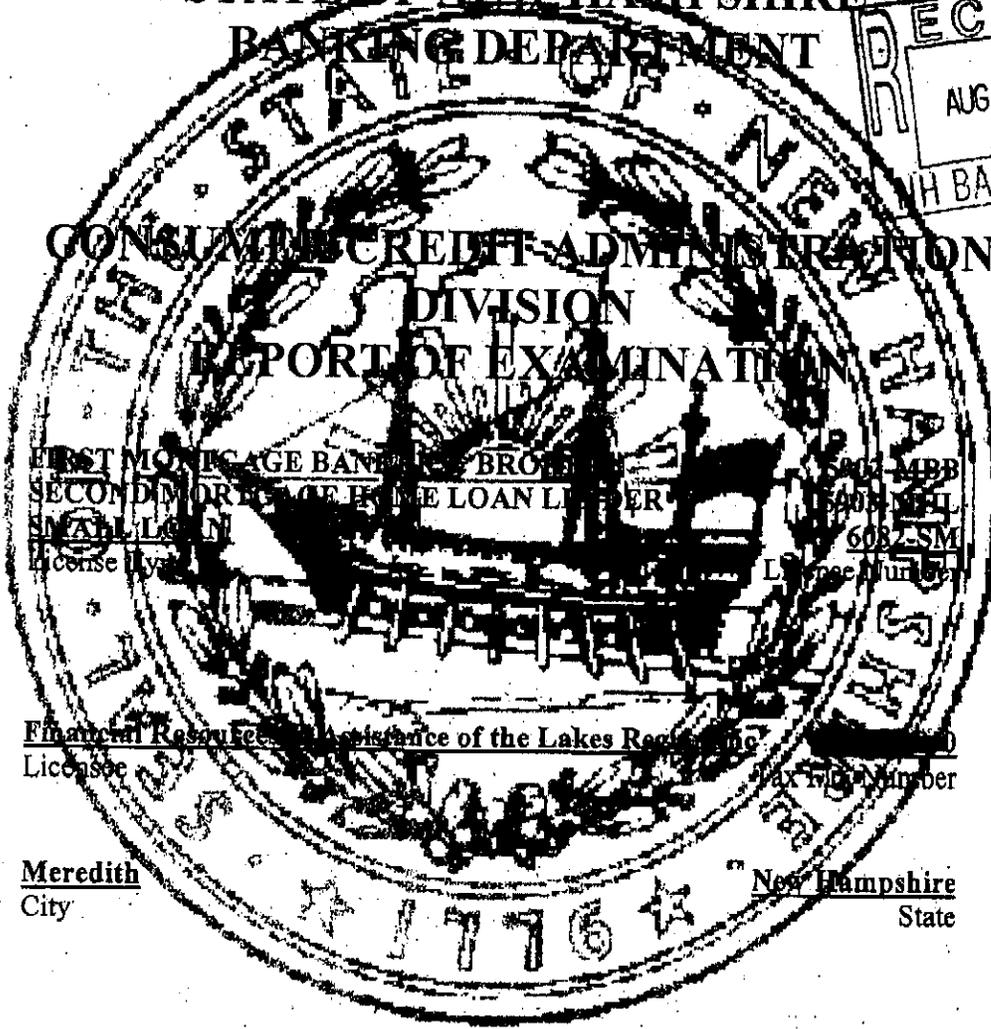
OBSERVATIONS:

1. FR&A reported that the licensee has not closed any small loans during the time period under examination and no consumer applications or small loan files were available for examination and compliance with RSA 399-A could not be determined. That fact notwithstanding, FR&A is currently licensed to engage in small loan activities.

Examiner (Signature) <i>H. Kurt Gillies</i>	Assistant Director of Consumer Credit (Signature) <i>[Signature]</i>
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STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT

RECEIVED
AUG 20 2003
NH BANKING DEPT.



FIRST MORTGAGE BANKER/BROKER
SECOND MORTGAGE HOME LOAN LENDER
SMALL LOAN
License Type License Number

Financial Resources Assistance of the Lakes Region Inc.
Licensee Tax ID Number

Meredith
City New Hampshire State

Examined By: W. Robert Duclos Examination Date: May 19, 2003

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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

**SMALL LOAN LENDER
REPORT OF EXAMINATION**

DATE	5/19/2003
NAME OF LICENSEE	FINANCIAL RESOURCES & ASSISTANCE OF THE LAKES REGION, INC.
ADDRESS	15 NORTHVIEW DRIVE
CITY, STATE, ZIP	MEREDITH, NH, 03253
LICENSE NUMBER	6082-SM
EXAMINER IN CHARGE	W. ROBERT DUCLOS
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 399-A: 20. A review of the licensee's current regulated business activities, operational practices and financial condition was undertaken to determine compliance with NH RSA 399-A. This included an analysis of 0 loan files, totaling \$0 that were originated by the licensee since January 22, 2002. This sample represented 100% of the total number and 100% of the total dollar amount of all loans originated during the past 18 months.

OBSERVATIONS:

- The licensee has not closed any small loans during the examination time frame. Compliance could not be determined.

STATISTICAL REPORT

Total number				
Total dollar				

W. Robert Duclos
Examiner in Charge

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The State of New Hampshire Banking Department

**FIRST MORTGAGE BANKER & BROKER
REPORT OF EXAMINATION**

DATE	5/19/2003
NAME OF LICENSEE	FINANCIAL RESOURCES & ASSISTANCE OF THE LAKES REGION, INC.
ADDRESS	15 NORTHVIEW DRIVE
CITY, STATE, ZIP	MEREDITH, NH, 03253
LICENSE NUMBER	5902-MBB (5903-MHL 6082-SM)
EXAMINER IN CHARGE	W. ROBERT DUCLOS
TAX ID NUMBER	[REDACTED]

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. 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. This included an analysis of 16 loan files, totaling \$2,174,770 that were originated by the licensee since January 22, 2002. This sample represented 8.42% of the total number and 8.44% of the total dollar amount of all loans originated during the past 18 months.

OBSERVATIONS:

- Pursuant to RSA 397-A: 11 Record Keeping, which states in part, "II. Those licensees that maintain their files in another state are required to return such files to their principal New Hampshire office or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the banking department." Loan files were requested by the banking department and should have included but not limited to:

- The application,
- The note,
- The mortgage,
- The good faith estimate,
- The truth-in-lending (initial and final),
- The HUD-1 or HUD-1A (initial and final),
- The appraisal, and
- The credit report

Review of the loan files revealed that the truth-in-lending, mortgages, a note, good-faith-estimates, an appraisals, and credit reports were not present in all of the files. These documents must be maintained with the files. The remainder of the files appeared to contain the necessary document.

- Pursuant to RSA 397-A: 12 Examinations which states in part, "I. The banking department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this

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chapter and the rules adopted pursuant to it and with the Consumer Credit Protection Act, as amended (15 U.S. C. 1601 et seq.).” There were at least 14 missing documents in the sixteen loan files reviewed. Because of the missing documents it was difficult to determine compliance. Some files were less than complete. For examination purposes, a complete final package from the title agent must be part of the file.

- Pursuant to 397-A: 10 Change in Name; Ownership; Location, which states in part, “I. No licensee shall conduct the business of a mortgage banker or a mortgage broker under a trade name or any other name different from the name stated in its principal office license or branch office license without immediately notifying the bank commissioner, who shall then amend the license accordingly.” On all advertising, letterhead, forms, and communications, the name Financial Resources, Inc is used. The name of the company, according to the certificate of incorporation issued by the Secretary of State of New Hampshire and the approved name on the issued license is Financial Resources & Assistance of the Lakes Region, Inc. The use of any other name or version of the name is unlicensed activity precluding the retaining of fees and commissions. RSA 397-A: 16 Lender’s Rights and Borrowers Right’s states in part, “IV. Pursuant to RSA 397-A:3, only mortgage brokers licensed under the provisions of this chapter shall be entitled to retain commissions for services rendered.”
- Use of an unauthorized name in any advertising could be deemed as false misleading or deceptive and may be in violation of the federal consumer protection act.
- Truth-In-Lending (Regulation Z) 226.18(d) (1) states, “Mortgage loans. In a transaction secured by real property or a dwelling, the disclosed finance charge and other disclosures affected by the disclosed finance charge {{4-30-02 p. 6664}}(including the amount financed and the annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge: (i) is understated by no more than \$100; . . .” The finance charge is “. . . the dollar amount the credit will cost you.” Fees such as, administrative fees, doc. prep fees, courier fees, underwriting fees, processing fees, interest fees, funding fees, points, broker fees, and attorney fees are examples of finance charges (there are others). The amount of the finance charge is equal to the amount of the note minus the amount financed on the truth-in-lending statement. The amount financed equals the note or is equal to zero for those loans reviewed. This causes the disclosure to be understated by more than \$100.00.
- Pursuant to Truth-In-Lending (Regulation Z) 226.22(a) (2) Determination of the annual percentage rate. “As a general rule, the annual percentage rate shall be considered accurate if is not more than 1/8 of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.” Because the loans were understated by thousands of dollars this caused the annual percentage rate (APR) to be understated also.
- Pursuant to the Real Estate Settlement Procedure Act (RESPA), Regulation X, Appendix B in the “Comments: to 13. Facts:” states, “. . . Also, any other fee or payment received by the mortgage broker from either the lender of the borrower arising from the initial funding transaction, including a service release premium or

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yield spread premium, is to be noted on the good faith estimate and listed in the 800 series of the HUD-1 Settlement statement.” Appendix C goes on to state, “The numbers listed beside the estimates generally correspond to the numbered lines contained in the HUD—1 or HUD—1A settlement statement that you will be receiving at settlement.” This implies that the line number where these items are recorded on the HUD-1 should correspond to the same line number on the good faith estimate. The files reviewed revealed that the good faith estimate (GFE) did not list the yield spread premium in its proper line number as required by RESPA. The GFE did not conform to appendix A and C. The good faith estimates (completed by Financial Resources, Inc.) do not disclose the yield spread premium, broker fees, or broker compensation as required by RESPA.

- Pursuant to RSA 397-A: 13 Annual Report. – “IV. In addition to the annual report, the banking department may require such additional regular or special reports as it may deem necessary to the proper supervision of licensees under this chapter.” The annual report received on January 31, 2003 for the year 2002 indicated that there were 142 loans for \$18,757,068.00 of the loans. Counting the loans on the supporting data there were only 138 loans representing \$18,079,118.00. The difference is as follows:

Loans	Dollar value of the loans	
142	\$18,757,068.00	Loan reported on the annual report.
<u>138</u>	<u>18,079,118.00</u>	Loans reported on support docs.
4	677,950.00	Difference of 4 loans.

This data should be accurate. Pursuant to RSA 397-A:11 Record Keeping, which states in part, “I. The licensee shall maintain such records as will enable the banking 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 and made available for examination at the licensee's principal office or its 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 not 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.” All record should be maintained for at least 3 years. The licensee was not able to produce records supporting the number of loans reported to the Banking Department. An amended annual report must be filed with the department reflecting the actual activity performed.

- Pursuant to The Equal Credit Opportunity Act (Regulation B) 202.12 (b) Record retention state in part, “Preservation of records – (1) Applications. For 25 months (12 months for business credit) after the date that a creditor notifies an applicant of action taken on an application or of incompleteness, the creditor shall retain in original form or a copy thereof: (i) any application that it receives, any information required to be obtained concerning characteristics of the applicant to monitor compliance with the act and this regulation or other similar law, and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicants request: (ii) a copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum made by the creditor): (A) The notification of action taken; and (B) The statement of specific

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reasons for adverse action; . . ." As part of the lending process when the loan is denied, the letter of adverse action (or a copy) should be in the file of the applicant and retained for 25 months. It is the recommendation of the department that this procedure be followed for cancelled and withdrawn loans also.

STATISTICAL REPORT

	2003	2002	2001	2000
Total number	48	142	146	125
Total dollar	7,001,700	18,757,068	22,633,800	12,422,812

W. Robert Duclos
Examiner in Charge

The Consumer Credit Administrative Division of the New Hampshire Banking Department began a non-depository First Mortgage Banker and Broker examination of Financial Resources & Assistance of the Lakes Region Inc on May 9, 2001. The examination was conducted under the provisions of New Hampshire RSA 397-A: 12.

I. Overview:

1. Financial Resources & Assistance of the Lakes Region Inc (FRI, the Company) is a company licensed as a First Mortgage Banker and Broker by the State of New Hampshire Banking Department. The Company is also licensed as a Second Mortgage Home Loan Lender and has a Small Loan license pending as of the exam date. The scope of this examination covers all activity licensed by the State of New Hampshire Banking Department. The Company is owned by the president of the company, Mr. Scott Farah and has one licensed location on Northview Drive in Meredith, New Hampshire at which loans secured by New Hampshire property is processed. FRI has indicated that the Company has numerous out of state locations that are licensed in the corresponding state. The processing of these out of state loans is performed at the Meredith location. The president of the Company, Mr. Scott Farah stated that the out of state locations are used for origination purposes only for those loans secured by property located in the corresponding state.

2. Examiner Kimothy Griffin reviewed a sample of First Mortgage loans secured by New Hampshire real estate. A total of 22 files (17.6% of the 125 loans reported on the annual report) were reviewed for compliance with NH RSA 397-A, RSA 358-K, the Federal Board of Governors Regulation Z (12 CFR 226), Regulation B (Equal Credit Opportunity), Regulation X, Real Estate Settlement Procedures Act, and Regulation AA

(Unfair or Deceptive Acts or Practices). The products offered and reviewed consisted of conventional loans, adjustable rate mortgages, and balloon notes. The loan sample consisted of 6 (27.3%) for purchase money loans and 16 (72.7%) refinances.

3. The Company specializes in the brokering of loans secured by New Hampshire real property. FRI has indicated that the loans are table funded through various lenders, yet the loan files reviewed was closed in the name of the correspondent lender. The Company reported on the required Annual Report that 2 loans were brokered as a second mortgage in the year 2000. The Company states that it does very few second mortgages and has not done any small loans to date.

4. The Company has indicated that currently there are 10 employees including the owner that conduct business from the Meredith location. FRI states that there are also four "1099" contracted independent agents that "work from their homes". (Mr. Farah). The independent agents originate loans exclusively for the Company, as indicated by the contracts and forward the completed applications to the Meredith location for processing. The contracts state that the "sales representative" (the contracted agent) is compensated at the rate of 50% of the gross commission. The Company states that the independent agents that originate loans secured by New Hampshire property are located in Tuftonboro, Tilton, Laconia, and Manchester.

5. Mr. Farah has stated the Company has an affiliate relationship with Insurance Options Inc, an insurance agency that is owned by Mr. Farah. The affiliated company offers credit life insurance to borrowers that obtain funding through FRI via advertisement that is included in the loan package submitted to the borrower. FRI states that the Company does not require the borrower to purchase the insurance products from its affiliate.

II. Records:

1. All loan files were reviewed for compliance with the various statutes concerning the proper and timely remittance of disclosures and other documentation. The files are maintained in the principal location in Meredith. Review of the files indicated that proper disclosures are provided as required with the exception of the right of rescission required for the 16 refinances as prescribed by Regulation Z, 12 C.F.R. 226. The files were also missing the affiliated business arrangement disclosure for the affiliated insurance company as required by Regulation X, (RESPA) part 3500.17 (b) (1) which states in part "Prior to the referral, the person making the referral has provided to each person whose business is referred a written disclosure." There were no payment histories to review as the loans are closed with servicing released to corresponding lenders. Vendors invoices are not maintained with the individual files, making it difficult to verify payments made to third parties on behalf of the borrower. The Company states that there are no payments to third parties via FRI, all third party payments are made via the closing attorney or directly by the borrower P.O.C.

2. The Company provided a copy of the audited financial statements for the years ended December 31, 2000 and 1999. The statements indicate that at year-end December 31, 2000 the Company has no liquidity and is insolvent in that it reports \$0 in Cash and Cash Equivalents with outstanding liabilities of \$699,662. Assets consist of Notes Receivable (\$777,069) and Property and Equipment (\$12,070). It is doubtful the market value of the assets would equal the booked value if the Company were forced to dispose of the assets to satisfy the liabilities, thereby making the company insolvent. The lack of Cash and Cash Equivalents violates the licensing requirements for the Small Loan license pursuant to RSA 399-A: 14 (b), which states in part "the applicant has available for use in such business at the location specified in the application at least \$25,000, or, in the case of the licensee, has such amount available or actually invested in loans made under this chapter." The Company indicated on the year 2000 Annual Report filed with the Banking

Department that it has no money invested in this type of loan activity. The Company does meet the minimum requirements of \$25,000 as provided for in RSA 398A: 1-a (IV), Second Mortgage Home Loan Lender license in that the Company reported 2 second mortgage loans totaling \$53,500 for the year ended December 31, 2000.

III. Interest and Fees:

1. The Company states that it does not service the loans originated by FRI. The loans are closed in the names of the correspondent lenders who also procure the servicing rights to the loans. It was noted as stated above that the Company currently has Mortgage Notes Receivable on the Company's books (reported on the audited financial statements) as follows:

First Mortgage Notes Receivable	\$5,339
Second Mortgage Notes Receivable	\$41,561
Unsecured Notes Receivable	\$475,362

The Company indicates that of the above stated Notes Receivable \$438,783 are non-performing. The audited report for the period states "All mortgages were secured and are in various stages of litigation to determine the amount of repayment if any. These mortgages for financial statement purposes, are no longer accruing interest." The indication is that the Company is currently not servicing loans.

2. The loan files reviewed revealed the contract rates to range from 7.38% to 14.06%, The Annual Percentage Rates as indicated on the Truth in Lending disclosures noted in the loan files reviewed were estimates and were not within tolerances as set by Regulation Z, 12 C.F.R. 226.22 (a)(2). The Company states that the loan files do not contain the final Truth in Lending disclosure due to the lender completes the disclosure.

FRI stated that the final disclosure is maintained in the files of the closing attorney and was able to procure copies for review. It should be noted that the preliminary Truth in Lending disclosures maintained in the files of the Company are not always properly disclosed as estimates (see Violations below)

3. It was noted in the loan files reviewed that the Company has a pattern and practice of "up-charging" pass through fees, specifically fees for credit reports (see violations below). The Company charges \$75.00 for credit reports at closing. Mr. Farah stated to the examiner that the Company does not charge an application fee or any up-front fees. A credit report is ordered whenever an application is received. The \$75.00 charge is to cover the cost of the credit reports of those applicants that for whatever reason do not close a loan. It was also noted that it appears the closing agent used most often by the Company charges fees above that which is generally charged by the industry. It is recognized that the Company would have little control over what fees the closing agent would levy; however, it might behoove the Company to seek additional and alternative agencies to handle loan closings. In the same manner that the Company prides itself for obtaining the best home mortgage loan for the customer, the Company should seek the lowest closing costs available.

4. The Company indicates that a rate lock fee is charged by FRI that ranges from .5% to 1% that is refundable at closing or if the loan is denied for any reason. The fee is not refundable if the loan is cleared to close and the borrower refuses to close. It was determined that the Company does not actually issue the rate lock, but obtains a rate lock through a correspondent lender. It appears that the fee to lock the rate is actually a pass-through that is required by the correspondent lender.

IV. Procedures:

1. The licensee stated that a formal procedure manual is not maintained. Originators are trained through a process of working with an experienced originator and are expected to complete all required forms. The Good Faith Estimate is provided to the applicant as required by Regulation X, RESPA 3500.7(a). It was noted that the Company fails to properly disclose the Yield Spread Premium on the Good Faith Estimate. The Company was cited for this infraction in the previous examination performed by the State of New Hampshire Banking Department, October 1, 1999. Line 800 of the Good Faith Estimate allows for "items payable in connection with loan" and permits for the insertion of these charges under a following line item. A yield-spread premium although paid outside closing (poc) is an item payable in connection with the loan and therefore must be disclosed in the 800 section of the Good Faith Estimate. It was noted that other terms were used on the HUD 1s for this fee paid by the lender to the Company p.o.c. The term and line item number used on the HUD 1 must coincide as disclosed on the Good Faith Estimate in accordance with Appendix A of the Real Estate Settlement Procedures Act (RESPA).

2. The Company indicates that it currently has four "1099" contracted originators that operate from locations within the state other than the Company's licensed location. It was stated to the examiner that it is the duty of the agent to procure a completed application and then to forward the application to the Meredith location for processing. Mr. Farah states that communication is maintained on a regular basis with the applicant throughout the entire loan process to closing.

3. The Company, as of the date of examination, maintains a web-site at biz.fcgnetworks.net/fra, which advertises the various products and loan services offered by FRI. Review of the site indicates that the Company currently accepts loan applications from satellite locations in Massachusetts, Indiana, Michigan, North Carolina, Oklahoma,

Rhode Island, and Washington. It was stated to the examiner that these satellites are duly licensed in the states they are located in and that only mortgages secured by property in that state is accepted. The completed application is forwarded from the satellite to the Meredith, New Hampshire location for processing.

4. The files pertaining to refinances were missing the required "Right of Rescission" disclosure. Licensee stated that the disclosure is maintained in the files of the closing agent. It is recognized that the correspondent creditor issues the right of rescission. RSA 397-A: 11 states in part "The licensee shall maintain such records as will enable the banking department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted pursuant to it." Regulation Z, 12 C.F.R. 226.23 allows for the consumer to the right of rescission on those "credit transaction(s) in which a security interest is or will be retained in a consumer's principal dwelling." Paragraph (f) of this section exempts certain transactions, which indicates that a refinance secured by the borrowers principal dwelling is subject to the allowance for a right of rescission. It is noted that the Company is not the creditor of record and is not required to issue the Right of Rescission, however, in the effort of the Banking Department to determine compliance, it is recommended that the Company procure a copy of the required rescissions for the correspondent files.

VI. Insurance and Warranties:

1. The Company has an affiliated relationship with an insurance agency that is 100% owned by the president, Mr. Scott Farah. It was indicated to the examiner that a flyer that is also employed as a mailer is included in the loan package submitted to the borrower. Review of the flyer revealed that the type of insurance offered is a term life insurance

policy designed to cover a 10, 15, 20, & 30-year mortgage loan. It was noted that there were no copies of the Affiliated Business Arrangement disclosure as specified by RESPA, 3500.15 (1), which states in part "Prior to the referral, the person making a referral has provided to each business person whose business is referred a written disclosure, in the format of the Affiliated Business Arrangement Disclosure Statement set forth in Appendix D." A copy of the disclosure must be maintained in each loan file if the disclosure is properly provided to the borrower.

It must be noted that the affiliation may not be considered as such in accordance with the definition of an "affiliated business arrangement" as provided by the Real Estate Settlement Procedures Act of 1974 (RESPA). It could be argued that the insurance agency does not provide settlement services and that the disclosures as dictated by RESPA are not required. The Company should be aware that, if the occasion arises that procuring insurance through the affiliated agency is a condition of the extension of credit, then the Company may be required by RESPA to provide the Affiliated Business Arrangement Disclosure Statement.

VII. Advertising

1. The web-site of the company was reviewed for compliance of all laws and statutes regulating advertising, as this is a form of media advertisement. It was noted that the site advertises "Mobile Home Loans" with "as little as 5% down". This advertisement contains a triggering term and violates Regulation Z, 12 C.F.R. 226.24(c). The statement of "5% down" is a triggering term that requires other disclosures. Regulation Z, 12 C.F.R. 226.24 (c) states in part "Advertisement of terms that require additional disclosures.

(1) If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (c) (2) of this section:

- (i) The amount or percentage of any downpayment.
- (ii) The number of payments or period of repayment.
- (iii) The amount of any payment.
- (iv) The amount of any finance charge.

(2) An Advertisement stating any of the terms in paragraph (c) (1) of this section shall state the following terms:

- (i) The amount or percentage of the downpayment
- (ii) The terms of repayment
- (iii) The “annual percentage rate”, using that term, and, if the rate may be increased after consummation, that fact.

The statement of the amount of downpayment requires that the advertisement also contain the terms of repayment, the Annual Percentage Rate, and if the rate does increase after consummation, such as an Adjustable Rate Mortgage, that fact.

2. It was also noted that the Company has failed to disclose the valid license number on the Company’s web-site. The Company’s site must display the license number pursuant to RSA 397-A: 14-a, III which states in part “Any advertisement, printing, display, publication, distribution, or broadcast offering loans governed by this chapter shall clearly and conspicuously contain the valid and existing license number issued by the banking department under this chapter.”

3. Copies of all advertising materials were requested for examination purposes. It was stated that the Company does limited advertising. A copy of an advertisement that occasionally runs in local printed media forms was provided for review. The advertisement appears to be in compliance with New Hampshire law and Regulation Z, 12 C.F.R. 226.24(c) in that the advertisement does not contain “triggering terms.” The advertisement states “No money down”. The Company should be aware that other terms are required to be disclosed as indicated above if the advertisement states a specific down payment.

VIII. Consumer Inquiries and Complaints:

1. Review of the Banking Department records indicates that 1 written consumer complaint has been received on February 1, 1999. The records state that the complaint was referred to the New Jersey Banking Department and appears to be satisfactorily resolved. It was stated to the examiner that the Company does not have any written complaints; however, a discussion is currently ensuing with a past client in which the client claims the Company failed to properly disclose the terms of the loan. The Company claims no wrongdoing in this matter. It is unsure whether the matter will result in litigation at this time. The Company states that policy and procedure is in place concerning consumer complaints and inquiries.

IX. Violations:

1. The Company does not properly disclose the yield-spread premium on the Good Faith Estimate in violation of RESPA, Appendix A. It is the position of the Banking Department and HUD that this premium is a mortgage broker fee and must be disclosed in the "800" section of the Good Faith Estimate and correspondingly on the HUD 1. Although the lender funds the yield-spread premium at closing, it is a fee paid by the borrower over the life of the loan. The fee is "built" into the contract rate of the loan resulting in a higher rate to the borrower. This fee is considered a cost to the borrower to obtain credit and must be disclosed per the guidelines of RESPA. This fee must be disclosed in the "800" section pursuant to RESPA, Pt. 3500, Appendix A which states in part "Lines 808 – 811 are used to list additional items payable in connection with the loan including a CLO Access fee, a mortgage broker fee." (*Emphasis added*).

2. The loan files reviewed indicate that the licensee "up-charges" various pass-through fees. It was noted that it is the pattern and practice of the licensee to charge \$75.00 for a credit report, which the industry indicates the cost is between \$2.50 to \$15.00 per report. It was stated to the examiner that a credit report is ordered for each application received. A fee for credit reports is charged only if the loan is closed. The excess fee charged is used to offset the reports ordered in which the loan does not close. This constitutes a violation of 3500.14 (c) and section 8(b) of RESPA which states in part "No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than services actually performed."

3. The Truth in Lending disclosures that were reviewed incorrectly disclosed the amount financed, the amount of the finance charge, and the annual percentage rates. It was stated to the examiner that these disclosures were the preliminary disclosures and were estimates. A number of these disclosures were not designated as estimates pursuant to Regulation Z, 12 C.F.R. 226.17 (c) (2)(i) which states in part "If any information necessary for an accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available at the time the disclosure is provided to the consumer, and shall state clearly that the disclosure is an estimate." (*Emphasis added.*)

4. The Company does limited media advertising through print and the Internet. Review of the advertisements revealed that they were not in compliance with Regulation Z, 12 C.F.R. 226.24(c). The advertisements state "as little as 5% down." Regulation Z, 12 C.F.R. 226.24 (c) states in part "Advertisement of terms that require additional disclosures.

(1) If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (c) (2) of this section:

- (v) The amount or percentage of any downpayment.
- (vi) The number of payments or period of repayment.

- (vii) The amount of any payment.
- (viii) The amount of any finance charge.

(2) An Advertisement stating any of the terms in paragraph (c) (1) of this section shall state the following terms:

- (iv) The amount or percentage of the downpayment
- (v) The terms of repayment
- (vi) The "annual percentage rate", using that term, and, if the rate may be increased after consummation, that fact."

Due to the advertisements indicating an "amount or percentage of downpayment" (c, 1,v), the advertisements need to disclose the terms of repayment, the annual percentage rate, and if the rate may be increased after consummation if this is the case.

X. Summary and Current Observations:

Financial Resources & Assistance of the Lakes Region, Inc is not in compliance with various state and federal laws concerning loans secured by real property. The licensee fails to conduct its business in accordance with the intent and purpose of the First Mortgage Bankers statute, RSA 397-A and the Federal Laws that govern mortgage lending.

Kimothy C. Griffin
Bank Examiner