

March 11, 2010

**VIA FACSIMILE: 271-2110  
& U.S. MAIL**

Karen Gorham, Esq.  
Office of Attorney General  
33 Capitol Street  
Concord, NH 03301

**RE: Jeffrey Frost**

Dear Karen,

As you know, I represent Jeffrey Frost who was arrested by the Manchester Police Department yesterday. As I discussed with you on the phone this morning, while I am just getting involved in this matter, I have a very serious initial concerns relative to the warrants that were obtained to search Mr. Frost's property and files at the law office of Cronin & Bisson.

Judge Ryan evidenced his concern with the sufficiency of the allegations in the warrant affidavit and according to his notes, "inquired of Ms. Shaheen regarding her investigation and what she learned about Frost acting as a mortgage banker. Ms. Shaheen informed the Court that she looked at mortgage registered with Registry of Deeds which listed Chretien/Tillinghast as the mortgage banker. Frost had been the representative of Chretien/Tillinghast."

I have reviewed the documents on file with the Registry of Deeds and do not see any listing of Chretien/Tillinghast as the "mortgage banker." It is listed as the seller or lender on documents which Jeff Frost signed as a member of Cretien/Tillinghast, LLC. If, in fact, Chretien/Tillinghast is listed as a mortgage banker on documents that I have not yet seen, I would ask that you provide these to me immediately. If, in fact, there is no listing of them as a mortgage banker, this raises very serious concerns with respect to the representations that were made to Judge Ryan which led to the issuance of the Warrants. I look forward to hearing back from you promptly on this very important issue.

As I have explained to you, my client did everything in this matter pursuant to advice of very competent counsel. I have been informed by his attorneys that, in their view, he is not a "mortgage banker" and that he did not violate rules or statutes. I expect that you will be hearing from his attorneys or their representatives further on this matter and look forward to discussing this situation with you over the next few days. It is in my view based on everything

that I have seen thus far, that it is a serious injustice that Mr. Frost has been charged with these crimes.

I would ask that you share this letter with Attorney General Delaney. This entire prosecution raises serious policy considerations and impacts hundreds of clients of law firms throughout the state.

I look forward to hearing from you.

Sincerely yours,

Cathy J. Green

CJG/p

**CRONIN &**  
**BISSON, P.C.**  
**ATTORNEYS AT LAW**



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Admitted in NH and ME

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April 1, 2010

Cathy Green, Esquire  
Green & Utter, P.A.  
764 Chestnut Street  
Manchester, NH 03104-3012

Re: Chretien/Tillinghast, LLC

Dear Cathy:

As you know, our office assisted Chretien/Tillinghast, LLC in connection with a transaction that closed in March, 2009. Marc Chretien and Jeff Frost contacted us and explained that Chretien/Tillinghast, LLC was a party to a lease agreement with an option to purchase for a parcel of property located in Alexandria, New Hampshire. Robert Recio and William Secor had exercised the option to purchase and had set a closing date. Mr. Recio and Mr. Secor agreed to make a payment at closing with the balance of the purchase price due over the course of 36 months. The installments were to be secured by a mortgage on the property transferred. Mr. Frost asked our office to prepare a promissory note and mortgage consistent with the terms and conditions of the purchase option.

Mr. Recio testified in court on March 29, 2010 that he negotiated the terms of the purchase and sales agreement with Chretien/Tillinghast, LLC. As an attorney formerly licensed to practice in Connecticut, he knew what he was doing and was comfortable preparing the documents and negotiating the terms. He also testified that he had significant experience in commercial banking before being suspended from the practice of law.

For the March 2009 transaction, we prepared a note and mortgage consistent with the terms proposed by Mr. Recio. The monthly payment under the note was consistent with a request from Mr. Recio. We prepared and forwarded the documents necessary to secure the payments under the purchase agreement to Mr. Frost who, in turn, provided them to the closing company in the area to complete the closing. The Town of Plymouth part time prosecutor acted as the closing attorney and recorded the mortgage. I believe he also issued a lender's title insurance policy.

The Chretien/Tillinghast, LLC transaction was an installment sales contract. No one advanced any funds to Mr. Recio and Mr. Secor to purchase the property. To my knowledge, Chretien/Tillinghast, LLC has never advanced funds to any party to purchase any asset. Thus, the transaction did not involve a mortgage loan under RSA 397-A. Chretien/Tillinghast, LLC is not a mortgage banker as defined in the act. For a number of reasons including that the chapter does not apply to a single secured installment sale, we did not advise our client that registration with the Banking Commission was required.

Cathy Green, Esquire  
April 1, 2010  
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The Banking Department's concern first arose on February 18, 2010, when Kathleen Sheehan arrived unannounced as I was leaving the office demanding to review my client files. She did not articulate the Department's position except to assert the right to review all documents in my client file. After I explained the nature of the attorney and client privilege and asked to see a copy of the complaint which she did not have, she left.

On February 19, 2010, I first saw the complaint along with a letter from Maryam Torben Desfossess. She faxed it to me at 11:35 a.m. Specifically, she requested "copies of all documents relating to New Hampshire primary residence mortgages brokered and/or funded by Chretien/Tillinghast, LLC - Jeffrey Frost and or Marc Chretien by today, February 19, 2010 at 2:00 p.m." I was somewhat surprised to see that the Banking Department was proceeding based solely on the complaint of Mr. Recio. Apparently, no one from the Banking Department felt it necessary to review publicly available records regarding Mr. Recio. If the Department had made even a cursory review, it would have seen ample reason to question both his motives and his credibility. When I received the letter at approximately noon, I immediately contacted Ms. Desfossess.

I first explained that I did not represent Mr. Chretien or Mr. Frost individually. Then, I attempted to explain to Ms. Desfossess why the Chretien/Tillinghast, LLC transaction was not a loan transaction under RSA 397-A. She would not engage in any cordial discussion. Rather, although I cannot quote her exactly, she made it clear that the discussion would only proceed as she directed. Unless I agreed to relinquish my privileged file, we had little to discuss. She was not interested in explaining her position to me. In addition, she refused to listen to my explanation of the character of the installment sales contract at issue. Finally, she was not interested in hearing any information we had which raised concerns about Mr. Recio's credibility or motivations. She offered to extend her deadline to 4:30 p.m. I explained that I would attempt to compile documents and make them available the following Monday.

Shortly after the conversation, John Cronin from my office initiated a telephone conversation with Executive Councilor Raymond Wieczorek. After speaking with Mr. Wieczorek, John asked me to fill Mr. Wieczorek in on the details of the Chretien/Tillinghast matter. I relayed how Ms. Sheehan had appeared the day before unannounced. In addition, I described the substance of and my impression of the conversation with Ms. Desfossess. I do not recall my exact words. However, I certainly conveyed my opinion that the Banking Department had no jurisdiction over the matter at hand. Mr. Wieczorek told me that he would speak with Commissioner Hildreth and that I should not turn over any documents until I heard from either him or Commissioner Hildreth expected early Monday morning.

I relayed this information to Mr. Frost who was leaving for an out of state vacation the next day. Further, I told him that Mr. Wieczorek said we would hear back by Monday morning and that we should wait to hear before producing any documents. When Mr. Frost expressed concern about leaving for vacation, I assured him that I would contact him as soon as I heard anything further and that he should leave for his scheduled vacation. He told me that I should contact him via email and he would then contact me. I then sent a letter to Ms. Desfosses explaining our position.

Cathy Green, Esquire  
April 1, 2010  
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I did not hear from anyone at the Banking Commission or Mr. Wieczorek's office before two uniformed Manchester Police Officers appeared at approximately 4:55 p.m. on February 22, 2010 to "secure my office for a search warrant." They reported that a representative of the Attorney General's office would soon appear with the warrant. By approximately 6:30 p.m., they left not having obtained the warrant.

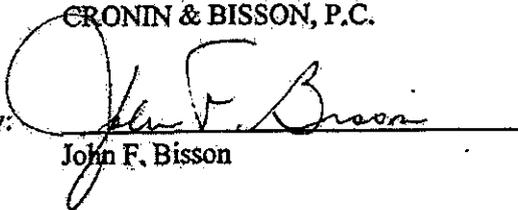
On February 23, 2010, Assistant Attorney General Gorham and Kathleen Sheehan appeared with a number of Manchester Police Officers. This time they had a warrant. We produced non-privileged documents in our Chretien/Tillinghast, LLC file. I also produced a log of privileged documents.

Subsequently, I obtained and reviewed a copy of the affidavit which supported the warrant to search my office. Obviously, I disagree with Ms. Sheehan's conclusion at the heart of the affidavit that she learned that "Chretien/Tillinghast had acted as Mortgage Banker" by reviewing records at the Registry of Deeds. Under the statute, the recording of a document entitled "mortgage" does not bring the transaction into the scope of the statute. Rather, the transaction must be a "mortgage loan" in which the banker's funds are advanced. In my opinion, Ms. Sheehan could not legitimately conclude based on the review of the one and only Chretien/Tillinghast, LLC recorded instrument that the entity is a "Mortgage Banker."

I am disturbed with how the Banking Department has proceeded in this case. Mr. Recio has been allowed to live in a lake side property in Alexandria since July 2009 without making any payment. He misrepresented his ability to complete the installment sales contract in accordance with the terms he proposed and he drafted. He filed bankruptcy to stall a properly noticed foreclosure. He did not tell the truth in his bankruptcy petition. Subsequently, the bankruptcy court dismissed his case and the foreclosure went forward in February. He continues to live rent free in the property and his seven large dogs have destroyed the property. The Alexandria dog officer testified that the smell in the property was "nasty." When Mr. Recio testified earlier this week, he acknowledged he threatened to "be both patient and vindictive" in his response to the foreclosure. Mr. Recio appears to have artfully manipulated the Banking Department to carry through his threat.

I am happy to discuss any other questions that you may have regarding my involvement and the matter at hand and am prepared to assist in any way that I can. In my opinion, the statute does not support any charge against Jeffrey Frost or Chretien/Tillinghast, LLC for unlicensed mortgage banking.

Sincerely yours,  
CRONIN & BISSON, P.C.

By: 

John F. Bisson

JFB:bms

cc: Chretien/Tillinghast, LLC

Michael Delaney

April 5, 2010

ALEXANDER J. WALKER, JR.  
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Michael Delaney, Attorney General  
Office of the Attorney General  
33 Capitol Street  
Concord, NH 03301-6397

**In re the Matter of: State of New Hampshire Banking Department and Jeffrey Shaw Frost**  
**New Hampshire Banking Department, (Case No: 10-013)**  
**State of New Hampshire v. Frost, Manchester District Court (Case No. 10-002925)**

Dear Attorney General Delaney:

My office represents Jeffrey Frost in the above-referenced matter which is pending before the New Hampshire Banking Department. Cathy Green represents Mr. Frost in the above-referenced criminal matter. The purpose of my letter is to call your attention to: (1) serious violations of my client's constitutional and civil rights committed within the course of investigating and prosecuting these actions, and (2) the significant public policy issue associated with prosecuting individuals for engaging in the kind of real estate transaction done thousands of times each year in New Hampshire.

By way of background, Mr. Frost is a decorated fighter pilot who courageously and honorably served his country in the United States Marine Corps. Thereafter, Mr. Frost worked for many years as a pilot for American Airlines. For the last several years, he has owned and operated his family's real estate development business. Jeff is also a community leader and has served--until he recently had to resign in shame--as Chairman of the Board of Directors of the American Red Cross in Manchester.

Mr. Frost is now the subject of a twenty-three count Banking Department staff petition and a four-count Criminal Complaint because of his involvement and the involvement of his two LLCs in two completely lawful real estate transactions in 2008 and 2009.

The first transaction occurred in September of 2008, when Frost Family, LLC, acting through Mr. Frost, sold real property on Bridge Street in Manchester. After receiving payment at closing for a portion of the purchase price, the LLC, as the owner and seller of the property, executed a promissory note for the balance of the purchase price, which was secured by a mortgage. The LLC was represented by Attorney Biron Bedard of Ransmeir & Spellman.

The second transaction took place in March 2009, when Chretien/Tillinghast, LLC, acting through Mr. Frost, executed an installment sales contract secured by a mortgage for certain lakeside property in Alexandria, New Hampshire. The sale occurred after the lessees of the property exercised an option to purchase which was contained within the underlying lease. The police prosecutor for the town of Plymouth closed the transaction and recorded the mortgage. John Bisson of Cronin & Bisson represented the LLC.

Mr. Robert Recio was one of two lessees who bought the property from Chretien/Tillinghast, LLC. Mr. Recio is an attorney from Connecticut who has been the subject of professional grievances and reprimanded at least once for, among other things, holding himself out as an attorney and a Commissioner of the Superior Court while suspended. It appears that Mr. Recio is currently suspended from the practice of law in Connecticut due to failure to pay certain client fund fees. He has also filed for personal bankruptcy at least five times. After foreclosure proceedings began on the Alexandria property due to non-payment, Mr. Recio, in an effort to stall the foreclosure, filed bankruptcy yet again in November 2009, this time in New Hampshire. Chretien/Tillinghast, LLC sought relief from the automatic stay based on fraudulent misrepresentations in Mr. Recio's bankruptcy petition, including the statement under oath that he had never before filed for bankruptcy. Shortly thereafter, Mr. Recio filed a complaint with your office's Consumer Protection Bureau alleging, among other things, that he was fraudulently induced to enter into the sale for an inflated value. This complaint was forwarded to the Banking Department for investigation.

Michael Delaney

At this point, a simple Google search would have revealed that Mr. Recio had been the subject of prior attorney-discipline grievances. A search on the United States Pacer System would have revealed that Mr. Recio had instituted serial bankruptcy filings. Instead, Mr. Recio's complaint set in motion a series of events that led Kathleen Sheehan, an examiner in the Banking Department, to arrive unannounced at the offices of the LLC's attorney—John Bisson—on Thursday, February 18, 2010 demanding immediate review of Attorney Bisson's confidential client files. Ms. Sheehan lacked any documentation that she was in fact entitled to such a sweeping review of Attorney Bisson's files. The following day, Attorney Maryam Torben-Desfosses, a hearings examiner for the Banking Department, faxed Attorney Bisson a copy of Recio's complaint along with a letter. Attorney Bisson spoke with Ms. Torben-Desfosses concerning whether Mr. Frost was even subject to the Banking Department's jurisdiction given that the sale of the property in question was an isolated and private transaction, which did not involve monies being loaned or returned to Mr. Recio. Ms. Torben-Desfosses insisted that Mr. Frost was subject to the Banking Department's jurisdiction and that Attorney Bisson produce the documents that day. Attorney Bisson declined to produce his confidential client files until having an opportunity to speak with his client who was on vacation out of the country with his family.

On Monday, February 22, Attorney Bisson arrived at his law office around 5:00 p.m. to find three police officers and Assistant Attorney General Karen Gorham surrounding the premises and demanding immediate access to Attorney Bisson's client files without so much as a search warrant. Attorney Bisson was forced to wait until 6:30 p.m., when everyone left due to the evident failure to ultimately obtain a search warrant.

It appears that search warrants for Attorney Bisson's office and Mr. Frost's residence were issued on Tuesday, February 23. The handwritten notes on at least one of the warrants, granted by Judge Ryan, state that he granted the warrant based upon Ms. Shaheen's representation that Chretien/Tillinghast, LLC was listed as the "mortgage banker" in the mortgage on file with the Registry of Deeds. The mortgage, in fact, contains no such designation of the LLC. A cursory examination of the information recorded at the Registry of Deeds would have confirmed that fact.

Armed with the search warrant, four or five police officers came back to Attorney Bisson's office after lunch on February 23 accompanied by Attorney Gorham and Ms. Sheehan. Attorney Bisson provided them with a copy of his documents and a privilege log for documents subject to the attorney-client privilege. The police then proceeded to Mr. Frost's house, where they forcibly entered through his front door, causing damage to the door frame, and seized several items of personal property, including Mr. Frost's cell phone and several personal computers.

Mr. Frost was subsequently arrested after the Attorney General's office brought a four-count Criminal Complaint against him on March 9, 2010 in the Manchester District Court. The Banking Department also commenced a twenty-three count Staff Petition against Mr. Frost on March 23 seeking, among other things, \$525,000 in civil penalties. On this same day, the Banking Department issued a Show-Cause and Cease and Desist Order against Mr. Frost. The criminal and administrative proceedings were brought against Mr. Frost individually even though the LLCs were the parties to the transactions in question. Meanwhile, although the Bankruptcy Court dismissed Mr. Recio's petition and the foreclosure process has been completed, Mr. Recio remains in the Alexandria property with seven large dogs, who, upon information and belief, have and continue to cause extensive damage to the property. Mr. Recio is now contesting his eviction in the Plymouth District Court.

The purpose of this letter is to impress upon you the egregiousness of the conduct directed towards an upstanding member of our community. The LLCs and Mr. Frost have simply engaged in the kind of isolated private transactions that take place every day in New Hampshire. Nevertheless, in pursuing Mr. Frost, the Banking Department and Attorney General's Office persist in a course of conduct underscoring the manner in which their officers have already flouted their perceived authority. Putting aside the fact that the Banking Department is impermissibly charging Mr. Frost retroactively under the recently amended version of RSA 397-A (which became effective July 1, 2009), and the fact that Mr. Frost (and not the LLCs) is the only person named in the Staff Petition, the Banking Department has exceeded the scope of its regulatory jurisdiction. At the time of the two transactions and now, neither Mr. Frost nor the LLCs were or are subject to the jurisdiction of the Banking Department with respect to these past transactions for the simple reason that neither Mr. Frost nor the LLCs were or are engaged in "the business of" mortgage loans, RSA 397-A:2, I (2005) (amended 2009); RSA 397-A:2, I (Supp. 2009). Each and every alleged violation in the Staff Petition and Criminal Complaint is fatally premised upon the same unsupportable proposition that the two private mortgage transactions—one in 2008 and one in 2009—each on behalf of separate entities, were and are subject Banking Department regulation.

Michael Delaney

isolated transactions, the continued prosecution of these matters is unwarranted. I raise these issues and request a meeting with you to discuss what might be done about this matter. Not only does the continued pursuit of these matters have serious and lasting implications for Mr. Frost, it raises a larger policy question impacting hundreds of New Hampshire citizens and businesses who engage in similar private-party real estate sales every day, including law firms throughout the State who have, under the Banking Department's strained and untenable interpretation of its regulatory framework, arguably either aided and abetted in the conduct of criminal activity and/or committed malpractice by allowing clients to take back a mortgage in connection with an isolated sale.

If necessary, and based upon our belief that the Banking Department has ranged far beyond its jurisdiction, we are fully prepared to file an action for immediate injunctive and declaratory relief in Superior Court to remedy this situation. I can assure you that once Mr. Frost prevails in such an action, this will mark the beginning, and not the end, of legal proceedings for violation of Mr. Frost's constitutional and civil rights and to clear his good name and reputation.

I look forward to hearing from you shortly.

Very truly yours,

Alexander J. Walker, Jr.

AJW/ljm

cc: Cathy J. Green, Esquire

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April 5, 2010

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Michael Delaney, Attorney General  
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By way of background, Mr. Frost is a decorated fighter pilot who courageously and honorably served his country in the United States Marine Corps. Thereafter, Mr. Frost worked for many years as a pilot for American Airlines. For the last several years, he has owned and operated his family's real estate development business. Jeff is also a community leader and has served--until he recently had to resign in shame--as Chairman of the Board of Directors of the American Red Cross in Manchester.

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<sup>1</sup> The mortgage is recorded in the Hillsborough County Registry of Deeds at Book 522, Page 3591.

The second transaction took place in March 2009, when Chretien/Tillinghast, LLC, acting through Mr. Frost, executed an installment sales contract secured by a mortgage<sup>2</sup> for certain lakeside property in Alexandria, New Hampshire. The sale occurred after the lessees of the property exercised an option to purchase which was contained within the underlying lease. The police prosecutor for the town of Plymouth closed the transaction and recorded the mortgage. John Bisson of Cronin & Bisson represented the LLC.

Mr. Robert Recio was one of two lessees who bought the property from Chretien/Tillinghast, LLC. Mr. Recio is an attorney from Connecticut who has been the subject of professional grievances and reprimanded at least once for, among other things, holding himself out as an attorney and a Commissioner of the Superior Court while suspended. It appears that Mr. Recio is currently suspended from the practice of law in Connecticut due to failure to pay certain client fund fees. He has also filed for personal bankruptcy at least five times. After foreclosure proceedings began on the Alexandria property due to non-payment, Mr. Recio, in an effort to stall the foreclosure, filed bankruptcy yet again in November 2009, this time in New Hampshire. Chretien/Tillinghast, LLC sought relief from the automatic stay based on fraudulent misrepresentations in Mr. Recio's bankruptcy petition, including the statement under oath that he had never before filed for bankruptcy. Shortly thereafter, Mr. Recio filed a complaint with your office's Consumer Protection Bureau alleging, among other things, that he was fraudulently induced to enter into the sale for an inflated value. This complaint was forwarded to the Banking Department for investigation.

At this point, a simple Google search would have revealed that Mr. Recio had been the subject of prior attorney-discipline grievances. A search on the United States Pacer System would have revealed that Mr. Recio had instituted serial bankruptcy filings. Instead, Mr. Recio's complaint set in motion a series of events that led Kathleen Sheehan, an examiner in the Banking Department, to arrive unannounced at the offices of the LLC's attorney—John Bisson—on Thursday, February 18, 2010 demanding immediate review of Attorney Bisson's confidential client files. Ms. Sheehan lacked any documentation that she was in fact entitled to such a sweeping review of Attorney Bisson's files. The following day, Attorney Maryam Torben-Desfosses, a hearings examiner for the Banking Department, faxed Attorney Bisson a copy of Recio's complaint along with a letter. Attorney Bisson spoke with Ms. Torben-Desfosses concerning whether Mr. Frost was even subject to the Banking Department's jurisdiction given that the sale of the property in question was an isolated and private transaction, which did not involve monies being loaned or returned to Mr. Recio. Ms. Torben-Desfosses insisted that Mr. Frost was subject to the Banking Department's jurisdiction and that Attorney Bisson produce the documents that day. Attorney Bisson declined to produce his confidential client files until having an opportunity to speak with his client who was on vacation out of the country with his family.

On Monday, February 22, Attorney Bisson arrived at his law office around 5:00 p.m. to find three police officers and Assistant Attorney General Karen Gorham surrounding the premises and

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<sup>2</sup> The mortgage is recorded in the Grafton County Registry of Deeds at Book 3679, Page 169.

Michael Delaney  
Attorney General  
April 5, 2010  
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2009).<sup>3</sup> Each and every alleged violation in the Staff Petition and Criminal Complaint is fatally premised upon the same unsupportable proposition that the two private mortgage transactions--one in 2008 and one in 2009--each on behalf of separate entities, were and are subject Banking Department regulation.<sup>4</sup>

Because the Banking Department lacks subject matter jurisdiction over Mr. Frost and his LLCs with respect to the two isolated transactions, the continued prosecution of these matters is unwarranted. I raise these issues and request a meeting with you to discuss what might be done about this matter. Not only does the continued pursuit of these matters have serious and lasting implications for Mr. Frost, it raises a larger policy question impacting hundreds of New Hampshire citizens and businesses who engage in similar private-party real estate sales every day, including law firms throughout the State who have, under the Banking Department's strained and untenable interpretation of its regulatory framework, arguably either aided and abetted in the conduct of criminal activity and/or committed malpractice by allowing clients to take back a mortgage in connection with an isolated sale.

If necessary, and based upon our belief that the Banking Department has ranged far beyond its jurisdiction, we are fully prepared to file an action for immediate injunctive and declaratory relief in Superior Court to remedy this situation. I can assure you that once Mr. Frost prevails in such an action, this will mark the beginning, and not the end, of legal proceedings for violation of Mr. Frost's constitutional and civil rights and to clear his good name and reputation.

<sup>3</sup> The New Hampshire Supreme Court long ago held that isolated transactions such as these do not confer regulatory authorities with subject matter jurisdiction. See *Currier v. Tuck*, 112 N.H. 10, 12 (1972) ("It has been held that an occasional isolated act of loaning money as an accommodation to a customer or friend is not engaging in the business of making loans under similar statutes."); *Chroniak v. Golden Investment Corporation*, 133 N.H. 346, 351 (1990) (originating two mortgage loans is not "the business of mortgage home loans" (quotation omitted)); *Commonwealth v. White*, 260 Mass. 300, 302 (1927) ("The phrase 'engage in the business' means at least that the business shall be carried on as a regular occupation or constant employment as distinguished from a single isolated act."); cf. *Green Meadows Mobile Homes, Inc. v. City of Concord*, 156 N.H. 394, 397 (2007) (upholding trial court finding that mobile home park which occasionally sold manufactured housing units was "not in the business of selling such units" (quotation and brackets omitted); *Hughes v. DiSalvo*, 143 N.H. 576, 578-59 (1999) (strictly private lease and sale arrangement of real property was not "trade or commerce" undertaken in the ordinary course of business and is therefore not within the ambit of the CPA).

<sup>4</sup> In March 2009, following the second mortgage transaction, Mr. Frost submitted his Mortgage Loan Originator MU4 application and later became licensed with the Banking Department on or about April 1, 2009. In his application, Mr. Frost did not designate his affiliation with the LLCs as "financial services related," a term of art defined within the MU4 to include services rendered on behalf of "mortgage lenders" and "mortgage brokers." At the time of the application and now, neither LLC was or is in "the business of" mortgage home loans—the jurisdictional and definitional predicates of a "mortgage banker" and a "mortgage broker" under the prior version of RSA chapter 397-A, see RSA 397-A:1, V, VI (2005) (amended 2009); RSA 397-A:2, I (2005)(amended 2009), and its current iteration, see RSA 397-A:1, XII, XIII (Supp. 2009); RSA 397-A:2, I (Supp. 2009). Similarly, the LLCs are not violating RSA chapter 397-B because neither is "in the business of servicing . . . mortgage loans," RSA 397-B:2, I (Supp. 2009).

Michael Delaney  
Attorney General  
April 5, 2010  
Page 5

I look forward to hearing from you shortly.

Very truly yours,

Alexander J. Walker, Jr.

AJW/ljm

cc: Cathy J. Green, Esquire

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DRAFT

John T. Alexander  
Tina L. Annis  
Biron L. Bedard <sup>1</sup>  
Lisa L. Biklen  
Ronald E. Cook <sup>2</sup>  
Frank E. Kenison  
Garry R. Lane <sup>3</sup>  
Lisa M. Lee  
Andrew B. Livernois  
Paul H. MacDonald <sup>4</sup>  
Thomas N. Masland  
Daniel J. Mullen  
John C. Ransmeier  
Lawrence S. Smith  
Jeffrey J. Zellers <sup>5</sup>

# Ransmeier & Spellman P.C.

ATTORNEYS AT LAW

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Concord, New Hampshire 03302-0600

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April 7, 2010

Joseph S. Ransmeier  
Retired

Dom S. D'Ambruoso  
Retired

Lawrence E. Spellman  
1924-2001

<sup>1</sup> Also admitted  
in Maine

<sup>2</sup> Also admitted  
in Rhode Island

<sup>3</sup> Also admitted  
in Maine and  
Connecticut

<sup>4</sup> Also admitted  
in Vermont

<sup>5</sup> Also admitted  
in Massachusetts

Cathy J. Green, Esquire  
Green & Utter, P.A.  
764 Chestnut Street  
Manchester, NH 03104-3012

**RE: Frost Family, LLC**

Dear Cathy:

I write in follow-up to our conversation regarding Jeff Frost and the Frost Family, LLC. My former firm of Cook & Molan was involved in the acquisition of property located at 313 Bridge Street in Manchester, New Hampshire, back in 2005, by the Frost Family, LLC. Our records show that this was a multi-family residential property that contained at least six units.

In 2007, the Frost Family, LLC obtained approval from the City of Manchester to convert the property into a condominium form of ownership. In conjunction with that, our firm of Cook & Molan reviewed and revised Condominium Declarations and By-Laws for the LLC.

In August of 2008, Jeff Frost contacted our firm of in conjunction with the sale of one of the units to a Cheryl Cayer. He requested that we review and revise a Promissory Note to be used in connection with the sale of the unit, to prepare a Mortgage for the benefit of the LLC in conjunction with the sale of that unit, and to provide such documents as Old Patriot Title (who was conducting the closing on behalf of Ms. Cayer) needed with respect to the condominium.

At no time in 2008 did we believe that this transaction was unlawful or otherwise violated RSA 397-A, and would have advised Jeff Frost if we believed that to be the case.

Cathy J. Green, Esquire

April 7, 2010

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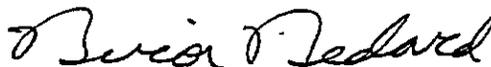
In the many years that Cook & Molan represented Mr. Frost and the Frost Family, LLC, we have never known him to be engaged in the business of making or brokering mortgage loans secured by real property here in the State of New Hampshire. The Cayer transaction does not even constitute a loan as that term is defined under RSA 397-A. If, for some reason, Mr. Frost was considered to be engaged in said business or to have made loans, we had no reason to believe that he was engaged in activity above the *de minimus* level of four loans in any twelve-month period.

Candidly, I am shocked that the State of New Hampshire is pursuing criminal charges for violations of RSA 397-A with respect to two mortgages made by Jeff Frost regarding the sale of his own properties arising out of pass through entities of which he is a member.

If you have any questions, please feel free to call me.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Biron L. Bedard".

Biron L. Bedard

Email: [bbedard@ranspell.com](mailto:bbedard@ranspell.com)

BLB/ng

410139

**GREEN & UTTER**  
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CATHY J. GREEN  
PHILIP H. UTTER

TELEPHONE 603-669-9446  
FACSIMILE 603-669-9330

April 8, 2010

**VIA FACSIMILE: 271-2110  
& U.S. MAIL**

Karen Gorham, Esq.  
Office of Attorney General  
33 Capitol Street  
Concord, NH 03301

**RE: Jeffrey Frost**

Dear Karen,

Thank you for your call Tuesday. Enclosed please find a letter from Attorney John Bisson who represented Jeff Frost in connection with the Chretien/Tillinghast transaction as well as a letter from Attorney Biron Bedard who represented the Frost Family LLC on the Cayer sale. I offer you these letters to demonstrate that Mr. Frost (and the LLC) acted without any intent to commit any crime and relied upon the advice of counsel in both of these transactions and in his response to the Banking Department's request to access his records.

By way of background, Mr. Frost is a decorated fighter pilot who courageously and honorably served his country in the United States Marine Corps. Thereafter, Mr. Frost worked for many years as a pilot for American Airlines. Jeff is also a community leader and has served - until he recently had to resign, in shame as a result of his arrest - as Chairman of the Board of Directors of the American Red Cross in Manchester.

Both of Jeff's attorneys firmly believe that the transactions in question are not subject to the provisions of 397-A. They both confirm that the details of these transactions were reviewed by them and had they believed that any of Mr. Frost's or the LLC's activities came within the jurisdiction of 397-A, they would have so advised him. Further, Jeff acted under the instructions of his attorney with respect to the documents that had been requested by the Banking Department as confirmed by Attorney Bisson's letter. Jeff relied upon Attorney Bisson's legal advice that they should wait before producing any documents because the Banking Department had no jurisdiction and that they were waiting for a call back from either Commissioner Hildreth or Councilor Wieczorek. Attorney Bisson told Jeff to go on his vacation with the assurance that he would contact him if need be.

I understand that you may have a dispute with the legal advice given to my client. His attorneys stand by their opinions that 397-A does not apply to the two transactions that are

the subject of your complaints. Jeff was not engaged in the business of making or brokering mortgage loans and, thus, is not subject to the jurisdiction of the statute. Whether your interpretation or that of the attorneys who represented him is correct should not be determinative of whether, as a matter of public policy and justice, these charges should remain lodged against Mr. Frost, who was the client in these matters.

You have also mentioned to me that Jeff was a mortgage loan originator at the time of these transactions. In fact, he submitted his mortgage loan originator MU4 application in March 2009 following the Chretien/Tillinghast transaction and later became licensed with the Banking Department on or about April 1, 2009.

Even a quick review of the Registry of Deeds' listings demonstrates that scores of LLC's have, with appearance of counsel, engaged in the same types of transactions as Chretien/Tillinghast, LLC. If your current view that this is criminal behavior is correct, not only are these LLC's and their principals and agents violating the law, but attorneys all over the state are aiding and abetting criminal behavior. If your interpretation of the law is right, then it would be a more reasonable course to educate the lawyers in the state as to the Banking Department's view of these transactions, than to arrest and prosecute clients.

Perhaps it is naive of me (although after 30+ years of criminal defense practice, I would hope not), but I have been telling Jeff that once the Attorney General's Office understands that he was not intentionally violating any laws and that he acted on advice of counsel, I believed that justice would prevail and the charges would be dropped. Every day that goes by is more and more painful for him to face these criminal charges. His reputation has been damaged, and he cannot believe that he is accused of criminal conduct when well respected attorneys were advising him and he relied on their advice.

I would be pleased to discuss this matter with you and hope that your review of the enclosed letters will enable you to nol pros these charges immediately and return the property that was taken from his residence.

If you do not take this action, then I will begin filing my motions on this case. Included in this lengthy list are challenges to the search and arrest warrants based upon the accuracy of the written and oral averments made to the Court; motions with respect to ex post facto and statute of limitations and multiple challenges to the State's position that 397-A applies to Mr. Frost's activities.

I look forward to hearing back from you on this matter and appreciate what I anticipate will be a careful review of the facts and policy as they relate to my client.

Sincerely yours,

  
Cathy J. Green

CJG/lp  
enclosures