

1 State of New Hampshire Banking Department

2	In re the Matter of:)	Case No.: 06-103
)	
3	State of New Hampshire Banking)	
4	Department,)	Order to Show Cause for Breach of
)	June 5, 2006 Consent Order
5	Petitioner,)	
)	
6	and)	
)	
7	Statewide Mortgage Company Inc,)	
)	
8	Respondent)	

9 NOTICE OF ORDER

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

12 LEGAL AUTHORITY AND JURISDICTION

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

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

22 Pursuant to RSA 397-A:20,IV, the Commissioner may issue, amend, or
23 rescind such orders as are reasonably necessary to comply with the
24 provisions of the Chapter 397-A.

25 Pursuant to RSA 397-A:21, the Commissioner has the authority to

1 suspend, revoke or deny any license and to impose administrative penalties
2 of up to \$2,500.00 for each violation of New Hampshire banking law and
3 rules.

4 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
5 that is or may be an unfair or deceptive act or practice under RSA Chapter
6 358-A and exempt under RSA 358-A:3,I or that may violate any of the
7 provisions of Titles XXXV and XXXVI and administrative rules adopted
8 thereunder. The Commissioner may hold hearings relative to such conduct and
9 may order restitution for a person or persons adversely affected by such
10 conduct.

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

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

25 If any of the above named Respondents fails to request a hearing within

1 30 calendar days of receipt of such order or reach a formal written and
2 executed settlement with the Department within that time frame, then such
3 person shall likewise be deemed in default, and the orders shall, on the
4 thirty-first day, become permanent, and shall remain in full force and effect
5 until and unless later modified or vacated by the Commissioner, for good cause
6 shown.

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

8 The Staff Petition dated July 9, 2010 (a copy of which is attached
9 hereto) is incorporated by reference hereto.

10 **ORDER**

11 WHEREAS, finding it necessary and appropriate and in the public
12 interest, and consistent with the intent and purposes of the New Hampshire
13 banking laws; and

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

16 It is hereby ORDERED, that:

- 17 1. Respondent Statewide Mortgage Co. Inc. ("Respondent Statewide
18 Mortgage") shall show cause why penalties in the amount of
19 \$2,500.00 should not be imposed against it for violations of
20 the June 14, 2006 Consent Order;
- 21 2. The above named Respondent shall show cause why, in addition
22 to the penalties listed in Paragraph 1 above, the suspended
23 administrative fine of \$2,500.00 in the June 14, 2006 Consent
24 Order should not be imposed;
- 25 3. The above named Respondent shall show cause why, in addition

1 to the penalties listed in Paragraphs 1 through 2 above, the
2 unpaid examination fee of \$421.00 should not be imposed;

3 4. The above named Respondents shall show cause why, in addition
4 to the penalties listed in Paragraphs 1 through 3 above,
5 Respondent Statewide Mortgage's license should not be
6 revoked.

7 It is hereby further ORDERED that:

8 5. Along with the penalties listed for the above named
9 Respondent, the outstanding sum of \$2,921.00 shall be
10 immediately paid; and

11 6. Failure to request a hearing within 30 days of the date of
12 receipt or valid delivery of this Order shall result in a
13 default judgment being rendered and administrative penalties
14 imposed upon the defaulting Respondent(s).

15
16 SIGNED,

17
18 Dated: July 12, 2010

/s/ Robert A. Fleury for
19 PETER C. HILDRETH
20 BANK COMMISSIONER
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1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 06-103
)
 3 State of New Hampshire Banking)
)
 4 Department,) Staff Petition
)
 5 Petitioner,) July 9, 2010
)
 6 and)
)
 7 Statewide Mortgage Company Inc,)
)
 8 Respondent)
)
 9)

10 I. STATEMENT OF ALLEGATIONS

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

13 Facts Common on All Counts:

14 1. Respondent Statewide Mortgage Company Inc (hereinafter
15 "Respondent Statewide Mortgage") was licensed as a Mortgage
16 Broker from at least January 1, 2004 until its license was
17 revoked on December 31, 2005.

18 BREACH OF June 2006 CONSENT ORDER

19 Violation of RSA 397-A:17, I(a) via RSA 397-A:2, III Breach of Consent Orders

20 (1 Count):

21 2. Paragraph 1 is hereby realleged as fully set forth herein.
 22 3. On June 14, 2006, Respondent Statewide Mortgage entered into a
 23 consent agreement (The consent agreement title name was written
 24 in error as Statewide Mortgage Co. Inc.), whereby the Respondent
 25 would pay \$650.00 as a fine for the late filing of an annual

1 report, \$421.00 for an examination fee, and an administrative
2 penalty of \$2,500.00 would be suspended if the Respondent
3 complied with the agreement.

4 4. The Respondent did pay the \$650.00 fine for the late filing of an
5 annual report.

6 5. However, the Respondent has failed to pay the \$421.00 examination
7 fee and now must be responsible for the \$2,500.00 suspended
8 administrative penalty since Respondent did not comply with the
9 June 14, 2006 Consent Order.

10 **II. ISSUES OF LAW**

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

12 1. The Department realleges the above stated facts in Paragraphs 1
13 through 5 as fully set forth herein.

14 2. The Department has jurisdiction over the licensing and regulation
15 of persons engaged in mortgage banker or broker activities
16 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

17 3. RSA 397-A:1, XVIII defines "person" as an individual, corporation,
18 business trust, estate, trust, partnership, association, 2 or more
19 persons having a joint or common interest, or any other legal or
20 commercial entity however organized.

21 4. RSA 397-A:2,III requires persons subject to or licensed under RSA
22 Chapter 397-A to abide by applicable federal laws and regulations,
23 the laws and rules of the State of New Hampshire, and the orders
24 of the Commissioner. Any violation of such law, regulation, order,
25 or rule is a violation of RSA Chapter 397-A. The above named

1 Respondent violated this statute on at least one occasion as
2 alleged above.

3 5. RSA 397-A:17,I(a) provides that the Commissioner may by order,
4 upon due notice and opportunity for hearing, assess penalties or
5 deny, suspend, or revoke a license if it is in the public interest
6 and the respondent, or licensee, any partner, officer, member, or
7 director, any person occupying a similar status or performing
8 similar functions, or any person directly or indirectly
9 controlling the respondent, or licensee has violated any provision
10 of RSA Chapter 397-A or rules thereunder. The above named
11 Respondent violated RSA 397-A:2, III by breaching the Consent
12 Order as alleged above.

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

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

