

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-024  
 )  
 3 State of New Hampshire Banking ) Order to Show Cause  
 )  
 4 Department, )  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 First Continental Mortgage & )  
 )  
 8 Investment Corp., )  
 )  
 9 Respondent

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10  
11 NOTICE OF ORDER

12 This Order commences an adjudicative proceeding under the provisions of  
13 RSA 397-A:17, RSA 541-A and BAN 200.

14 LEGAL AUTHORITY AND JURISDICTION

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

19 Pursuant to RSA 397-A:21, the Commissioner has the authority to  
20 suspend, revoke or deny any license and to impose administrative penalties of  
21 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

22 NOTICE OF RIGHT TO REQUEST A HEARING

23 The above named respondent has the right to request a hearing on this  
24 Order to Show Cause, as well as the right to be represented by counsel at the  
25 Respondent's own expense. All hearings shall comply with RSA 541-A. Any such  
request for a hearing shall be in writing, and signed by the respondent or  
the duly authorized agent of the above named respondent, and shall be

1 delivered either by hand or certified mail, return receipt requested, to the  
2 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH  
3 03301. Such hearings will be scheduled within 10 days of the request. If the  
4 Respondent fails to appear at the hearing after being duly notified, such  
5 person shall be deemed in default, and the proceeding may be determined against  
6 the Respondent upon consideration of the Order to Show Cause, the allegations  
7 of which may be deemed to be true. Respondents are entitled to at least 30  
8 days' notice regarding the hearing date.

9 If the Respondent fails to request a hearing within 30 calendar days of  
10 receipt of such order or reach formal settlement with the Department within  
11 that time frame, then such person shall likewise be deemed in default, and the  
12 orders shall, on the thirty-first day, become permanent, and shall remain in  
13 full force and effect until and unless later modified or vacated by the  
14 commissioner, for good cause shown.

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

16 The Staff Petition dated February 5, 2007 (a copy of which is attached  
17 hereto) is incorporated by reference hereto.

18 **ORDER**

19 WHEREAS, finding it necessary and appropriate and in the public  
20 interest, and consistent with the intent and purposes of the New Hampshire  
21 banking laws, and

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

24 It is hereby ORDERED, that the Respondent shall show cause why:

25 1. Administrative penalties of \$2,500.00 should not be imposed;

and

2. Respondent's license should not be revoked; and

It is hereby ORDERED that:



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-024  
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 3 State of New Hampshire Banking ) Staff Petition  
 )  
 4 Department, )  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 First Continental Mortgage and )  
 )  
 8 Investment Corp., )  
 )  
 9 Respondent

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11 STATEMENT OF ALLEGATIONS

12 I. The Staff of the Banking Department, State of New Hampshire  
13 (hereinafter referred to as the "Department) alleges the following  
14 facts:

15 1. On or about August 7, 2006 the Department was scheduled to begin  
16 an examination of First Continental Mortgage and Investment Corp.  
17 (hereinafter "Respondent").

18 2. Respondent was licensed as a Mortgage Banker and at all times  
19 relevant to this action held a Department license since at least  
20 2005.

21 3. The Department sent a notice of an upcoming examination to the  
22 Respondent via US Certified Mail on June 30, 2006 (mail piece  
23 number: 7002 2410 0005 1958 6464). The Respondent received and  
24 signed for the mail piece on or about July 7, 2006. See Exhibit  
25 1.

- 1 4. The Respondent failed to submit a loan list as requested in the  
2 above referenced letter. The Respondent also failed to submit any  
3 loan files or other exam materials.
- 4 5. On August 21, 2006 the Department sent the Respondent via US  
5 Certified Mail a second letter (mail piece number: 7002 2030 0000  
6 9676 9906) requesting additional information. The Respondent  
7 received and signed for the mail piece on or about August 28,  
8 2006. See Exhibit 2.
- 9 6. The licensee surrendered their license on August 21, 2006 without  
10 complying with the exam.
- 11 7. On October 9, 2006 the Examiner-in-Charge ("EIC") sent two  
12 electronic mail messages to the Respondent, regarding the missing  
13 exam materials. The Respondent did not respond to the emails.
- 14 8. On October 10, 2006 the EIC was unable to reach the Respondent via  
15 the telephone and fax, the latter having been disconnected.
- 16 9. On October 13, 2006 the EIC attempted to contact the Respondent  
17 again via email and telephone and was unsuccessful.
- 18 10. The EIC contacted the New Jersey Department of Insurance  
19 and Banking and was provided a new telephone number. The EIC  
20 attempted that number and it was disconnected.
- 21 11. To date, the Respondent failed to provide any exam materials to  
22 the Department.  
23  
24  
25

**ISSUES OF LAW**

II. The staff of the Department, alleges the following issues of law:

- 1           1. The Department realleges the above stated facts in paragraphs 1  
2           through 11.
- 3           2. The Department has jurisdiction over the licensing and  
4           regulation of persons engaged in mortgage banker activities  
5           pursuant to NH RSA 397-A:3.
- 6           3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the  
7           Department may examine the business affairs of any licensee or  
8           any other person, whether licensed or not, as it deems necessary  
9           to determine compliance with this Chapter and the rules adopted  
10          pursuant to it and with the Consumer Credit Protection Act, as  
11          amended (15 U.S.C. 1601 et seq.). In determining compliance,  
12          the Department may examine the books, accounts, records, files,  
13          and other documents or matters of any licensee or person. RSA  
14          397-A:12 further requires every person being examined, and all  
15          of the officers, directors, employees, agents, and  
16          representatives of such person shall make freely available to  
17          the commissioner or his examiners, the accounts, records,  
18          documents, files, information, assets, and matters in their  
19          possession or control relating to the subject of the examination  
20          and shall facilitate the examination. The Respondent violated  
21          this provision by failing to provide the examination materials  
22          in a timely fashion as required in the First Day Letter.
- 23          4. RSA 397-A:11 requires licensees to submit a list of loans within  
24          7 days of the Department's request. That statute further  
25          requires requested files be provided to the Department within 14

1 days of the request. The Respondent failed to submit a list of  
2 loans within 7 days of request.

- 3 5. RSA 397-A:17 II allows the Department to immediately suspend a  
4 license for 30 days pending the investigation of that licensee.
- 5 6. RSA 397-A:21 IV provides that any person who, either knowingly  
6 or negligently, violates any provision of Chapter 397-A, may  
7 upon hearing, and in addition to any other penalty provided for  
8 by law, be subject to an administrative fine not to exceed  
9 \$2,500, or both. Each of the acts specified shall constitute a  
10 separate violation, and such administrative action or fine may  
11 be imposed in addition to any criminal penalties or civil  
12 liabilities imposed by New Hampshire Banking laws.

13 **RELIEF REQUESTED**

14 III. The staff of the Department requests the Commissioner take the  
15 following Action:

- 16 1. Find as fact the allegations contained in section I of this  
17 petition;
- 18 2. Make conclusions of law relative to the allegations contained  
19 in section II of the this petition;
- 20 3. Assess fines and administrative penalties in accordance with  
21 RSA 397-A:21, for violations of Chapter 397-A, in the number  
22 and amount equal to the violations set forth in section II of  
23 this petition; and
- 24 4. Take such other administrative and legal actions as necessary  
25 for enforcement of the New Hampshire Banking Laws, the

