

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-046  
) )  
3 State of New Hampshire Banking ) Order to Show Cause  
) )  
4 Department, )  
) )  
5 Petitioner, )  
) )  
6 and )  
) )  
7 Professional Mortgage Corporation of )  
) )  
8 America, )  
) )  
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 March 1, 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.: 07-046  
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 3 State of New Hampshire Banking ) Staff Petition  
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 4 Department, )  
 )  
 5 Petitioner, ) March 1, 2007  
 )  
 6 and )  
 )  
 7 Professional Mortgage Corporation of )  
 )  
 8 America, )  
 )  
 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 November 6, 2006 the Department was scheduled to begin  
16 an examination of Professional Mortgage Corporation of America  
17 (hereinafter "Respondent").
- 18 2. Respondent is licensed as a Mortgage Broker and at all times  
19 relevant to this action held a Department license since at least  
20 2004.
- 21 3. The Department sent a notice of an upcoming examination to the  
22 Respondent via US Certified Mail on October 2, 2006 (mail piece  
23 number: 7006 0100 0000 7310 7066). The Respondent received and  
24 signed for the mail piece on or about October 5, 2006.
- 25 4. On November 22, 2006 the Department sent the Respondent via US  
Certified Mail a second letter (mail piece number: 7002 2030 0000

1 9677 0476) referencing the first letter and requesting the  
2 materials again. The Respondent received and signed for the mail  
3 piece on or about November 29, 2006.

4 5. The Department attempted to contact the Respondent a third time,  
5 via telephone, on February 2, 2007.

6 6. To date, the Respondent has failed to provide any exam materials  
7 to the Department.

8 7. The number of days between October 5, 2006 and today's date after  
9 subtracting the 21 day period allowed by statute is 125.

10  
11 **ISSUES OF LAW**

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

13 1. The Department realleges the above stated facts in paragraphs 1  
14 through 7.

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

18 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the  
19 Department may examine the business affairs of any licensee or  
20 any other person, whether licensed or not, as it deems necessary  
21 to determine compliance with this Chapter and the rules adopted  
22 pursuant to it and with the Consumer Credit Protection Act, as  
23 amended (15 U.S.C. 1601 et seq.). In determining compliance,  
24 the Department may examine the books, accounts, records, files,  
25 and other documents or matters of any licensee or person. RSA  
397-A:12 further requires every person being examined, and all

1 of the officers, directors, employees, agents, and  
2 representatives of such person shall make freely available to  
3 the commissioner or his examiners, the accounts, records,  
4 documents, files, information, assets, and matters in their  
5 possession or control relating to the subject of the examination  
6 and shall facilitate the examination. The Respondent violated  
7 this provision by failing to provide the examination materials  
8 in a timely fashion as required in the First Day Letter.

9 4. Pursuant to RSA 397-A:11 if Respondents maintain their business  
10 records and files in another state they are required to return  
11 them to New Hampshire. Failure to do so subjects licensees to a  
12 penalty of \$50 per day after the 21<sup>st</sup> day.

13 5. RSA 397-A:17 II allows the Department to immediately suspend a  
14 license for 30 days pending the investigation of that licensee.

15 6. RSA 397-A:21 IV provides that any person who, either knowingly  
16 or negligently, violates any provision of Chapter 397-A, may  
17 upon hearing, and in addition to any other penalty provided for  
18 by law, be subject to an administrative fine not to exceed  
19 \$2,500, or both. Each of the acts specified shall constitute a  
20 separate violation, and such administrative action or fine may  
21 be imposed in addition to any criminal penalties or civil  
22 liabilities imposed by New Hampshire Banking laws.

23 **RELIEF REQUESTED**

24 III. The staff of the Department requests the Commissioner take the  
25 following Action:

