

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-049
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 NorEast Mortgage Company, Inc. and)
)
 8 Michael R. Roszkiewicz,)
)
 9 Respondents)

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 2, 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

It is hereby ORDERED that:

2. Respondent shall immediately pay the \$1,750.00 invoice for the cost of the exam; and
3. Respondent shall immediately pay the statutory penalty of \$4,250 for late submission of materials; and
4. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered, license revocation and administrative penalties imposed upon the defaulting Respondent.

SIGNED,

Dated: 3/2/07

/s/
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-049
)
 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) March 2, 2007
)
 6 and)
)
 7 NorEast Mortgage Company, Inc. and)
)
 8 Michael Roszkiewicz,)
)
 9 Respondents

10
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 July 24, 2006 the Department was scheduled to begin an
16 examination of NorEast Mortgage Company, Inc. (hereinafter
17 "Respondent NorEast").
- 18 2. Michael Roszkiewicz (hereinafter "Respondent Roszkiewicz") is the
19 President and CEO of Respondent NorEast.
- 20 3. Respondent NorEast was licensed as a Mortgage Broker and at all
21 times relevant to this action held a Department license since at
22 least 2004.
- 23 4. The Department sent a notice of an upcoming examination to
24 Respondent NorEast via US Certified Mail on June 16, 2006 (mail
25 piece number: 7006 0100 0000 7310 6052). Respondent NorEast
received and signed for the mail piece on or about June 21, 2006.

1 5. On July 13, 2006 the Department sent Respondent NorEast via US
2 Certified Mail a second letter (mail piece number: 7006 0100 0000
3 7310 6892) referencing the first letter and requesting the
4 materials again. Respondent NorEast received and signed for the
5 mail piece on or about July 17, 2006.

6 6. The Examiner in Charge (hereinafter "EIC") contacted Respondent
7 Roszkiewicz via email on August 24, 2006 and informed him of the
8 outstanding delinquent exam materials. Respondent Roszkiewicz
9 responded that he was out of the office until the following Monday
10 and would contact her then.

11 7. The exam materials were not provided to the office until October
12 4, 2006.

13 8. An invoice in the amount of \$1,750.00 for the cost of the exam was
14 submitted to the Respondents on October 27, 2006 via US Certified
15 Mail (mail piece number: 7006 0100 0000 7311 1391). Respondent
16 NorEast received and signed for the mail piece on or about October
17 30, 2006.

18 9. A second invoice was submitted to the Respondents on December 6,
19 2006 and a third and final invoice was sent on January 26, 2007.

20 10. To date, the invoice has not been paid.

21 11. The number of days between June 21, 2006 and today's date after
22 subtracting the 21 day period allowed by statute is 85.

23
24 **ISSUES OF LAW**

25 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 broker 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. Pursuant to RSA 397-A:11 if Respondents maintain their business
24 records and files in another state they are required to return
25 them to New Hampshire. Failure to do so subjects licensees to a

1 penalty of \$50 per day after the 21st day and revocation after 60
2 days.

3 5. Pursuant to RSA 397-A:12, V licensees are required to pay the
4 expense of an examination.

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

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

15 **RELIEF REQUESTED**

16 III. The staff of the Department requests the Commissioner take the
17 following Action:

- 18 1. Find as fact the allegations contained in section I of this
19 petition;
- 20 2. Make conclusions of law relative to the allegations contained
21 in section II of the this petition;
- 22 3. Order Respondent to Show Cause why its license should not be
23 revoked;
- 24 4. Assess fines and administrative penalties in accordance with
25 RSA 397-A:21, for violations of Chapter 397-A, in the number

1 and amount equal to the violations set forth in section II of
2 this petition; and

3 5. Order Respondent to pay the statutory penalty from RSA 397-
4 A:11.

5 6. Order Respondent to pay the exam fee in accordance with RSA
6 397-A:12, V.

7 7. Take such other administrative and legal actions as necessary
8 for enforcement of the New Hampshire Banking Laws, the
9 protection of New Hampshire citizens, and to provide other
10 equitable relief.

11 **RIGHT TO AMEND**

12 IV. The Department reserves the right to amend this Staff Petition and
13 to request that the Commissioner take additional administrative
14 action. Nothing herein shall preclude the Department from bringing
15 additional enforcement action under RSA 397-A or the regulations
16 thereunder.

17 Respectfully submitted by:

18
19 /S/
James Shepard
20 Staff Attorney

3/2/07

Date