

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-054  
 )  
 3 State of New Hampshire Banking) Order to Show Cause  
 )  
 4 Department, )  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Team Mortgage LLC, Joseph Davey,) )  
 )  
 8 Karen Dion )  
 )  
 9 Respondent

10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions of  
12 RSA 397-A, RSA 541-A, and BAN 200 et seq.

13 LEGAL AUTHORITY AND JURISDICTION

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

17 Pursuant to RSA 397-A:21, every person who directly or indirectly  
 18 controls a person liable under this section, every partner, principal executive  
 19 officer or director of such person, every person occupying a similar status or  
 20 performing a similar function, every employee of such person who materially  
 21 aids in the act constituting the violation, and every licensee or person acting  
 22 as a common law agent who materially aids in the acts constituting the  
 23 violation, either knowingly or negligently, may, upon notice and opportunity  
 24 for hearing, and in addition to any other penalty provided for by law, be  
 25 subject to suspension, revocation, or denial of any registration or license,  
 including the forfeiture of any application fee, or the imposition of an

1 administrative fine not to exceed \$2,500, or both.

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

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

10 The above named respondents have the right to request a hearing on this  
11 Order to Show Cause, as well as the right to be represented by counsel. A  
12 hearing shall be held not later than 10 days after the request for such hearing  
13 is received by the commissioner. Any such request for a hearing shall be in  
14 writing, and signed by the respondent(s) or by the duly authorized agent of  
15 the above named respondent(s), and shall be delivered either by hand or  
16 certified mail, return receipt request, to the Banking Department, State of  
17 New Hampshire, 64B Old Suncook Road, Concord, NH 03301.

18 If respondents fail to request a hearing or respond to the show cause  
19 order within 30 calendar days of receipt of this order, respondent shall be  
20 deemed in default, and the penalties requested will be imposed.

21 **STATEMENT OF ALLEGATIONS**

22 The allegations contained in the Staff Petition for Relief dated April  
23 4, 2007 (a copy of which is attached hereto) are incorporated by reference  
24 hereto.

25 **ORDER**

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



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State of New Hampshire Banking Department

In re the Matter of:	)	Case No.: 07-054
	)	
State of New Hampshire Banking	)	Order to Show Cause
Department,	)	Staff Petition
	)	
Petitioner,	)	April 4, 2007
	)	
and	)	
	)	
Team Mortgage LLC, Joseph Davey, and	)	
	)	
Karen Dion,	)	
	)	
Respondents	)	

STATEMENT OF ALLEGATIONS

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

FACTS COMMON TO ALL COUNTS

1. Team Mortgage LLC (hereinafter "Respondent Team" or "Team" or "licensee") is a mortgage broker licensed by the Department.
2. During all times relevant to this petition they were so licensed and thus subject to the jurisdiction of the Commissioner.
3. Respondent Joseph Davey (hereinafter "Respondent Davey" or "Davey") is the owner of Team.
4. Respondent Team has a currently licensed principal office and a currently licensed branch office both in Plaistow, NH.
5. Respondent Karen Dion (hereinafter "Respondent Dion" or "Dion") is, or was at all relevant times, the branch manager of the licensed branch office and at all times an agent of licensee and subordinate to Davey.

1 6. Respondent had an unlicensed branch at 163 Amherst St. Nashua, NH. (See  
2 Cease and Desist Order 06-275; Resolved through Consent Order December  
3 11, 2006.)

4 7. Respondent Team was recently the subject of an examination the report  
5 of which was received by the licensee on January 27, 2007.

6 **ILLEGAL CO-BROKERING (66 Counts)**

7 8. Paragraphs 1-7 are hereby realleged as if fully set forth herein.

8 9. In the aforementioned Cease and Desist Order Respondent Team was  
9 charged with originating 6 loans from that location.

10 10. It is now known to the Department that 21 loans were originated from  
11 that location.

12 11. As a result of the aforementioned consent order no further charges for  
13 co-brokering loans at that location have been made.

14 12. The licensee also accepted 66 loans brokered by Coastal Mortgage Group  
15 (CMG). At the time CMG was not licensed by the Department.

16 13. CMG is currently a licensed mortgage broker owned by Hajmil Carr and  
17 Eric Gundberg. At the time of brokering the 66 loans referenced above,  
18 CMG was licensed by the State of Maine to broker loans and had the same  
19 owners.

20 14. Upon information and belief Hajmill Carr and Eric Gundberg acted as  
21 originators for CMG in the state of Maine.

22 15. The Department possesses documentary evidence that several of CMG's  
23 originators originated Massachusetts loans but that each such loan was  
24 assigned to Hajmill Carr or Eric Gundberg.

25 16. Respondent Dion knew CMG originators other than Hajmill Carr and Eric  
Gundberg were submitting loans in Massachusetts under those names.

17. Upon information and belief the same activity took place in relation to  
New Hampshire loans.

18. Respondents knew or should have known that CMG was unlicensed.

1 **FAILURE TO MAINTAIN SECURITY POLICY (1 Count)**

2 19. Paragraphs 1-18 are hereby realleged as if fully set forth herein.

3 20. As a result of their business activity Respondents regularly have in  
4 their possession consumer information of a confidential nature.

5 21. At the time of examination, licensee was unable to produce a written  
6 policy on safeguarding consumer information.

7 22. In an undated letter received by the Department on March 6, 2007  
8 licensee via Respondent Davey still failed to indicate any cognizance  
9 of the requirement for a written safeguarding policy.

10 23. This failure to maintain a written policy may have contributed to the  
11 counts of failure to protect non-public consumer information alleged  
12 below.

12 **FAILURE TO PROTECT CONSUMER INFORMATION (10 Counts)**

13 24. Paragraphs 1-23 are hereby realleged as if fully set forth herein.

14 25. In response to examination requests licensee was unable to produce any  
15 loan files for ten loans.

16 26. Upon information and belief those loan files contained borrower or  
17 applicant's name, date of birth, social security number, bank account  
18 numbers and other personally identifying information.

19 27. Respondent Davey indicated that seven of those loans were originated by  
20 Hajmill Carr or Eric Gundberg and the remaining three were originated  
21 in the aforementioned unlicensed branch.

21 **FAILURE TO MAINTAIN RECORDS TO ENABLE COMPLIANCE DETERMINATION (44 Counts)**

22 28. Paragraphs 1-27 are hereby realleged as if fully set forth herein.

23 29. This examination entailed an attempted review of 44 files. Of this  
24 number ten could not be produced as previously addressed.

25 30. Of the remaining files none contained a copy of the Truth in Lending  
disclosures, the Note, or the mortgage.

1 31. Of the available files at least eighteen failed to include original  
2 loan documents or lender conditions.

3 32. As a result of the allegations above and below the Department has  
4 serious concerns that such missing documents would show further  
5 violations of the Chapter if they were available.

6 33. Failure to maintain any of the aforementioned documentation is  
7 therefore a failure of the licensee to maintain their files in a way  
8 the Department can determine compliance.

8 **DISHONEST OR UNETHICAL PRACTICES (13 Counts)**

9 34. Paragraphs 1-33 are hereby realleged as if fully set forth herein.

10 35. Respondent licensee was in receipt of evidence on a loan that closed on  
11 May 24, 2006 that the consumer made \$5,696 per month.

12 36. This loan was submitted to a mortgage lender with an application  
13 disclosing a monthly income of \$7,000.

14 37. Respondent licensee was in receipt of evidence on a loan that closed on  
15 December 19, 2005 that the consumer made \$4,502 per month.

16 38. This loan was submitted to a mortgage lender with an application  
17 disclosing a monthly income of \$8,500.

18 39. Respondent Dion, on questioning of these transactions, stated that  
19 lender representatives sometimes ask Team to list an incorrect income  
20 figure on the application and that the licensee complies with such  
21 requests.

22 40. Respondent Dion conspired with a certain appraiser to deceive a certain  
23 lender about which company was performing the appraisal.

24 41. Respondent Dion was advised by a loan originator that the applicant for  
25 a certain loan did not have enough reserves to qualify for the loan.  
She then conspired with the loan originator to deceive the lender by  
submitting a verification of deposit that she had every reason to  
believe was a false representation of available assets.

- 1 42. Respondent Team uses an appraisal submission form which advises  
2 appraisers of a "value looking for." This improperly influences or  
3 risks improperly influencing the appraisal determination.
- 4 43. Respondent Dion received an appraisal report showing a property value  
5 of \$256,000 from M&G Appraisals.
- 6 44. Respondent Dion then emailed the appraisal company that Respondent  
7 Davey was "looking for the \$259,000."
- 8 45. The same date Respondent Dion received an updated appraisal where the  
9 only change apparent was the value now stood at \$260,000.
- 10 46. On March 3, 2006 Respondent Dion asked On Time Appraisers, "is it  
11 possible to get about 3k more on this property." On Time Appraisers  
12 refused to grant the request.
- 13 47. Respondent Dion attempted to influence R&M Appraisers on June 2, 2004  
14 by sending the following query via email: "we needed 271,000 for value  
15 on this file to go... we still have the appraisal at 263,000. Can we do  
16 this?"
- 17 48. Respondent Dion sent to The Appraiser Guy on November 29, 2004 the  
18 following email: "can we possibly get 170,000 on this...I know its quite  
19 a push, but if we could possibly get to 170K that would help  
20 tremendously." The appraisal was sent to Respondent Dion via email  
21 that day with a value of \$173,000.
- 22 49. After receipt of an appraisal from Northern Appraisal Services for a  
23 certain property at \$230,000, Respondent Dion responded, "is there any  
24 way possible to get \$234,000, right now we are above 80% and it kills  
25 the deal." The appraisal company sent a new appraisal which contained  
one material change, value was now \$235,000.
50. A processor for Team attempted to improperly influence an appraisal by  
emailing the following to The Appraiser Guy on January 3, 2005: "I have

1 a huge question and favor that I need to ask you is it possible we  
2 could get 225,000 or 220,000. If you could please give us a call back..."

3 51. Lou Mallous is an originator for the licensee or was during the  
4 relevant time periods.

5 52. M&G Appraisals emailed an appraisal to the licensee on August 12, 2005.  
6 Three days later they mailed the same appraisal that differed in only  
7 one material respect in that value had now increased by \$3,000. In the  
8 email, M&G Appraisals included a message that reads "revised for Lou."

9 53. Northern Appraisal Services emailed an appraisal to the licensee on  
10 February 2, 2004.

11 54. On February 6, 2004 Northern Appraisal Services emailed an appraisal  
12 for the same property which differed in only one material respect in  
13 that the value had increased \$5,000. The second email included the  
14 following message: "Revised, Thanks Karen for all the business...!!!"

15 II. The staff of the Banking Department, State of New Hampshire alleges the  
16 following issues of law:

17 1. The Banking Department ("Department"), has jurisdiction over the  
18 licensing and regulation of persons engaged in mortgage banker / broker  
19 activities pursuant to New Hampshire Revised Statutes Annotated (RSA)  
20 397-A:3.

21 2. Pursuant to the New Hampshire Banking laws, RSA 397-A:3 requires any  
22 person not exempt under RSA 397-A:4 that, in its own name or on behalf  
23 of other persons, engages in the business of making or brokering first  
24 mortgage loans secured by real property located in this state shall be  
25 required to obtain a license from the banking department.

3. Pursuant to RSA 397-A:17, the Department has the power to issue and to  
serve an order requiring persons to show cause why their license

1 shouldn't be revoked or suspended and penalties imposed for violations  
2 of the Chapter. As alleged above Respondents have committed numerous  
3 violations of the Chapter.

- 4 4. Pursuant to RSA 397-A:17 I(c) it is a violation of the Chapter to  
5 accept or process loans from an unlicensed broker. Respondent has  
6 violated RSA 397-A:17 I(c) at least 66 times as alleged above by  
7 conducting unlicensed mortgage banker / broker activities in New  
8 Hampshire through an unlicensed entity.
- 9 5. Pursuant to RSA 397-A:17 I(1) licensees must abide by all applicable  
10 federal laws or rules thereunder. 16 C.F.R. §314.3 requires companies  
11 such as licensee to maintain a written comprehensive security policy.  
12 Respondents violated this federal rule and therefore violated the  
13 Chapter as alleged above.
- 14 6. Pursuant to RSA 397-A:17 I(1) licensees must abide by all applicable  
15 federal laws or rules thereunder. 18 U.S.C. §6801 requires all  
16 financial institutions to maintain the integrity of nonpublic personal  
17 information. Respondents violated this federal statute by losing loan  
18 files in at least 10 instances and therefore violated the Chapter as  
19 alleged above.
- 20 7. Pursuant to RSA 397-A:11 licensees must maintain such records as will  
21 allow the Department to determine compliance with the Chapter and the  
22 rules adopted pursuant to it including a provision that the licensee  
23 must maintain all original documents. Respondents violated the Chapter  
24 on at least 44 occasions by not maintaining the proper information in  
25 the loan files as alleged above.
8. Pursuant to NH RSA 397-A:17 I(k) mortgage bankers/brokers engaging in  
business in New Hampshire are prohibited from engaging in unethical  
business practices. Respondent has violated said statute 13 times as  
alleged above.

1 9. RSA 397-A:21 IV provides that any person who, either knowingly or  
2 negligently, violates any provision of RSA 397-A, may upon hearing, and  
3 in addition to any other penalty provided for by law, be subject to an  
4 administrative fine not to exceed \$2,500, or both. Each of the acts  
5 specified shall constitute a separate violation, and such  
6 administrative action or fine may be imposed in addition to any  
7 criminal penalties or civil liabilities imposed by New Hampshire  
8 banking laws. Respondent is subject to administrative fines for  
9 violations of RSA 397-A:5 and RSA 397-A:17.

10 10. RSA 397-A:21 V provides that every person who directly or indirectly  
11 controls a person liable under this section, every partner, principal  
12 executive officer or director of such person, every person occupying a  
13 similar status or performing a similar function, every employee of such  
14 person who materially aids in the act constituting the violation, and  
15 every licensee or person acting as a common law agent who materially aids  
16 in the acts constituting the violation, either knowingly or negligently,  
17 may, upon notice and opportunity for hearing, and in addition to any  
18 other penalty provided for by law, be subject to suspension, revocation,  
19 or denial of any registration or license, including the forfeiture of any  
20 application fee, or the imposition of an administrative fine not to  
21 exceed \$2,500, or both.

22 **RELIEF REQUESTED**

23 The staff of the Banking Department requests the Commissioner take the  
24 following action:

- 25 1. Find as fact the allegations contained in section I of the Statement of  
Allegations of this petition.
2. Make conclusions of law relative to the allegations contained in section  
II of the Statement of Allegations of this petition.

