# State of New Hampshire Banking Department In re the Matter of: State of New Hampshire Banking Order to Show Cause

Department, ) with Immediate Suspension

Petitioner,

Mortgages Unlimited Corporation,

and

Respondent

NOTICE OF ORDER

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

### LEGAL AUTHORITY AND JURISDICTION

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

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

# NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondent has the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at the 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 delivered either by hand or certified mail, return receipt requested, to the

Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301. Such hearings will be scheduled within 10 days of the request. If the Respondent fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against the Respondent upon consideration of the Order to Show Cause, the allegations of which may be deemed to be true. Respondents are entitled to at least 30 days' notice regarding the hearing date.

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

# STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

The <u>Staff Petition</u> dated April 26, 2007 (a copy of which is attached hereto) is incorporated by reference hereto.

### 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

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

It is hereby  $\ensuremath{\mathsf{ORDERED}}$ , that the Respondent shall show cause why:

- Administrative penalties of \$10,000.00 should not be imposed;
   and
- 2. Respondents license should not be revoked; and
- 3. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being

| 1  | rendered, license revocation and administrative penalties                 |  |  |
|----|---|--|--|
| 2  | imposed upon the defaulting Respondent; and                               |  |  |
| 3  | FINDING a substantial likelihood that delay will cause harm to the public |  |  |
| 4  | health, safety or welfare, it is hereby further ORDERED:                  |  |  |
| 5  | 4. Respondent's license is immediately suspended; and                     |  |  |
| 6  |   |  |  |
| 7  | immediately to occur in the next ten days pursuant to RSA 5               |  |  |
| 8  | A:30, III.  |  |  |
| 9  |   |  |  |
|    |   |  |  |
| 10 | Dated: 4/26/07  |  |  |
| 11 | PETER C. HILDRETH BANK COMMISSIONER                                       |  |  |
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### State of New Hampshire Banking Department

In re the Matter of:

State of New Hampshire Banking

Department,

Petitioner,

and

Mortgages Unlimited Corporation,

Respondent

Case No.: 07-093

April 26, 207-093

April 26, 2007

April 26, 2007

April 26, 2007

## STATEMENT OF ALLEGATIONS

- The Staff of the Banking Department, State of New Hampshire (hereinafter referred to as the "Department") alleges the following facts:
  - 1. Mortgages Unlimited Corporation (hereinafter "Respondent") is licensed by the Department as a Mortgage Banker and at all times relevant to this action held a Department license since at least 1997.
  - 2. On or about January 3, 2007 the Department contacted Respondent by letter requesting a more in depth financial statement and attestation for fiscal year end August 31, 2006.
  - 3. As of this petition date there has been no response to the Department request.
  - 4. On or about January 19, 2007 the Department was notified of a surety bond cancellation to be effective February 8, 2007.

- 5. On February 13, 2007 the Department sent the Respondent a notice that the bond must be reinstated or replaced immediately and the originally-executed bond sent to the Department.
- 6. On March 12, 2007 the Department notified the Respondent that none of the information requested had been received nor had the Respondent provided the Department with the required bond.
- 7. To date the Department has not received the required bond reinstatement.
- 8. Upon information and belief Respondent is currently without bonding by any surety leaving New Hampshire consumers without recourse should Respondent default in its obligations.

## ISSUES OF LAW

- II. The staff of the Department, alleges the following issues of law:
  - 1. The Department realleges the above stated facts in paragraphs 1 through  $8\,.$
  - The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker activities pursuant to NH RSA 397-A:3.
  - 3. Pursuant to New Hampshire Banking law, RSA 397-A:5 III (c) each mortgage banker shall post a continuous surety bond in the amount of \$20,000.00 to the Department. Respondent has violated this statute by allowing their bond to be cancelled.
  - 4. RSA 397-A:13 II provides that each licensee shall file a financial statement within 90 days from the date of its fiscal year end. Respondent violated this statute by failing to submit the requested financial statement and attestation.

- 5. RSA 397-A:13 VI provides that any officer, owner, manager or agent of any licensee shall reply promptly in writing, or other designated form, to any written inquiry from the Department.

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

### RELIEF REQUESTED

- III. The staff of the Department requests the Commissioner take the following Action:
  - Find as fact the allegations contained in section I of this petition;
  - 2. Make conclusions of law relative to the allegations contained in section II of the this petition;
  - 3. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number and amount equal to the violations set forth in section II of this petition; and

| 1  |       | 4. Take such other administrative and legal actions as necessary   |
|----|-------|--|
| 2  |       | for enforcement of the New Hampshire Banking Laws, the             |
| 3  |       | protection of New Hampshire citizens, and to provide other         |
| 4  |       | equitable relief.  |
| 5  |       | RIGHT TO AMEND   |
| 6  | IV.   | The Department reserves the right to amend this Staff Petition and |
| 7  |       | to request that the Commissioner take additional administrative    |
| 8  |       | action. Nothing herein shall preclude the Department from bringing |
| 9  |       | additional enforcement action under RSA 397-A or the regulations   |
| 10 |       | thereunder.  |
| 11 | Respe | ectfully submitted by:   |
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| 13 | · — - | Shepard     4/26/07       Date                                     |
| 14 | Staff | Attorney   |
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