

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-118  
 )  
 3 State of New Hampshire Banking ) Order to Show Cause  
 )  
 4 Department, )  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Home Advantage Funding Group, Inc., )  
 )  
 8 Respondent )  
 )

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10 NOTICE OF ORDER

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

13 LEGAL AUTHORITY AND JURISDICTION

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

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

21 NOTICE OF RIGHT TO REQUEST A HEARING

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

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

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

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

15 The Staff Petition dated October 26, 2007 (a copy of which is attached  
16 hereto) is incorporated by reference hereto.

17 **ORDER**

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

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

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

24 1. Administrative penalties of \$7,500.00 should not be imposed;

25 and

1. Statutory penalties of \$2,500.00 should not be imposed; and

3. Respondents license should not be revoked; and

It is hereby ORDERED that:

- 1                   4. Respondent shall pay \$3,235.00 in examination fees
- 2                    immediately; and
- 3                   5. Respondent shall pay the \$275.00 statutory penalty for late
- 4                    submission of its financial statement; and
- 5                   6. Failure to request a hearing within 30 days of the date of
- 6                    receipt of this Order shall result in a default judgment being
- 7                    rendered, license revocation and administrative penalties
- 8                    imposed upon the defaulting Respondent.

9   SIGNED,

10  
11 Dated: 10/29/07

  / s /  
  \_\_\_\_\_  
  PETER C. HILDRETH  
  BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-118  
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 3 State of New Hampshire Banking ) Staff Petition  
 )  
 4 Department, )  
 )  
 5 Petitioner, ) October 26, 2007  
 )  
 6 and )  
 )  
 7 Home Advantage Funding Group, Inc., )  
 )  
 8 Respondent )  
 )

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10 STATEMENT OF ALLEGATIONS

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

- 14 1. Home Advantage Funding Group, Inc. (hereinafter "Respondent") is  
15 licensed as a Mortgage Banker and at all times relevant to this  
16 action has held a Department license since at least 2006.
- 17 2. The Respondent's annual report was due on or before February 1,  
18 2007.
- 19 3. On February 2, 2007 the Department sent the Respondent a reminder  
20 notice via facsimile
- 21 4. The Department sent a final notice to the Respondent via US  
22 Certified Mail on March 5, 2007 (mail piece number: 7006 2760 0002  
23 2477 2495). The notice was received and signed for by the  
24 Respondent on or about March 9, 2007.
- 25 5. To date the Respondent has failed to file the annual report.

- 1                   6. On or about July 5, 2006 the Department began conducting an  
2                   examination of the Respondent.
- 3                   7. The Department sent an invoice for the cost of the exam in the  
4                   amount of \$3,235.00 to the Respondent via US Certified Mail on  
5                   November 21, 2006 (mail piece number: 7006 0100 0000 7310 7158).  
6                   The Respondent received and signed for the mail piece on or about  
7                   November 27, 2006.
- 8                   8. A second invoice was sent to the Respondent on January 26, 2007.
- 9                   9. A third invoice was sent to the Respondent on March 14, 2007.
- 10                  10. On April 24, 2007 the Department received a request from the  
11                  Respondent for a copy of the examination invoice. The Department  
12                  sent a fourth invoice to the Respondent via facsimile.
- 13                  11. To date, the Respondent has not paid the outstanding invoice.
- 14                  12. The Respondent's fiscal year end was December 31, 2006 and the  
15                  financial statement was due on or before April 2, 2007.
- 16                  13. On April 4, 2007 the Department sent the Respondent a letter  
17                  advising them that the financial statement had not been received  
18                  and they had begun to accrue a \$25.00 per day fine for late  
19                  submission of materials.
- 20                  14. On April 13, 2007 the Department received the Respondent's  
21                  financial statement, 11 days late.

#### ISSUES OF LAW

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

25

- 1            1. The Department has jurisdiction over the licensing and  
2                            regulation of persons engaged in mortgage banker activities  
3                            pursuant to NH RSA 397-A:3.
- 4            2. RSA 397-A:13 I provides that a licensee shall file its annual  
5                            report on or before February 1 each year concerning operations  
6                            for the preceding year or license period ending December 31.  
7                            The Respondent violated this provision by failing to submit its  
8                            annual report.
- 9            3. RSA 397-A:13 IV provides that any mortgage banker which fails to  
10                            file its annual report within the time prescribed may be  
11                            required to pay to the department a penalty of \$25.00 for each  
12                            calendar day the report is overdue up to a maximum penalty of  
13                            \$2,500.00.
- 14            4. RSA 397-A:12 provides that licensees are to pay the costs of  
15                            examinations.
- 16            5. RSA 397-A:13 II provides that a licensee shall file its  
17                            financial statement within 90 days from the date of its fiscal  
18                            year end. The Respondent violated this provision by failing to  
19                            submit its financial statement in a timely manner.
- 20            6. RSA 397-A:13 IV provides that any mortgage banker which fails to  
21                            file its financial statement within the time prescribed may be  
22                            required to pay to the department a penalty of \$25.00 for each  
23                            calendar day the statement is overdue up to a maximum penalty of  
24                            \$2,500.00.
- 25            7. RSA 397-A:21 IV provides that any person who, either knowingly  
                          or negligently, violates any provision of Chapter 397-A, may

1 upon hearing, and in addition to any other penalty provided for  
2 by law, be subject to suspension or revocation of their license  
3 or an administrative fine not to exceed \$2,500.00, or both.

4 Each of the acts specified shall constitute a separate  
5 violation, and such administrative action or fine may be imposed  
6 in addition to any criminal penalties or civil liabilities  
7 imposed by New Hampshire Banking laws.

8 **RELIEF REQUESTED**

9 III. The staff of the Department requests the Commissioner take the  
10 following Action:

- 11 1. Find as fact the allegations contained in section I of this  
12 petition;
- 13 2. Make conclusions of law relative to the allegations contained  
14 in section II of the this petition;
- 15 3. Order Respondent to Show Cause why its license should not be  
16 revoked;
- 17 4. Assess fines and administrative penalties in accordance with  
18 RSA 397-A:21, for violations of Chapter 397-A, in the number  
19 and amount equal to the violations set forth in section II of  
20 this petition; and
- 21 5. Take such other administrative and legal actions as necessary  
22 for enforcement of the New Hampshire Banking Laws, the  
23 protection of New Hampshire citizens, and to provide other  
24 equitable relief.

25 **RIGHT TO AMEND**

1 IV. The Department reserves the right to amend this Staff Petition and  
2 to request that the Commissioner take additional administrative  
3 action. Nothing herein shall preclude the Department from bringing  
4 additional enforcement action under RSA 397-A or the regulations  
5 thereunder.

6 Respectfully submitted by:

7  
8 /s/  
James Shepard  
9 Staff Attorney

10/26/07  
Date