



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 Respondents fail 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.

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

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

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

16 **ORDER**

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

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

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

23 1. Administrative penalties of \$5,000.00 should not be imposed;

24 and

25 2. Respondent's license should not be revoked; and

It is hereby ORDERED that:

3. The Respondent shall immediately pay the statutory penalty for  
late submission of the annual report in the amount of

\$2,500.00; and



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-120  
 )  
 3 State of New Hampshire Banking ) Staff Petition  
 )  
 4 Department, )  
 )  
 5 Petitioner, ) November 26, 2007  
 )  
 6 and )  
 )  
 7 Achieva Home Loans, Inc, )  
 )  
 8 Respondent )  
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10 STATEMENT OF ALLEGATIONS

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

- 13 1. On or about July 31, 2006 the Department conducted an examination  
14 of Achieva Home Loans Inc. (hereinafter "Respondent").
- 15 2. Respondent was licensed as a Mortgage Broker and at all times  
16 relevant to this action held a Department license since at least  
17 2005.
- 18 3. The Department sent an invoice for the cost of the examination in  
19 the amount of \$2,650.00 to the Respondent via US Certified Mail  
20 on November 21, 2006 (mail piece number 7006 0100 0000 7310  
21 7219). The Respondent received and signed for the invoice on or  
22 about November 27, 2006.
- 23 4. The Department sent a second invoice to the Respondent on January  
24 26, 2007.
- 25 5. The Department sent a third invoice to the Respondent on March  
14, 2007.

6. The Department sent a final notice to the Respondent via US Certified Mail on April 18, 2007 (mail piece number 7002 2410 0005 1959 1024). The Respondent received and signed for the notice on or about April 23, 2007.
7. To date the Respondent has failed to pay the cost of the examination.
8. The Respondent's 2006 annual report was due on or before February 1, 2007.
9. On February 2, 2007 the Department sent the Respondent a reminder notice via facsimile that the annual report had not been received.
10. On or about March 5, 2007 the Department sent the Respondent a letter via US Certified Mail (mail piece number: 7006 2760 0002 2477 2372) advising them that the annual report had not been received and they had until March 26, 2007 to file the report to avoid enforcement action. The Respondent received and signed for the letter on or about March 8, 2007.
11. The Respondent filed its annual report on June 18, 2007, 137 days past the due date which generated a statutory penalty in the amount of \$2,500.00.
12. To date the Respondent has failed to pay the statutory penalty for late filing of the annual report.

**ISSUES OF LAW**

The staff of the Department, alleges the following issues of law:

1. The Department realleges the above stated facts in paragraphs 1

1 through 12.

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

5 3. RSA 397-A:13 I provides that a licensee shall file its annual  
6 report on or before February 1 each year concerning operations  
7 for the preceding year or license period ending December 31.  
8 The Respondent violated this provision by submitting its annual  
9 report 137 days late.

10 4. RSA 397-A:13 IV provides that any mortgage banker which fails to  
11 file its annual report within the time prescribed may be  
12 required to pay to the department a penalty of \$25.00 for each  
13 calendar day the report is overdue up to a maximum penalty of  
14 \$2,500.00.

15 5. RSA 397-A:12 provides that licensees are to pay the costs of  
16 examinations.

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

25 **RELIEF REQUESTED**

1 The staff of the Department requests the Commissioner take the following  
2 Action:

- 3 1. Find as fact the allegations contained in section I of this  
4 petition;
- 5 2. Make conclusions of law relative to the allegations contained in  
6 section II of the this petition;
- 7 3. Order the Respondent to Show Cause why its license should not be  
8 revoked;
- 9 4. Assess fines and administrative penalties in accordance with RSA  
10 397-A:21, for violations of Chapter 397-A, in the number and amount  
11 equal to the violations set forth in section II of this petition;  
12 and
- 13 5. Take such other administrative and legal actions as necessary for  
14 enforcement of the New Hampshire Banking Laws, the protection of  
15 New Hampshire citizens, and to provide other equitable relief.

16 **RIGHT TO AMEND**

17 The Department reserves the right to amend this Staff Petition and to  
18 request that the Commissioner take additional administrative action.  
19 Nothing herein shall preclude the Department from bringing additional  
20 enforcement action under RSA 397-A or the regulations thereunder.

21  
22 Respectfully submitted by:

23  
24 /s/  
25 James Shepard  
Staff Attorney

11/26/07  
Date