

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-121
))
3 State of New Hampshire Banking) Order to Show Cause
))
4 Department,)
))
5 Petitioner,)
))
6 and)
))
7 American Mortgage Professionals Inc,)
))
8 Kenneth Terrill and Margaret Terrill,)
))
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, BAN 200 and JUS 800.

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 respondents have the right to request a hearing on this
24 Order to Show Cause, as well as the right to be represented by counsel at
25 each 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 respondents
or the duly authorized agent of the above named respondents, 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 Respondents fail 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 Respondents upon consideration of the Order to Show Cause, the allegations
7 of which may be deemed to be true.

8 If the Respondents fail 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 March 13, 2008 (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 \$2,500.00 should not be imposed
25 against each named Respondent; and
2. Invoice number 4308 in the amount of \$2,500.00 should not be
paid; and
3. Respondent American's license should not be revoked; and

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-121
)
 3 State of New Hampshire Banking) Staff Petition
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 4 Department,)
)
 5 Petitioner,) March 13, 2008
)
 6 and)
)
 7 American Mortgage Professionals Inc,)
)
 8 Kenneth Terrill and Margaret Terrill,)
)
 9 Respondents

10
11 STATEMENT OF ALLEGATIONS

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

- 14 1. American Mortgage Professionals, Inc's (hereinafter "Respondent
15 American") 2006 annual report was due on or before February 1,
16 2007.
- 17 2. Respondent American was licensed as a Mortgage Broker and at all
18 times relevant to this action held a Department license since at
19 least 2006.
- 20 3. Respondent Kenneth Terrill is, or was during the relevant time
21 period, majority shareholder and President of Respondent
22 American.
- 23 4. Respondent Margaret Terrill is, or was during the relevant time
24 period, minority shareholder and Secretary of Respondent
25 American.
5. On February 2, 2007 the Department sent Respondent American a

1 reminder notice via facsimile that the annual report had not been
2 received.

3 6. On or about March 5, 2007 the Department sent Respondent American
4 a letter via US Certified Mail (mail piece number: 7006 2760 0002
5 2477 2393) advising them that the annual report had not been
6 received and they had until March 26, 2007 to file the report to
7 avoid enforcement action. The Respondent received and signed for
8 the letter on or about March 9, 2007.

9 7. On or about June 4, 2007 this petitioner sent a final offer to
10 Respondents American, addressed to Respondent K. Terrill, which
11 contained an offer to resolve the matter by consent order. That
12 mail was received June 10, 2007.

13 8. The Respondent filed its annual report on June 20, 2007, 139 days
14 past the due date which generated a statutory penalty in the
15 amount of \$2,500.00.

16 9. To date the Respondent has failed to pay the statutory penalty
17 for late filing of the annual report.

18
19 **ISSUES OF LAW**

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

- 21 1. The Department realleges the above stated facts in paragraphs 1
22 through 9.
- 23 2. The Department has jurisdiction over the licensing and
24 regulation of persons engaged in mortgage broker activities
25 pursuant to NH RSA 397-A:3.

- 1 3. RSA 397-A:13 I provides that a licensee shall file its annual
2 report on or before February 1 each year concerning operations
3 for the preceding year or license period ending December 31.
4 The Respondents violated this provision by submitting the annual
5 report 139 days late.
- 6 4. RSA 397-A:13 IV provides that any mortgage broker which fails to
7 file its annual report within the time prescribed may be
8 required to pay to the department a penalty of \$25.00 for each
9 calendar day the report is overdue up to a maximum penalty of
10 \$2,500.00.
- 11 5. RSA 397-A:21 IV provides that any person who, either knowingly
12 or negligently, violates any provision of Chapter 397-A, may
13 upon hearing, and in addition to any other penalty provided for
14 by law, be subject to an administrative fine not to exceed
15 \$2,500, or both. Each of the acts specified shall constitute a
16 separate violation, and such administrative action or fine may
17 be imposed in addition to any criminal penalties or civil
18 liabilities imposed by New Hampshire Banking laws.
- 19 6. RSA 397-A:21 V provides that every person who directly or
20 indirectly controls a person liable under this section, every
21 partner, principal executive officer or director of such person,
22 every person occupying a similar status or performing a similar
23 function, every employee of such person who materially aids in
24 the act constituting the violation, and every licensee or person
25 acting as a common law agent who materially aids in the acts
 constituting the violation, either knowingly or negligently, may,

1 upon notice and opportunity for hearing, and in addition to any
2 other penalty provided for by law, be subject to suspension,
3 revocation, or denial of any registration or license, including
4 the forfeiture of any application fee, or the imposition of an
5 administrative fine not to exceed \$2,500, or both. Each of the
6 acts specified shall constitute a separate violation, and such
7 administrative action or fine may be imposed in addition to any
8 criminal or civil penalties imposed.

9 **RELIEF REQUESTED**

10 The staff of the Department requests the Commissioner take the following
11 Action:

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

23 **RIGHT TO AMEND**

24 The Department reserves the right to amend this Staff Petition and to
25 request that the Commissioner take additional administrative action.

