

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-140
))
3 State of New Hampshire Banking) Order to Show Cause
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4 Department,))
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5 Petitioner,))
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6 and))
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7 ACT Lending Corporation,))
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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.

7 If the Respondent fails to request a hearing within 30 calendar days of
8 receipt of such 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 September 17, 2007 (a copy of which is
15 attached 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. Statutory penalties of \$2,500.00 should not be imposed; and
3. Respondents license should not be revoked; and

It is hereby ORDERED that:

4. Failure to request a hearing within 30 days of the date of
receipt of this Order shall result in a default judgment being

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rendered, license revocation and administrative penalties
imposed upon the defaulting Respondent.

SIGNED,

Dated: 9/17/07

/S/

PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-140
)
 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) September 17, 2007
)
 6 and)
)
 7 ACT Lending Corporation,)
)
 8 Respondent)
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9
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. ACT Lending Corporation (hereinafter "Respondent") is licensed as
 15 a Mortgage Banker and at all times relevant to this action has
 16 held a Department license since at least 2006.
 - 17 2. The Respondent's fiscal year end was December 31, 2006 and the
 18 financial statement was due on or before April 2, 2007.
 - 19 3. On April 4, 2007 the Department sent the Respondent a letter
 20 advising them that the financial statement had not been received
 21 and they had begun to accrue a \$25.00 per day fine for late
 22 submission of materials.
 - 23 4. On April 25, 2007 the Department sent the Respondent a second
 24 reminder letter regarding the accruing fine.
 - 25 5. To date the Respondent has failed to file the financial statement.

1 6. On July 27, 2007 the Department notified the Respondent that it
2 did not have a surety bond on file as required pursuant to RSA
3 397-A:5 III (c).

4 7. To date the Department has not received the required surety bond.

5 8. Upon information and belief Respondent is currently without
6 bonding by any surety, leaving New Hampshire consumers without
7 recourse should Respondent default in its obligations.

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9 **ISSUES OF LAW**

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

11 1. The Department realleges the above stated facts in paragraphs 1
12 through 8.

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

16 3. 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.

20 4. 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 5. RSA 397-A:5 III (c) provides that each mortgage banker shall
post a continuous surety bond in the amount of \$20,000.00 to the

1 Department. Respondent has violated this statute by failing to
2 post a surety bond.

- 3 6. RSA 397-A:21 IV provides that any person who, either knowingly
4 or negligently, violates any provision of Chapter 397-A, may
5 upon hearing, and in addition to any other penalty provided for
6 by law, be subject to suspension or revocation of their license
7 or an administrative fine not to exceed \$2,500.00, or both.
8 Each of the acts specified shall constitute a separate
9 violation, and such administrative action or fine may be imposed
10 in addition to any criminal penalties or civil liabilities
11 imposed by New Hampshire Banking laws.

12 **RELIEF REQUESTED**

13 III. The staff of the Department requests the Commissioner take the
14 following Action:

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

