

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-163
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Trump Mortgage, LLC,)
)
 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, BAN 200 and JUS 800.

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 April 25, 2008 (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 \$10,000.00 should not be imposed;
- 24 and
- 25 2. Statutory penalties of \$5,000.00 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

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-163
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 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) April 25, 2008
)
 6 and)
)
 7 Trump Mortgage LLC,)
)
 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. Trump Mortgage LLC (hereinafter "Respondent") was licensed as a
15 Mortgage Banker and at all times relevant to this action held a
16 Department license since at least 2006.

17 2. The Respondent's fiscal year end was December 31, 2006 and its
18 financial statement was due on or before April 2, 2007.

19 3. On January 14, 2007 the Department sent letters to Respondent
20 and all similarly situated licensed companies reminding them of
21 their filing obligations.

22 4. On April 4, 2007 the Department sent the Respondent a letter
23 advising them that the financial statement had not been received
24 and they had begun to accrue a \$25.00 per day fine for late
25 submission of materials.

1 5. On April 25, 2007 the Department sent the Respondent a second
2 reminder letter regarding the accruing fine.

3 6. To date the Respondent has failed to file the financial
4 statement.

5 7. On September 18, 2007 the Department notified the Respondent
6 that it did not have a surety bond on file as required pursuant
7 to RSA 397-A:5 III (c).

8 8. To date the Department has not received the required surety
9 bond.

10 9. Upon information and belief Respondent is currently without
11 bonding by any surety, leaving New Hampshire consumers without
12 recourse should Respondent default in its obligations after the
13 date of expiration of its last bond.¹

14 10. In December 2007 every licensee was sent a reminder notification
15 that it was required to file an annual report by February 2,
16 2008.

17 11. On February 5, 2008 Respondent was sent a second reminder of the
18 annual report requirement by certified mail.

19 12. To date the Respondent has not submitted an annual report.

20 13. On January 18, 2008 Respondent was sent a letter reminding them
21 of their obligations to file a surrender/expiration form with
22 the Department.

23 ¹ Respondent's license expired December 31, 2007 and it did not renew the
24 license therefore there is no necessity for an immediate suspension in the
25 instant case.

1 14. To date no form has been filed.

2 15. To the best of our knowledge and belief the Respondent has not
3 published a notice that they have ceased doing business in New
4 Hampshire.

5 ISSUES OF LAW

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

7 1. The Department realleges the above stated facts in paragraphs 1
8 through 15.

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

12 3. RSA 397-A:13 II provides that a licensee shall file its
13 financial statement within 90 days from the date of its fiscal
14 year end. The Respondent violated this provision by failing to
15 submit its financial statement.

16 4. RSA 397-A:13 IV provides that any mortgage banker which fails to
17 file its financial statement within the time prescribed may be
18 required to pay to the department a penalty of \$25.00 for each
19 calendar day the statement is overdue up to a maximum penalty of
20 \$2,500.00.

21 5. RSA 397-A:5 III (c) provides that each mortgage banker shall
22 post a continuous surety bond in the amount of \$20,000.00 to the
23 Department. Respondent has violated this statute by failing to
24 post a surety bond.

25 6. RSA 397-A:13 I provides that a licensee shall file its annual
report on or before February 1 each year concerning operations

1 for the preceding year or license period ending December 31.

2 The Respondent violated this provision by failing to submit its
3 annual report.

4 7. RSA 397-A:13 IV provides that any mortgage banker which fails to
5 file its annual report within the time prescribed may be
6 required to pay to the department a penalty of \$25.00 for each
7 calendar day the report is overdue up to a maximum penalty of
8 \$2,500.00.

9 8. RSA 397-A:10-a I (a) provides that a licensee who ceases to
10 engage in the business of a mortgage banker at any time during a
11 license year for any cause shall surrender such license in
12 person or by registered or certified mail to the commissioner
13 within 15 calendar days of such cessation, and shall cause to be
14 published in a newspaper of general circulation in the
15 licensee's market area a notice to such effect. Respondent
16 violated this provision by not surrendering its license.

17 9. 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 suspension or revocation of their license
21 or an administrative fine not to exceed \$2,500.00, or both.
22 Each of the acts specified shall constitute a separate
23 violation, and such administrative action or fine may be imposed
24 in addition to any criminal penalties or civil liabilities
25 imposed by New Hampshire Banking laws.

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2 **RELIEF REQUESTED**

3 III. The staff of the Department requests the Commissioner take the
4 following Action:

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

19 **RIGHT TO AMEND**

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

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Respectfully submitted by:

 /S/
James Shepard
Staff Attorney

4/25/08
Date