

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-164
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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 First American Mortgage Corp,)
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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. 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 July 17, 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 \$5,000.00 should not be imposed;

25 and

2. Respondents license should not be revoked; and

It is hereby ORDERED that:

3. 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.: 07-164
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3 State of New Hampshire Banking) Staff Petition
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4 Department,))
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6 and))
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7 First American Mortgage Corp,))
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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. Respondent is licensed as a Mortgage Banker and at all times
15 relevant to this action has held a Department license since at
16 least 2003.
- 17 2. The Respondent reported its net worth as \$25,335.65 on its 2006
18 annual report.
- 19 3. On April 2, 2007 the Department sent the Respondent a letter
20 notifying them that they were required to increase their surety
21 bond from \$20,000.00 to \$100,000.00.
- 22 4. The letter was returned to the Department by the US Postal Service
23 as "unable to forward". The Respondent had failed to properly
24 notify the Department of an address change.
- 25 5. The Department found an address on the 2006 annual report and
resent the letter on April 24, 2007. The Respondent was given a

1 deadline of May 31, 2007 to provide a rider to the bond showing
2 the increase.

3 6. To date the Respondent has not provided the Department with the
4 original license for an address change nor has it provided the
5 surety bond rider.

6 **ISSUES OF LAW**

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

- 8 1. The Department has jurisdiction over the licensing and
9 regulation of persons engaged in mortgage banker activities
10 pursuant to NH RSA 397-A:3.
- 11 2. RSA 397-A:5 III (c) provides that each mortgage banker applicant
12 shall demonstrate a net worth at all times of at least
13 \$100,000.00 or increase their posted continuous surety bond to a
14 total amount of \$100,000.00. The Respondent violated this
15 provision by failing to post a rider to the surety bond.
- 16 3. RSA 397-A:10 provides that licensees shall provide written
17 notice to the Department of any change in location no later than
18 10 business days prior to the effective date of such change of
19 location. The Respondent violated this provision by not
20 notifying the Department of its change in location.
- 21 4. RSA 397-A:21 IV provides that any person who, either knowingly
22 or negligently, violates any provision of Chapter 397-A, may
23 upon hearing, and in addition to any other penalty provided for
24 by law, be subject to suspension or revocation of their license
25 or an administrative fine not to exceed \$2,500.00, or both.

Each of the acts specified shall constitute a separate

1 violation, and such administrative action or fine may be imposed
2 in addition to any criminal penalties or civil liabilities
3 imposed by New Hampshire Banking laws.

4 **RELIEF REQUESTED**

5 III. The staff of the Department requests the Commissioner take the
6 following Action:

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

21 **RIGHT TO AMEND**

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

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Respectfully submitted by:

 /S/
James Shepard
Staff Attorney

7/17/07
Date