

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-166
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Lightning Financial LLC,)
)
 8 Respondent)
)

9
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 10, 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. Respondent shall pay \$2,235.00 in examination fees

immediately; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- 4. Respondent shall pay \$100.00 in statutory fines for late submission of annual report; and
- 5. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered, license revocation and administrative penalties imposed upon the defaulting Respondent.

SIGNED,

Dated: 7/10/07

/s/
PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-166
)
 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) July 10, 2007
)
 6 and)
)
 7 Lightning Financial LLC,)
)
 8 Respondent)
)

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. On or about August 7, 2006 the Department began conducting an
15 examination of Lightning Financial LLC (hereinafter "Respondent").
- 16 2. Respondent was licensed as a Mortgage Broker and at all times
17 relevant to this action held a Department license since at least
18 2005.
- 19 3. The Department sent an invoice for the cost of the exam in the
20 amount of \$2,235.00 to the Respondent via US Certified Mail on
21 January 26, 2007 (mail piece number: 7006 2760 0002 2476 8672).
22 The Respondent received the mail piece on or about January 30,
23 2007.
- 24 4. A second invoice was sent to the Respondent on March 14, 2007.
- 25 5. A third invoice was sent to the Respondent on April 17, 2007.

- 1 6. On May 23, 2007 the Department sent a warning letter to the
- 2 Respondent via US Certified Mail (mail piece number: 7006 3450
- 3 0000 0611 8841). The Respondent received the letter on or about
- 4 May 24, 2007.
- 5 7. The Respondent's annual report was due on or before February 1,
- 6 2007.
- 7 8. The Department did not receive the annual report until February 5,
- 8 2007, four days after it was due.
- 9 9. The Department sent the Respondent an invoice on February 7, 2007
- 10 for a fine in the amount of \$100.00 for the late submission of the
- 11 annual report.
- 12 10. A second invoice was sent to the Respondent in March 2007 and a
- 13 third and final invoice was sent on April 17, 2007.
- 14 11. To date, the Respondent has not paid the outstanding invoices.

15

16

17 ISSUES OF LAW

- 18 II. The staff of the Department, alleges the following issues of law:
- 19 1. The Department realleges the above stated facts in paragraphs 1
 - 20 through 11.
 - 21 2. The Department has jurisdiction over the licensing and
 - 22 regulation of persons engaged in mortgage broker activities
 - 23 pursuant to NH RSA 397-A:3.
 - 24 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the
 - 25 Department may examine the business affairs of any licensee or
 - any other person, whether licensed or not, as it deems necessary

1 to determine compliance with this Chapter and the rules adopted
2 pursuant to it and with the Consumer Credit Protection Act, as
3 amended (15 U.S.C. 1601 et seq.). RSA 397-A:12 provides that
4 licensees are to pay the costs of such examinations.

5 4. RSA 383:11 provides that licensees are to pay the costs of
6 examinations within 60 days of receipt of notice.

7 5. RSA 397-A:13 provides that a licensee shall file an annual
8 report with the Department on or before February 1 each year
9 concerning operations for the preceding year or license period
10 ending December 31.

11 6. RSA 397-A:13 IV provides that any mortgage banker or broker that
12 fails to file the annual report within the time prescribed may
13 be required to pay to the department a penalty of \$25.00 for
14 each calendar day the annual report is overdue. The Respondent
15 violated this provision by submitting its annual report four
16 days late and by failing to pay the invoice for the statutory
17 fine.

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

1 RELIEF REQUESTED

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

- 4 1. Find as fact the allegations contained in section I of this
5 petition;
- 6 2. Make conclusions of law relative to the allegations contained
7 in section II of the this petition;
- 8 3. Order Respondent to Show Cause why its license should not be
9 revoked;
- 10 4. Assess fines and administrative penalties in accordance with
11 RSA 397-A:21, for violations of Chapter 397-A, in the number
12 and amount equal to the violations set forth in section II of
13 this petition; and
- 14 5. Order the Respondent to pay the exam fee from RSA 397-A:12; and
- 15 6. Order the Respondent to pay the statutory fine from RSA 397-
16 A:13; and
- 17 7. 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Respectfully submitted by:

 /S/
James Shepard
Staff Attorney

7/10/07
Date