State of New Hampshire Banking Department

In re the Matter of:) Case No.: 07-169
)
State of New Hampshire Banking) Order to Show Cause
)
Department,)
)
Petitioner,)
)
and)
)
United Mortgage Company,)
)
Respondent)
)

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:17, RSA 541-A, BAN 200 and JUS 800.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondents have the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at 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 delivered either by hand or certified mail, return receipt requested, to the

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Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301. Such hearings will be scheduled within 10 days of the request. If the Respondents fail to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against the Respondent upon consideration of the Order to Show Cause, the allegations of which may be deemed to be true.

If the Respondents fail to request a hearing within 30 calendar days of receipt of such order or reach formal settlement with the Department within that time frame, then such person shall likewise be deemed in default, and the orders shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

The <u>Staff Petition</u> dated November 16, 2007 (a copy of which is attached hereto) is incorporated by reference hereto.

ORDER

WHEREAS, finding it necessary and appropriate and in the public interest, and consistent with the intent and purposes of the New Hampshire banking laws, and

WHEREAS, finding that the allegations contained in the Staff Petition, if proved true and correct, form the legal basis of the relief requested,

It is hereby ORDERED, that the Respondent shall show cause why:

- Administrative penalties of \$2,500.00 should not be imposed;
 and
- 2. Statutory penalties in the amount of \$17,900 should not be imposed; and
- 3. Respondent's 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 rendered, license revocation and administrative penalties imposed upon the defaulting Respondent. SIGNED, Dated: <u>11/16/07</u> PETER C. HILDRETH BANK COMMISSIONER

1 State of New Hampshire Banking Department In re the Matter of: 2) Case No.: 07-169 State of New Hampshire Banking) Staff Petition 3 4 Department, 5 Petitioner,) November 16, 2007 6 and 7 United Mortgage Company, 8 Respondent 9 10 STATEMENT OF ALLEGATIONS The Staff of the Banking Department, State of New Hampshire (hereinafter 11 12 referred to as the "Department) alleges the following facts: 13 1. On or about December 4, 2006 the Department was scheduled to 14 begin an examination of United Mortgage Company. (hereinafter "Respondent"). 15 16 2. Respondent is licensed as a Mortgage Broker and at all times 17 relevant to this action held a Department license since at least 18 2004. The Department sent a notice of an upcoming examination to the 19 3. 20 Respondent via US Certified Mail on October 30, 2006 (mail piece 2.1 number 7006 0100 0000 7311 1650). The Respondent received and 22 signed for the notice on or about November 2, 2006. 23 4. The Department sent a second notice to the Respondent via US Certified Mail on January 9, 2007 (mail piece number 7002 2030 24 25 0000 9677 4337). The Respondent received and signed for the

notice on or about January 11, 2007.

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- 5. The Department sent a third notice to the Respondent via US

 Certified Mail on April 26, 2007 (mail piece number 7002 2410

 0005 1958 9687). The Respondent received and signed for the notice on or about April 30, 2007.
- 6. To date the Respondent has failed to facilitate the examination.
- 7. 21 days after November 2, 2006 is November 23, 2006. It has been 358 days since November 23, 2006 with no production of exam materials.

ISSUES OF LAW

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

- The Department realleges the above stated facts in paragraphs 1 through 7.
- The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage broker activities pursuant to NH RSA 397-A:3.
- 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the Department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this Chapter and the rules adopted pursuant to it and with the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.). In determining compliance, the Department may examine the books, accounts, records, files, and other documents or matters of any licensee or person. RSA 397-A:12 further requires every person being examined, and all of the officers, directors, employees, agents, and

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representatives of such person shall make freely available to the commissioner or his examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination. The Respondent violated this provision by failing to facilitate the examination.

- 4. Pursuant to RSA 397-A:11 licensees must return files to the department for review within 21 days of notification or face a \$50 penalty per day thereafter.
- 5. RSA 397-A:21 IV provides that any person who, either knowingly or negligently, violates any provision of Chapter 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire Banking laws.

RELIEF REQUESTED

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

- Find as fact the allegations contained in section I of this petition;
- Make conclusions of law relative to the allegations contained in section II of the this petition;
- Order the Respondent to Show Cause why its license should not be revoked;

1	4. Assess fines and administrative penalties in accordance with RSA
2	397-A:21, for violations of Chapter 397-A, in the number and amount
3	equal to the violations set forth in section II of this petition;
4	and
5	5. Take such other administrative and legal actions as necessary for
6	enforcement of the New Hampshire Banking Laws, the protection of
7	New Hampshire citizens, and to provide other equitable relief.
8	RIGHT TO AMEND
9	The Department reserves the right to amend this Staff Petition and to
10	request that the Commissioner take additional administrative action.
11	Nothing herein shall preclude the Department from bringing additional
12	enforcement action under RSA 397-A or the regulations thereunder.
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14	Respectfully submitted by:
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16	$\frac{/S/}{\text{James Shepard}}$
17	Staff Attorney
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