

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-176
)
 4 State of New Hampshire Banking)
) Cease and Desist Order
 5 Department,)
)
 6 and)
)
 7 Great Rate Mortgage Inc, Cheryl)
)
 8 Saladino, Tony Saladino III and Gary)
)
 9 Delally,)
)
 10 Respondents)
)

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12 NOTICE OF ORDER

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14 This Order commences an adjudicative proceeding under the provisions of
15 RSA 397-A:18 II and BAN 200 et seq.

16 LEGAL AUTHORITY AND JURISDICTION

17 Pursuant to RSA 397-A:18 II, the Banking Department of the State of New
18 Hampshire (hereinafter the "Department") has the authority to issue and cause
19 to be served an order requiring any person engaged in any act or practice
20 constituting a violation of RSA 397-A or any rule or order thereunder, to
21 cease and desist from violations of RSA 397-A.

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

25 Pursuant to RSA 383:10-d, the Commissioner shall have exclusive
authority and jurisdiction to investigate conduct that is or may be an unfair
or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or

1 that may violate any of the provisions of Titles XXXV and XXXVI and
2 administrative rules adopted thereunder. The Commissioner may hold hearings
3 relative to such conduct and may order restitution for a person or persons
4 adversely affected by such conduct. Nothing in this cause will impair a
5 consumer's right of recovery under that statute.

6 **NOTICE OF RIGHT TO REQUEST A HEARING**

7 The above named respondent has the right to request a hearing on this
8 Cease and Desist Order, as well as the right to be represented by counsel. If
9 the person to whom a cease and desist order is issued fails to request a
10 hearing within 30 calendar days of receipt of such order, then such person
11 shall be deemed in default, and the order shall, on the thirty-first day,
12 become permanent and shall remain in full force and effect until and unless
13 later modified or vacated by the commissioner, for good cause shown. Any such
14 request for a hearing shall be in writing, signed by the respondent or by the
15 duly authorized agent of the above named respondent, and shall be delivered
16 either by hand or certified mail, return receipt request, to the Banking
17 Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301.

18 A hearing shall be held not later than 10 days after the request for such
19 hearing is received by the commissioner. Within 20 days of the date of any such
20 hearing the commissioner shall issue a further order either vacating the cease
21 and desist order or making it permanent as the facts require. All hearings
22 shall comply with 541-A. If the person to whom a cease and desist order is
23 issued fails to appear at the requested hearing after being duly notified of
24 the date and time, such person shall be deemed in default, and the proceeding
25 may be determined against him or her upon consideration of the cease and desist
order, the allegations of which may be deemed to be true.

1 ordered and such further action as is necessary to determine
2 the proper amount of restitution.

3 SIGNED,

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5 Dated: 7/30/07

6 /s/
PETER C. HILDRETH
BANK COMMISSIONER

7 **NOTE: VIOLATION OF A CEASE AND DESIST ORDER IS A**
8 **CRIMINAL OFFENSE.**
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1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-176
)
 4 State of New Hampshire Banking) Cease and Desist Order
) Staff Petition
 5 Department,)
)
 6 and)
) July 18, 2007
 7 Great Rate Mortgage Inc, Cheryl)
)
 8 Saladino, Tony Saladino III and Gary)
)
 9 Delally,)
)
 10 Respondents)
)

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12 STATEMENT OF ALLEGATIONS

13 I. The staff of the Banking Department, State of New Hampshire (hereinafter
14 referred to as the "Department") alleges the following facts:

- 15 1. During an examination of a licensed entity, the Examiner in Charge
 16 ("EIC") noted the licensee had accepted mortgage originations from an
 17 entity they knew as Great Rate Mortgage Inc (hereinafter "Respondent
 18 Great Rate").
- 19 2. Respondent Great Rate's primary business location is Brandon, FL.
- 20 3. Respondent Cheryl Saladino (hereinafter "Respondent C. Saladino") is
 the Director/President of Respondent Great Rate.
- 21 4. Respondent Tony Saladino III (hereinafter "Respondent T. Saladino") is
 22 the Vice President of Respondent Great Rate.
- 23 5. Respondent Gary Delally (hereinafter "Respondent Delally") is the
 24 Secretary of Respondent Great Rate.
- 25 6. The EIC noted that Respondent Great Rate originated at least 2 loans,
 then placed these loans with the licensed entity in expectation of

1 compensation.

2 7. Respondent Great Rate was not licensed as a mortgage broker nor was it
3 entitled to any compensation. Respondent Great Rate engaged in
4 activity that required it to obtain a license.

5 II. The staff of the Banking Department, State of New Hampshire alleges the
6 following issues of law:

7 1. The Banking Department ("Department"), has jurisdiction over the
8 licensing and regulation of persons engaged in first mortgage banker /
9 broker activities pursuant to NH RSA 397-A:3.

10 2. Pursuant to the New Hampshire Banking laws, RSA 397-A:3 requires any
11 person not exempt under RSA 397-A:4 that, in its own name or on behalf
12 of other persons, engages in the business of making or brokering first
13 mortgage loans secured by real property located in this state shall be
14 required to obtain a license from the banking department.

15 3. Pursuant to NH RSA 397-A:18, the Department has the power to issue and
16 to serve an order requiring persons to cease and desist from violations
17 of the chapter whenever it has reasonable cause to believe that any
18 person has engaged in any act or practice constituting a violation of
19 the banking laws, or any rule or order thereunder. Respondent has
20 violated RSA 397-A:3 by conducting unlicensed mortgage banker / broker
21 activities in New Hampshire.

22 4. Pursuant to RSA 397-A:1 originators may only work for one mortgage
23 broker at a time.

24 5. Pursuant to RSA 397-A:16 only licensed mortgage brokers and bankers are
25 entitled to retain commissions for their services.

6 Pursuant to RSA 397-A:21 any person who, either knowingly or
negligently, violates any provision of this chapter may, upon notice and
opportunity for hearing, and in addition to any such other penalty

1 provided for by law, be subject to suspension, revocation or denial of
2 any registration or license, including forfeiture of any application fee,
3 or an administrative fine not to exceed \$2,500, or both. Each of the
4 acts specified shall constitute a separate violation, and each such
5 administrative action or fine may be imposed in addition to any criminal
6 or civil penalties imposed.

7 7. Also pursuant to RSA 397-A:21 every person who directly or indirectly
8 controls a person liable under this section, every partner, principal
9 executive officer or director of such person, every person occupying a
10 similar status or performing a similar function, every employee of such
11 person who materially aids in the act constituting the violation, and
12 every licensee or person acting as a common law agent who materially aids
13 in the acts constituting the violation, either knowingly or negligently,
14 may, upon notice and opportunity for hearing, and in addition to any
15 other penalty provided for by law, be subject to suspension, revocation,
16 or denial of any registration or license, including the forfeiture of any
17 application fee, or the imposition of an administrative fine not to
18 exceed \$2,500, or both.

19 8. Pursuant to RSA 383:10-d, the commissioner shall have exclusive
20 authority and jurisdiction to investigate conduct that is or may be an
21 unfair or deceptive act or practice under RSA 358-A and exempt under RSA
22 358-A:3, I or that may violate any of the provisions of Titles XXXV and
23 XXXVI and administrative rules adopted thereunder. The commissioner may
24 hold hearings relative to such conduct and may order restitution for a
25 person or persons adversely affected by such conduct.

RELIEF REQUESTED

The staff of the Banking Department requests the Commissioner take the
following action:

- 1 1. Find as fact the allegations contained in section I of the Statement of
2 Allegations of this petition.
- 3 2. Make conclusions of law relative to the allegations contained in section
4 II of the Statement of Allegations of this petition.
- 5 3. Pursuant to NH RSA 397-A:18, immediately Order Respondents to Cease and
6 Desist from violations of the New Hampshire Banking Laws and conducting
7 mortgage activity secured by any interest in New Hampshire real property
8 where licensure is required.
- 9 4. Issue a fine against each Respondent in the amount of \$2,500.00 for each
10 violation of the chapter.
- 11 5. Order the Respondents to refund all fees and/or commissions received as a
12 result of their unlicensed activity.
- 13 6. Take such other administrative and legal actions as are necessary for
14 enforcement of the New Hampshire Banking laws, the protection of New
15 Hampshire citizens, and to provide other equitable relief.

RIGHT TO AMEND

16 The Department reserves the right to amend this Petition for Relief and
17 to request that the Banking Department Commissioner take additional
18 administrative action. Nothing herein shall preclude the Department from
19 bringing additional enforcement action under RSA 397-A or the regulations
20 thereunder.

21 Respectfully submitted by:

22 _____
23 /s/
24 James Shepard
25 Staff Attorney

7/18/07
Date