

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-270  
 )  
 3 State of New Hampshire Banking ) Order to Show Cause  
 )  
 4 Department, )  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Full Circle Mortgage, LLC, Timothy )  
 )  
 8 Miller, and Marianne Teixeira )  
 )  
 9 Respondents

---

10  
11 NOTICE OF ORDER

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

14 LEGAL AUTHORITY AND JURISDICTION

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

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

22 NOTICE OF RIGHT TO REQUEST A HEARING

23 The above named respondent has the right to request a hearing on this  
24 Order to Show Cause, as well as the right to be represented by counsel at the  
25 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 respondent or  
the duly authorized agent of the above named respondent, and shall be

1 delivered either by hand or certified mail, return receipt requested, to the  
2 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH  
3 03301. Such hearings will be scheduled within 10 days of the request. If the  
4 Respondent fails to appear at the hearing after being duly notified, such  
5 person shall be deemed in default, and the proceeding may be determined against  
6 the Respondent upon consideration of the Order to Show Cause, the allegations  
7 of which may be deemed to be true.

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 November 16, 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 Respondent Full Circle Mortgage LLC shall  
24 show cause why:

25 1. Administrative penalties of \$2,500.00 should not be imposed;

and

2. Respondents license should not be revoked; and

It is further ORDERED, that



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-270  
 )  
 3 State of New Hampshire Banking ) Staff Petition  
 )  
 4 Department, )  
 )  
 5 Petitioner, ) November 16, 2007  
 )  
 6 and )  
 )  
 7 Full Circle Mortgage, LLC, Timothy )  
 )  
 8 Miller, and Marianne Teixeira, )  
 )  
 9 Respondent

---

10  
11 STATEMENT OF ALLEGATIONS

12 The Staff of the Banking Department, State of New Hampshire (hereinafter  
13 referred to as the "Department) alleges the following facts:

- 14 1. The Department began an examination of Respondent Full Circle  
15 Mortgage, LLC (hereinafter "Respondent FC") on June 11, 2007.
- 16 2. On or about September 17, 2007 the Department was scheduled to  
17 begin an on-site review of documents.
- 18 3. Respondent FC was licensed as a Mortgage Broker and at all times  
19 relevant to this action held a Department license since at least  
20 2006.
- 21 4. Respondent Timothy Miller is president and 50% owner of  
22 Respondent FC.
- 23 5. Respondent Marianne Teixeira is a 50% owner of Respondent FC.
- 24 6. The Department sent a notice of the upcoming on-site examination  
25 to Respondent FC via US Certified Mail on August 20, 2007 (7006  
3450 0000 0610 0068). The notice was returned to the Department

1 unclaimed.

2 7. The Examiner in Charge (hereinafter "EIC") contacted the  
3 Respondent several times via telephone and electronic mail in an  
4 attempt to arrange a time to conduct the on-site examination.  
5 The Respondent stated that it was moving its operations and the  
6 EIC was unsuccessful in getting a mutually convenient date from  
7 the Respondent for the examination.

8 8. To date the Respondent has not given the Department the  
9 opportunity for an on-site examination and has not properly  
10 notified the Department of its change in location.

11 9. On November 15, 2007 Respondent Teixeira indicated she had  
12 purchased Respondent Miller's share of the business, had all the  
13 files in her possession and indicated a continued reluctance to  
14 comply with examination requests.

15  
16 **ISSUES OF LAW**

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

- 18 1. The Department realleges the above stated facts in paragraphs 1  
19 through 9.
- 20 2. The Department has jurisdiction over the licensing and  
21 regulation of persons engaged in mortgage broker activities  
22 pursuant to NH RSA 397-A:3.
- 23 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the  
24 Department may examine the business affairs of any licensee or  
25 any other person, whether licensed or not, as it deems necessary  
to determine compliance with this Chapter and the rules adopted

1 pursuant to it and with the Consumer Credit Protection Act, as  
2 amended (15 U.S.C. 1601 et seq.). In determining compliance,  
3 the Department may examine the books, accounts, records, files,  
4 and other documents or matters of any licensee or person. RSA  
5 397-A:12 further requires every person being examined, and all  
6 of the officers, directors, employees, agents, and  
7 representatives of such person shall make freely available to  
8 the commissioner or his examiners, the accounts, records,  
9 documents, files, information, assets, and matters in their  
10 possession or control relating to the subject of the examination  
11 and shall facilitate the examination. The Respondents violated  
12 this provision by failing to facilitate the on-site examination.

13 4. RSA 397-A:21 IV provides that any person who, either knowingly  
14 or negligently, violates any provision of Chapter 397-A, may  
15 upon hearing, and in addition to any other penalty provided for  
16 by law, be subject to an administrative fine not to exceed  
17 \$2,500, or both. Each of the acts specified shall constitute a  
18 separate violation, and such administrative action or fine may  
19 be imposed in addition to any criminal penalties or civil  
20 liabilities imposed by New Hampshire Banking laws.

21 5. RSA 397-A:21 V provides that every person who directly or  
22 indirectly controls a person liable under this section, every  
23 partner, principal executive officer or director of such person,  
24 every person occupying a similar status or performing a similar  
25 function, every employee of such person who materially aids in  
the act constituting the violation, and every licensee or person

1 acting as a common law agent who materially aids in the acts  
2 constituting the violation, either knowingly or negligently, may,  
3 upon notice and opportunity for hearing, and in addition to any  
4 other penalty provided for by law, be subject to suspension,  
5 revocation, or denial of any registration or license, including  
6 the forfeiture of any application fee, or the imposition of an  
7 administrative fine not to exceed \$2,500, or both. Each of the  
8 acts specified shall constitute a separate violation, and such  
9 administrative action or fine may be imposed in addition to any  
10 criminal or civil penalties imposed.

11 **RELIEF REQUESTED**

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

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

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

equitable relief.

**RIGHT TO AMEND**

The Department reserves the right to amend this Staff Petition and to request that the Commissioner take additional administrative action.

Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

        /S/    
James Shepard  
Staff Attorney

11/16/07  
Date