1	State of New Hampshire Banking Department			
2	In re the Matter of:) Case No.: 07-275		
3	State of New Hampshire Banking)) Order to Show Cause		
4	Department,)		
5	Petitioner,)		
6	and)		
7	Heartland Home Finance Inc.,			
8	Heartland Enterprise, Inc., Jay W.)		
9	Dunsing and Donald Flynn,)		
10	Respondents			
11				
12	NOTICE OF ORDER			
13	This Order commences an adjudicative proceeding under the provisions of			
14	RSA 397-A:17, RSA 541-A, BAN 200 and JUS 800.			
15	LEGAL AUTHORITY AND JURISDICTION			
	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 3	New Hampshire banking law and rules.		
22	NOTICE OF RIGHT TO REQUEST A HEARING			
23	The above named respondents have	the right to request a hearing on this		
24	Order to Show Cause, as well as the right to be represented by counsel at			
25		earings 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 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:

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 Administrative penalties of \$2,500.00 should not be imposed against each named Respondent; and

 Statutory penalties in the amount of \$8,400.00 should not be imposed; and

1	3. Respondent Heartland Home Finance Inc.'s license should not be		
2	revoked; and		
3	It is hereby ORDERED that:		
4	4. Failure to request a hearing within 30 days of the date of		
5	receipt of this Order shall result in a default judgment being		
6	rendered, license revocation and administrative penalties		
	imposed upon the defaulting Respondent.		
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8	SIGNED,		
9	Dated: <u>11/16/07</u> /S/		
10	PETER C. HILDRETH BANK COMMISSIONER		
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1	State of New Hampshire Banking Department			
2	In re the	Matter of:	Case No.: 07-275	
3	State of N	Wew Hampshire Banking	Staff Petition	
4	Department	,		
5		Petitioner,	November 16, 2007	
6	and			
7	Heartland	Home Finance Inc.,		
8	Heartland	Enterprise, Inc., Jay W.		
9) Dunsing and Donald Flynn,			
10	Respondent			
11		_		
12	STATEMENT OF ALLEGATIONS			
13	The Staff of the Banking Department, State of New Hampshire (hereinafter			
14	referred to as the "Department) alleges the following facts:			
15	1.	1. On or about June 4, 2007 the Department was scheduled to begin an		
16		examination of Heartland	Home Finance Inc. (hereinafter	
17		"Respondent Heartland HF").		
18	2.	Heartland Enterprises, Inc.	(hereinafter "Respondent HE") is 100%	
19		owner of Respondent Heartlan	nd HF.	
20	3.	Jay W. Dunsing (hereinafte:	"Respondent Dunsing") is a Director	
21		and President of Heartland H	IF.	
22	4.	Donald Flynn (hereinafter	"Respondent Flynn") is a Director and	
23		Vice President of Heartland	HF.	
24	5.	Respondent was licensed as	a Mortgage Banker and at all times	
25		relevant to this action hel	d a Department license since at least	
		2003.		

The Department sent a notice of an upcoming examination to the 1 6. Respondent via US Certified Mail on May 7, 2007 (7006 3450 0000 2 0611 5703). The Respondent received and signed for the notice on 3 4 or about May 11, 2007. The Department sent a second notice to the Respondent via US 7. 5 Certified Mail on July 26, 2007 (7002 2410 0005 1958 9502). 6 The 7 Respondent received and signed for the notice on or about July 30, 2007. 8 8. The Department sent a third notice to the Respondent via US 9 Certified Mail on September 12, 2007 (7006 3450 0000 0609 9300). 10 The Respondent received and signed for the notice on or about 11 12 September 17, 2007. 13 9. To date the Respondent has failed to facilitate the examination. 21 Days from May 11th is June 1st. It has been 168 days since June 10. 14 4^{th} with no production of exam materials. 15 16 17 ISSUES OF LAW 18 The staff of the Department, alleges the following issues of law: 1. The Department realleges the above stated facts in paragraphs 1 19 20 through 10. Department has jurisdiction over the licensing 21 2. The and regulation of persons engaged in mortgage banker activities 22 pursuant to NH RSA 397-A:3. 23 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 24 the 25 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 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.

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- 4. Pursuant to New Hampshire Banking law, RSA 397-A:11 the examinee must provide documents requested within 21 days or face a \$50 penalty per day for every 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.
- 6. RSA 397-A:21 V provides that every person who directly or indirectly controls a person liable under this section, every

partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of 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 or civil penalties imposed.

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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;
- 3. Order the Respondents to Show Cause why its license should not be revoked;
- 4. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number and amount equal to the violations set forth in section II of this petition; and

5. Take such other administrative and legal actions as necessary for

1	enforcement of the New Hampshire Banking Laws, the protection of New			
2	Hampshire citizens, and to provide other equitable relief.			
3	RIGHT TO AMEND			
4	The Department reserves the right to amend this Staff Petition and to			
5	request that the Commissioner take additional administrative action.			
6	Nothing herein shall preclude the Department from bringing additional			
7	enforcement action under RSA 397-A or the regulations thereunder.			
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9	Respectfully submitted by:			
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11	/S/ 11/16/07 James Shepard Date			
12	Staff Attorney			
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