

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-301  
) )  
3 State of New Hampshire Banking )  
) )  
4 Department, ) Order to Show Cause  
) )  
5 Petitioner, )  
) )  
6 and )  
) )  
7 Nation One Mortgage Company Inc, and )  
) )  
8 Mark C. Tribuna, )  
) )  
9 Respondents )

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10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions  
12 of RSA 397-A and RSA 541-A.

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 and penalties for violations of New  
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, the Department has the authority to issue a  
19 complaint setting forth charges whenever the Department is of the opinion  
20 that the licensee or person over whom the Department has jurisdiction is  
21 violating or has violated any provision of RSA Chapter 397-A, or any rule or  
22 order thereunder.

23 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or  
24 rescind such orders as are reasonably necessary to comply with the  
25 provisions of the Chapter.

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

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct  
6 that is or may be an unfair or deceptive act or practice under RSA 358-A and  
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of  
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The  
9 Commissioner may hold hearings relative to such conduct and may order  
10 restitution for a person or persons adversely affected by such conduct.

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

12 The above named Respondents have the right to request a hearing on  
13 this Order to Show Cause, as well as the right to be represented by counsel  
14 at each Respondent's own expense. All hearings shall comply with RSA 541-A.  
15 Any such request for a hearing shall be in writing, and signed by the  
16 Respondent or the duly authorized agent of the above named Respondent, and  
17 shall be delivered either by hand or certified mail, return receipt  
18 requested, to the Banking Department, State of New Hampshire, 53 Regional  
19 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within  
20 10 days of the Department's receipt of the request. If the Respondent fails  
21 to appear at the hearing after being duly notified, such person shall be  
22 deemed in default, and the proceeding may be determined against the Respondent  
23 upon consideration of the Order to Show Cause, the allegations of which may be  
24 deemed to be true.

25 If any of the above named Respondents fails to request a hearing within

1 30 calendar days of receipt of such order or reach a formal written and  
2 executed settlement with the Department within that time frame, then such  
3 person shall likewise be deemed in default, and the orders shall, on the  
4 thirty-first day, become permanent, and shall remain in full force and effect  
5 until and unless later modified or vacated by the Commissioner, for good cause  
6 shown.

7 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

8 The Staff Petition dated June 10, 2009 (a copy of which is attached  
9 hereto) is incorporated by reference hereto.

10 **ORDER**

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

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

16 It is hereby ORDERED, that:

- 17 1. Respondent Nation One Mortgage Company Inc ("Respondent  
18 Nation One") shall show cause why penalties in the amount of  
19 \$5,000.00 should not be imposed against it;
- 20 2. Respondent Mark C. Tribuna ("Respondent Tribuna") shall show  
21 cause why penalties in the amount of \$7,500.00 should not be  
22 imposed against him;
- 23 3. The above named Respondents shall show cause why, in addition  
24 to the penalties listed in Paragraphs 1 through 2 above,

1 statutory penalties of \$2,500.00 should not be imposed for  
2 failing to file the 2007 annual report;

3 4. The above named Respondents shall be jointly and severally  
4 liable for the above amounts alleged in Paragraphs 1 through  
5 3 above;

6 5. The above named Respondents shall show cause why, in addition  
7 to the penalties listed in Paragraphs 1 through 4 above,  
8 Respondent Nation One's license should not be revoked.

9 It is hereby further ORDERED that:

10 6. Along with the administrative penalties listed for the above  
11 named Respondents, the outstanding sum of \$2,500.00 shall be  
12 immediately paid; and

13 7. Failure to request a hearing within 30 days of the date of  
14 receipt or valid delivery of this Order shall result in a  
15 default judgment being rendered and administrative penalties  
16 imposed upon the defaulting Respondent(s).

17  
18 SIGNED,

19  
20 Dated: 06/10/09

\_\_\_\_\_  
21 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 07-301  
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 3 State of New Hampshire Banking )  
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 4 Department, ) Staff Petition  
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 5 Petitioner, ) June 10, 2009  
 )  
 6 and )  
 )  
 7 Nation One Mortgage Company Inc, and )  
 )  
 8 Mark C. Tribuna, )  
 )  
 9 Respondents )

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10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter  
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent Nation One Mortgage Company Inc (hereinafter  
15 "Respondent Nation One") was licensed as a Mortgage Banker from  
16 at least 1997 until it surrendered its license on May 2, 2007.
- 17 2. Respondent Mark C. Tribuna (hereinafter "Respondent Tribuna")  
18 was the President and Chief Executive Officer of Respondent  
19 Nation One, when licensed by the Department.

20 Violation of RSA 397-A:10-a,I(a) Failure to Properly Surrender License (1  
21 Count):

22 Violation of RSA 397-A:13,I Failure to File Annual Report (1 Count):

23 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to  
24 Department Inquiries (1 Count):

- 25 3. Paragraphs 1 through 2 are hereby realleged as fully set forth



1 of persons engaged in mortgage banker or broker activities  
2 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

3 3. RSA 397-A:10-a,I(a) provides that a licensee who ceases to engage  
4 in the business of a mortgage banker or mortgage broker at any  
5 time during a license year for any cause shall surrender such  
6 license in person or by registered or certified mail to the  
7 Commissioner within 15 calendar days of such cessation, and shall  
8 cause to be published in a newspaper of general circulation in the  
9 licensee's market area a notice to such effect. Each of the above  
10 named Respondents violated this statute on at least one occasion  
11 as alleged above.

12 4. RSA 397-A:13,I provides that a licensee shall file its annual  
13 report on or before February 1 each year concerning operations  
14 for the preceding year or license period ending December 31.  
15 Each of the above named Respondents violated this provision on at  
16 least one occasion as alleged above.

17 5. RSA 397-A:13,IV provides that any mortgage banker or broker  
18 failing to file the annual report or financial statement within  
19 the time prescribed may be required to pay to the Department a  
20 penalty of \$25.00 per calendar day for each day the annual report  
21 is overdue, for a maximum of \$2,500.00. Each of the above named  
22 Respondents failed to file the annual report, which capped at the  
23 maximum of \$2,500.00.

24 6. RSA 397-A:13,VI provides that any officer, owner, manager or agent  
25 of any licensee shall reply promptly in writing, or other

1 designated form, to any written inquiry from the Department.  
2 Respondent Tribuna violated this provision on at least one  
3 occasion as alleged above.

4 7. RSA 397-A:17,I provides in part that the Commissioner may by  
5 order, upon due notice and opportunity for hearing, assess  
6 penalties or deny, suspend, or revoke a license or application if  
7 it is in the public interest and the applicant, respondent, or  
8 licensee, any partner, officer, member, or director, any person  
9 occupying a similar status or performing similar functions, or  
10 any person directly or indirectly controlling the applicant,  
11 respondent, or licensee: (a) has violated any provision of RSA  
12 Chapter 397-A or rules thereunder, or (b) has not met the  
13 standards established in RSA Chapter 397-A.

14 8. RSA 397-A:18,I provides that the Department may issue a complaint  
15 setting forth charges whenever the Department is of the opinion  
16 that the licensee or person over whom the Department has  
17 jurisdiction, has violated any provision of RSA Chapter 397-A or  
18 orders thereunder.

19 9. RSA 397-A:21,IV provides that any person who, either knowingly or  
20 negligently, violates any provision of RSA Chapter 397-A, may  
21 upon hearing, and in addition to any other penalty provided for  
22 by law, be subject to an administrative fine not to exceed  
23 \$2,500.00, or both. Each of the acts specified shall constitute  
24 a separate violation, and such administrative action or fine may  
25 be imposed in addition to any criminal penalties or civil



1 liabilities imposed by New Hampshire Banking laws.

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

18 **III. RELIEF REQUESTED**

19 The staff of the Department requests the Commissioner take the following  
20 action:

- 21 1. Find as fact the allegations contained in section I of this Staff  
22 Petition;
- 23 2. Make conclusions of law relative to the allegations contained in  
24 section II of this Staff Petition;
- 25 3. Pursuant to RSA 397-A:17, order each of the above named

