

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 07-322  
 )  
 4 State of New Hampshire Banking ) Cease and Desist Order  
 )  
 5 Department, )  
 )  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 Brownstone Mortgage LLC, )  
 )  
 9 Respondents )  
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11 This Order commences an adjudicative proceeding under the provisions of  
12 RSA 397-A:18, RSA 541-A, BAN 200 and JUS 800 as applicable.

13 LEGAL AUTHORITY AND JURISDICTION

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

19 NOTICE OF RIGHT TO REQUEST A HEARING

20 The above named respondent has the right to request a hearing on this  
21 Cease and Desist Order, as well as the right to be represented by counsel. If  
22 the person to whom a cease and desist order is issued fails to request a  
23 hearing within 30 calendar days of receipt of such order, then such person  
24 shall be deemed in default, and the order shall, on the thirty-first day,  
25 become permanent and shall remain in full force and effect until and unless  
later modified or vacated by the commissioner, for good cause shown. Any such  
request for a hearing shall be in writing, signed by the respondent or by the

1 duly authorized agent of the above named respondent, and shall be delivered  
2 either by hand or certified mail, return receipt request, to the Banking  
3 Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301.

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

12 **STATEMENT OF ALLEGATIONS, APPLICABLE LAW, AND RELIEF REQUESTED**

13 The Staff Petition dated December 17, 2007 (a copy of which is attached  
14 hereto) is incorporated by reference hereto.

15 **ORDER**

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

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

21 It is hereby ORDERED, that:

- 22 1. The Respondent shall immediately cease originating loans from  
23 unlicensed locations; and
- 24 2. The Respondent shall immediately cease accepting originations  
25 from unlicensed locations; and
3. The Respondent shall show cause why it should not pay  
administrative penalties in the amount of \$2,500.00 per loan



1 State of New Hampshire Banking Department

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 7 and )  
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 9 Respondents )  
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11 STATEMENT OF ALLEGATIONS

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

- 15 1. On or about December 10, 2007 the Department began conducting an  
16 examination of Brownstone Mortgage LLC (hereinafter  
17 "Respondent").
- 18 2. The Respondent is licensed as a Mortgage Broker and at all times  
19 relevant to this action has held a Department license since at  
20 least November 5, 2007.
- 21 3. The Respondent has only one licensed location, 19 Hull Street,  
22 Wenham, MA 01984 (hereinafter "Licensed Location").
- 23 4. As of the date of this Petition there are no pending branch  
24 applications for the Respondent.
- 25 5. During the course of the examination, the Examiner in Charge  
(hereinafter "EIC") noted that the Respondent had accepted

1 applications from two locations, 341 South Broadway, Salem, NH  
2 03079 and 185 A Plaistow Road, Plaistow, NH 03865 (hereinafter  
3 "Unlicensed Locations"), both of which are licensed as branches  
4 under an entity separate from the Respondent.

5 6. The EIC noted that the documents generated during origination  
6 show that the Unlicensed Locations are conducting business using  
7 the name of the Respondent.

8 7. At least 2 loan transactions have taken place from the Unlicensed  
9 Locations.

10 **ISSUES OF LAW**

11 II. The staff of the Department, alleges the following issues of law:

12 1. The Department realleges the above stated facts in paragraphs 1  
13 through 7.

14 2. The Department has jurisdiction over the licensing and  
15 regulation of persons engaged in mortgage broker activities  
16 pursuant to NH RSA 397-A:3.

17 3. Pursuant to RSA 397-A:5 III (a) the license issued for the  
18 licensee's principal place of business shall be referred to as a  
19 "principal office license." Each additional license issued for  
20 mortgage lending or brokering activity occurring in a location  
21 in this state that is separate from the licensee's principal  
22 place of business shall be referred to as a "branch office  
23 license." If the applicant or licensee desires to make or  
24 broker mortgage loans in more than one location, the  
25 commissioner, upon favorable action on the applicant's principal  
office license, shall issue a branch office license for each

1 location where the business of making or brokering mortgage  
2 loans is to be conducted.

3 4. RSA 397-A:18 provides that the Department may issue a Cease and  
4 Desist Order against anyone who it has reasonable cause to  
5 believe is in violation of the provisions of the Chapter or a  
6 rule or order under the Chapter.

7 5. RSA 397-A:21 IV provides that any person who, either knowingly or  
8 negligently, violates any provision of this chapter may, upon  
9 notice and opportunity for hearing, and in addition to any such  
10 other penalty provided for by law, be subject to suspension,  
11 revocation or denial of any registration or license, including  
12 forfeiture of any application fee, or an administrative fine not  
13 to exceed \$2,500, or both. Each of the acts specified shall  
14 constitute a separate violation, and such administrative action  
15 or fine may be imposed in addition to any criminal penalties or  
16 civil liabilities imposed by New Hampshire Banking laws.

17 **RELIEF REQUESTED**

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

- 20 1. Find as fact the allegations contained in section I of the  
21 Statement of Allegations of this petition.  
22 2. Make conclusions of law relative to the allegations contained in  
23 section II of the Statement of Allegations of this petition.  
24 3. Pursuant to NH RSA 397-A:18, Order Respondent to immediately Cease  
25 and Desist from violations of the chapter.  
4. Take such other administrative and legal actions as are necessary  
for enforcement of the New Hampshire Banking laws, the protection

1 of New Hampshire citizens, and to provide other equitable relief.

2 **RIGHT TO AMEND**

3 The Department reserves the right to amend this Petition for Relief and  
4 to request that the Banking Department Commissioner take additional  
5 administrative action. Nothing herein shall preclude the Department from  
6 bringing additional enforcement action under RSA 399-A or the regulations  
7 thereunder.

8 Respectfully Submitted:

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11 /s/  
12 James Shepard  
13 Staff Attorney  
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