

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-027
))
3 State of New Hampshire Banking) Order to Show Cause
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4 Department,)
))
5 Petitioner,)
))
6 and)
))
7 Homecomings Financial, LLC,)
))
8 Respondent)
))

9
10 NOTICE OF ORDER

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

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

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

21 NOTICE OF RIGHT TO REQUEST A HEARING

22 The above named respondents have the right to request a hearing on this
23 Order to Show Cause, as well as the right to be represented by counsel at
24 each Respondent's own expense. All hearings shall comply with RSA 541-A. Any
25 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

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

7 If the Respondent fails to request a hearing within 30 calendar days of
8 receipt of such order or reach formal settlement with the Department within
9 that time frame, then such person shall likewise be deemed in default, and the
10 orders shall, on the thirty-first day, become permanent, and shall remain in
11 full force and effect until and unless later modified or vacated by the
12 commissioner, for good cause shown.

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

14 The Staff Petition dated February 4, 2008 (a copy of which is attached
15 hereto) is incorporated by reference hereto.

16 **ORDER**

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

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

22 It is hereby ORDERED, that the Respondent shall show cause why:

- 23 1. Administrative penalties of \$2,500.00 should not be imposed
24 against each named Respondent; and
- 25 2. Respondent Homecomings Financial LLC's license should not be
revoked; and

It is hereby ORDERED that:

3. Respondent shall immediately comply with the November 29, 2007
order; and

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-027
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 3 State of New Hampshire Banking) Staff Petition
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 4 Department,)
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 5 Petitioner,) February 4, 2008
)
 6 and)
)
 7 Homecomings Financial, LLC,)
)
 8 Respondent)
)

9
10 STATEMENT OF ALLEGATIONS

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

- 13 1. Respondent is licensed as a Mortgage Banker and at all times
 14 relevant to this action has held a Department license since at
 15 least 2006.
- 16 2. On November 29, 2007 Commissioner Hildreth issued an Order that
 17 licensed Mortgage Bankers shall designate a member of their
 18 organization to communicate with Department personnel and New
 19 Hampshire consumers on foreclosure and workout issues.
- 20 3. Notice of this order was mailed directly to the Respondents by
 21 the undersigned on or about November 30, 2007.
- 22 4. Licensees were to provide a Workout Contact to the Department
 23 within 7 days of said Order.
- 24 5. To date, the Respondent has failed to provide the Department with
 25 a Workout Contact.
6. On January 30, 2008 Consumer A contacted the Department asking

1 for assistance in communicating with the Respondent.

2 7. On January 30, 2008 a member of the Department staff contacted
3 the Respondent and spoke with a representative who stated she
4 would give the message to the person assigned to Consumer A's
5 account.

6 8. On January 31, 2008 a member of the Department staff again
7 contacted the Respondent and left two voice messages with the
8 person assigned to Consumer A's account.

9 9. On February 1, 2008 a member of the Department staff again
10 contacted the Respondent via their designated complaint response
11 contact and left a voice message with no return contact.

12 10. To date neither Consumer A nor the Department has been contacted
13 by the Respondent.

14
15 **ISSUES OF LAW**

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

17 1. The Department realleges the above stated facts in paragraphs 1
18 through 10.

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

22 3. Pursuant to New Hampshire RSA 397-A:2 persons subject to or
23 licensed under this chapter shall abide by applicable federal
24 laws and regulations, the laws and rules of this state, and the
25 orders of the commissioner. Any violation of such law,
regulation, order or rule is a violation of this chapter. The

1 Respondent violated this provision by failing to designate a
2 Workout Contact pursuant to the Commissioner's Order.

- 3 4. RSA 397-A:21 IV provides that any person who, either knowingly
4 or negligently, violates any provision of Chapter 397-A, may
5 upon hearing, and in addition to any other penalty provided for
6 by law, be subject to an administrative fine not to exceed
7 \$2,500, or both. Each of the acts specified shall constitute a
8 separate violation, and such administrative action or fine may
9 be imposed in addition to any criminal penalties or civil
10 liabilities imposed by New Hampshire Banking laws.

11
12 **RELIEF REQUESTED**

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

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

RIGHT TO AMEND

