

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-039
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Accredited Mortgage Corp, Gary W)
)
 8 Field, Marjorie A. Field, and)
)
 9 Jonathan W. Wentworth,
)
 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

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

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

23 NOTICE OF RIGHT TO REQUEST A HEARING

24 The above named respondents have the right to request a hearing on this
25 Order to Show Cause, as well as the right to be represented by counsel at
each 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 respondents

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

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

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

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

18 **ORDER**

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

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

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

25 1. Administrative penalties of \$2,500.00 should not be imposed
26 against each named Respondent for violation of the Chapter;

27 and

28 2. Statutory penalties of \$11,850.00 should not be imposed
29 against Respondent Accredited pursuant to RSA 397-A:11; and

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3. Respondent Accredited's license should not be revoked; and

It is hereby ORDERED that:

4. The outstanding invoice in the amount of \$500.00 shall be paid; and

5. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being rendered, license revocation and administrative penalties imposed upon the defaulting Respondent.

SIGNED,

Dated: 2/14/08

/s/

PETER C. HILDRETH
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-039
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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 14, 2008
)
 6 and)
)
 7 Accredited Mortgage Corp, Gary W)
)
 8 Field, Marjorie A. Field, and)
)
 9 Jonathan W. Wentworth,
 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. On or about June 25, 2007, the Department was scheduled to begin
16 an examination of Accredited Mortgage Corp (hereinafter
17 "Respondent Accredited").
- 18 2. Respondent Gary W. Field is, or was at all relevant times,
19 President and partial Owner of Respondent Accredited.
- 20 3. Respondent Marjorie A. Field is, or was at all relevant times, a
21 Director and partial Owner of Respondent Accredited.
- 22 4. Respondent Jonathan W. Wentworth is, or was at all relevant
23 times, a Vice President of Respondent Accredited.
- 24 5. Respondent was licensed as a Mortgage Broker and at all times
25 relevant to this action held a Department license since at least
1997.

- 1 6. The Department sent a notice of an upcoming examination to the
2 Respondent via US Certified Mail on May 24, 2007 (mail piece
3 number 7006 3450 0000 0611 8933). The Respondent received and
4 signed for the notice on or about June 1, 2007.
- 5 7. Respondent Field verified the notice of examination was received
6 in an email with Kimothy Griffin. Mr. Griffin confirmed in the
7 email that the Department was required to conduct the examination
8 regardless of Respondent Accredited's intent to surrender its
9 license.
- 10 8. On or about September 5, 2007 the Examiner in Charge (hereinafter
11 "EIC") notified Respondent Field that the exam materials had not
12 been received by the Department and a fine of \$50.00 per day was
13 accruing.
- 14 9. The Department sent a final notice to the Respondent via US
15 Certified Mail and on or about October 24, 2007 (mail piece
16 number 7007 1490 0000 0420 3733). The notice was returned to the
17 Department by the Post Office "unclaimed".
- 18 10. To date the Respondent has failed to facilitate the examination.
- 19 11. June 22, 2007 was the end of the 21-day grace period.
- 20 12. It has been 237 days since June 22nd without any production of
21 documents.
- 22 13. The Department sent an invoice in the amount of \$500.00 for the
23 cost of the examination to Respondent Accredited on November 20,
24 2007. To date the invoice remains unpaid.
- 25

ISSUES OF LAW

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

- 2 1. The Department realleges the above stated facts in paragraphs 1
3 through 11.
- 4 2. The Department has jurisdiction over the licensing and
5 regulation of persons engaged in mortgage broker activities
6 pursuant to NH RSA 397-A:3.
- 7 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the
8 Department may examine the business affairs of any licensee or
9 any other person, whether licensed or not, as it deems necessary
10 to determine compliance with this Chapter and the rules adopted
11 pursuant to it and with the Consumer Credit Protection Act, as
12 amended (15 U.S.C. 1601 et seq.). In determining compliance,
13 the Department may examine the books, accounts, records, files,
14 and other documents or matters of any licensee or person. RSA
15 397-A:12 further requires every person being examined, and all
16 of the officers, directors, employees, agents, and
17 representatives of such person shall make freely available to
18 the commissioner or his examiners, the accounts, records,
19 documents, files, information, assets, and matters in their
20 possession or control relating to the subject of the examination
21 and shall facilitate the examination. The Respondent violated
22 this provision by failing to facilitate the examination.
- 23 4. RSA 397-A:11 provides for a fine of \$50 per day for every day
24 that records are not produced after 21 days.
- 25 5. RSA 397-A:12 provides that the expense of such examination shall
be chargeable to and paid by the licensee.

- 1 6. RSA 383:11 I provides that no institution shall be charged or
2 pay less than one full day for the cost of the examination.
- 3 7. RSA 383:11 III provides that payments of the charges for the
4 cost of the examination be made within 60 days of receipt of the
5 notice.
- 6 8. RSA 397-A:21 IV provides that any person who, either knowingly
7 or negligently, violates any provision of Chapter 397-A, may
8 upon hearing, and in addition to any other penalty provided for
9 by law, be subject to an administrative fine not to exceed
10 \$2,500, or both. Each of the acts specified shall constitute a
11 separate violation, and such administrative action or fine may
12 be imposed in addition to any criminal penalties or civil
13 liabilities imposed by New Hampshire Banking laws.
- 14 9. RSA 397-A:21 V provides that every person who directly or
15 indirectly controls a person liable under this section, every
16 partner, principal executive officer or director of such person,
17 every person occupying a similar status or performing a similar
18 function, every employee of such person who materially aids in
19 the act constituting the violation, and every licensee or person
20 acting as a common law agent who materially aids in the acts
21 constituting the violation, either knowingly or negligently, may,
22 upon notice and opportunity for hearing, and in addition to any
23 other penalty provided for by law, be subject to suspension,
24 revocation, or denial of any registration or license, including
25 the forfeiture of any application fee, or the imposition of an
 administrative fine not to exceed \$2,500, or both. Each of the

1 acts specified shall constitute a separate violation, and such
2 administrative action or fine may be imposed in addition to any
3 criminal or civil penalties imposed.

4 **RELIEF REQUESTED**

5 The staff of the Department requests the Commissioner take the following
6 Action:

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

18 **RIGHT TO AMEND**

19 The Department reserves the right to amend this Staff Petition and to
20 request that the Commissioner take additional administrative action.
21 Nothing herein shall preclude the Department from bringing additional
22 enforcement action under RSA 397-A or the regulations thereunder.

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Respectfully submitted by:

 /S/
James Shepard
Staff Attorney

2/14/08
Date