

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-128  
 )  
 3 State of New Hampshire Banking )  
 4 Department, ) Order to Show Cause  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Gibraltar Funding Corp. (d/b/a IBB )  
 )  
 8 Funding), and Anthony Miller, )  
 )  
 9 Respondents )

---

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 5, 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 Gibraltar Funding Corp. (d/b/a IBB Funding)  
18 ("Respondent IBB Funding") shall show cause why penalties in  
19 the amount of \$2,500.00 should not be imposed against it;
- 20 2. Respondent Anthony Miller ("Respondent Miller") shall show  
21 cause why penalties in the amount of \$5,000.00 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, the  
25 \$955.00 examination fee should not be paid to the Department;



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-128  
3 State of New Hampshire Banking )  
4 Department, ) Staff Petition  
5 Petitioner, ) June 5, 2009  
6 and )  
7 Gibraltar Funding Corp. (d/b/a IBB )  
8 Funding), and Anthony Miller, )  
9 Respondents )

---

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 Gibraltar Funding Corp. (d/b/a IBB Funding)  
15 (hereinafter "Respondent IBB Funding") was licensed as a  
16 Mortgage Banker from at least April 14, 2006 (with an amended  
17 license date of October 5, 2006) until it surrendered its  
18 license on July 20, 2007.

19 2. Respondent Anthony Miller (hereinafter "Respondent Miller") was  
20 the 100% owner and Member of Respondent IBB Funding, when  
21 licensed by the Department.

22 Violation of RSA 397-A:12,V Failure to Pay Examination Fee (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 named Respondents violated this provision on at least one  
2 occasion as alleged above. To date, the above named Respondents  
3 have failed to pay the \$955.00 examination invoice.

4 4. RSA 397-A:13,VI provides that any officer, owner, manager or agent  
5 of any licensee shall reply promptly in writing, or other  
6 designated form, to any written inquiry from the Department.  
7 Respondent Miller violated this provision on at least one  
8 occasion as alleged above.

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

19 6. RSA 397-A:18,I provides that the Department may issue a complaint  
20 setting forth charges whenever the Department is of the opinion  
21 that the licensee or person over whom the Department has  
22 jurisdiction, has violated any provision of RSA 397-A or orders  
23 thereunder.

24 7. RSA 397-A:21,IV provides that any person who, either knowingly or  
25 negligently, violates any provision of Chapter 397-A, may upon

1 hearing, and in addition to any other penalty provided for by  
2 law, be subject to an administrative fine not to exceed  
3 \$2,500.00, or both. Each of the acts specified shall constitute  
4 a separate violation, and such administrative action or fine may  
5 be imposed in addition to any criminal penalties or civil  
6 liabilities imposed by New Hampshire Banking laws.

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

23 **III. RELIEF REQUESTED**

24 The staff of the Department requests the Commissioner take the following  
25 action:



