State of New Hampshire Banking Department

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3 | In re the Matter of:

) Case No.: 08-183

4 | State of New Hampshire Banking

) Cease and Desist Order

5 | Department,

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6 Petitioner,

and

American Home Loans,

Respondent

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This Order commences an adjudicative proceeding under the provisions of RSA 397-A:18, RSA 383:10-d, RSA 541-A, BAN 200 and JUS 800 as applicable.

LEGAL AUTHORITY AND JURISDICTION

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

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

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondents have the right to request a hearing on this Cease and Desist Order, as well as the right to be represented by counsel. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall be deemed in default, and the order shall, on the thirty-first day, 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 duly authorized agent of the above named respondent, and shall be delivered either by hand or certified mail, return receipt request, to the Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301.

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

STATEMENT OF ALLEGATIONS, APPLICABLE LAW, AND RELIEF REQUESTED

The <u>Staff Petition</u> dated May 13, 2008 (a copy of which is attached hereto) is incorporated by reference hereto.

ORDER

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

| 1 | WHEREAS, finding that the allegations contained in the Staff Petition, |
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| 2 | if proved true and correct, form the legal basis of the relief requested, |
| 3 | It is hereby ORDERED, that: |
| 4 | 1. The Respondent is hereby ordered to immediately cease engaging |
| 5 | in the activity of a mortgage banker / broker on residential |
| 6 | property in New Hampshire; and |
| 7 | 2. The Respondent shall show cause why it should not pay |
| | administrative penalties in the amount of \$2,500.00 each per |
| 8 | violation of Chapter 397-A; and |
| 9 | 3. The Respondent shall show cause why it should not have to |
| 10 | reimburse Consumer A all payments, fees and any other costs |
| 11 | collected; and |
| 12 | 4. Failure to request a hearing within 30 days of the date of |
| 13 | receipt of this Order shall result in a default judgment being |
| 14 | rendered and administrative penalties being imposed upon the |
| 15 | defaulting Respondent. SIGNED, |
| 16 | SIGNED, |
| 17 | Dated: 5/27/08 /S/ |
| 18 | PETER C. HILDRETH BANK COMMISSIONER |
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Respondent on the loan that closed on June 18, 2007.

broker processing fee, broker origination fee, and points to the

4. The Respondent was not licensed as a mortgage broker, nor was it entitled to collect fees. The Respondent engaged in activity that required it to obtain a license.

ISSUES OF LAW

- II. The staff of the Department, alleges the following issues of law:
 - The Department realleges the above stated facts in paragraphs 1 through 4.
 - 2. The Banking Department ("Department"), has jurisdiction over the licensing and regulation of persons engaged in first mortgage banker / broker activities pursuant to NH RSA 397-A:3.
 - 3. Pursuant to the New Hampshire Banking laws, RSA 397-A:3 requires any person not exempt under RSA 397-A:4 that, in its own name or on behalf of other persons, engages in the business of making or brokering first mortgage loans secured by real property located in this state shall be required to obtain a license from the banking department.
 - 4. Pursuant to NH RSA 397-A:18, the Department has the power to issue and to serve an order requiring persons to cease and desist from violations of the chapter whenever it has reasonable cause to believe that any person has engaged in any act or practice constituting a violation of the banking laws, or any rule or order thereunder. Respondent has violated RSA 397-A:3 by conducting unlicensed mortgage banker / broker activities in New Hampshire.
 - 5. Pursuant to RSA 397-A:16 only licensed mortgage brokers and bankers are entitled to retain commissions for their services.

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6. Pursuant to RSA 397-A:21 any person who, either knowingly or negligently, violates any provision of this chapter may, upon notice and opportunity for hearing, and in addition to any such other penalty provided for by law, be subject to suspension, revocation or denial of any registration or license, including forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and each such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

RELIEF REQUESTED

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

- 1. Find as fact the allegations contained in section I of the Statement of Allegations of this petition.
- 2. Make conclusions of law relative to the allegations contained in section II of the Statement of Allegations of this petition.
- 3. Pursuant to NH RSA 397-A:18, Order Respondent to immediately Cease 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 of New Hampshire citizens, and to provide other equitable relief.

RIGHT TO AMEND

The Department reserves the right to amend this Petition for Relief and to request that the Banking Department Commissioner take additional administrative action. Nothing herein shall preclude the Department from

| 1 | bringing additional enforcement action under RSA 397-A or the regulations |
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| 2 | thereunder. |
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| 4 | Respectfully Submitted: |
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| 7 | James Shepard |
| 8 | Staff Attorney |
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