1	State of New Hampshire	e Banking Department
2	In re the Matter of:)Case No.: 08-191)
3	State of New Hampshire Banking)
4	Department,)Order to Show Cause)
5	Petitioner,)
6	and)
7	Unlimited Mortgage Corporation (d/b/a)
8	Donna J. Doherty), Andrew F. Armata,)
9	and Stacey Alcorn,)
10	Respondents)
11	NOTICE OF	F ORDER
12	This Order to Show Cause comment	ces an adjudicative proceeding under
13	the provisions of RSA Chapter 397-A and	RSA Chapter 541-A.
14	LEGAL AUTHORITY A	ND JURISDICTION
15	Pursuant to RSA 397-A:17, the Bar	nking Department of the State of New
16	Hampshire (hereinafter the "Department")) has the authority to issue an order
17	to show cause why license revocation	and penalties for violations of New
18	Hampshire Banking laws should not be imp	posed.
19	Pursuant to RSA 397-A:17,II(e)(1)	the Commissioner has the authority
20	to remove or ban from office or emplo	yment, including license revocation,
21	any person conducting business under	RSA Chapter 397-A who violates RSA
22	Chapter 397-A.	
23	Pursuant to RSA 397-A:17,VIII,	in addition to any other penalty
24	provided for under RSA Chapter 397-A	or RSA 383:10-d, after notice and
25	opportunity for hearing, the Commission	er may enter an order of rescission,
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	Order	- <u>+</u>

restitution, or disgorgement of profits directed to a person who has 1 violated RSA Chapter 397-A, or a rule or order thereunder. 2

Pursuant to RSA 397-A:17,X, an action to enforce any provision of RSA Chapter 397-A shall be commenced within 6 years after the date on which the 5 violation occurred.

Pursuant to RSA 397-A:18, the Department has the authority to issue a complaint setting forth charges whenever the Department is of the opinion that the licensee or person over whom the Department has jurisdiction is violating or has violated any provision of RSA Chapter 397-A, or any rule or order thereunder.

Pursuant to RSA 397-A:20, IV the Commissioner may issue, amend, or 11 rescind such orders as are reasonably necessary to comply with the 12 13 provisions of the Chapter.

14 Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties 15 of up to \$2,500.00 for each violation of New Hampshire banking law and 16 rules. 17

18 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct 19 that is or may be an unfair or deceptive act or practice under RSA Chapter 358-A and exempt under RSA 358-A:3,I or that may violate any of 20 the provisions of Titles XXXV and XXXVI and administrative rules adopted 21 thereunder. The Commissioner may hold hearings relative to such conduct and 22 23 may order restitution for a person or persons adversely affected by such conduct. 24

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NOTICE OF RIGHT TO REQUEST A HEARING

The above named Respondents have the right to request a hearing on 2 this Order to Show Cause, as well as the right to be represented by counsel 3 at each Respondent's own expense. All hearings shall comply with RSA Chapter 4 5 541-A. Any such request for a hearing shall be in writing, and signed by the Respondent or the duly authorized agent of the above named Respondent, and 6 shall be delivered either by hand or certified mail, return receipt 7 requested, to the Banking Department, State of New Hampshire, 53 Regional 8 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within 9 10 10 days of the Department's receipt of the request. If the Respondent fails to appear at the hearing after being duly notified, such person shall be 11 deemed in default, and the proceeding may be determined against the Respondent 12 upon consideration of the Order to Show Cause, the allegations of which may be 13 14 deemed to be true.

15 If any of the above named Respondents fails to request a hearing within 16 30 calendar days of receipt of such order or reach a formal written and 17 executed settlement with the Department within that time frame, then such 18 person shall likewise be deemed in default, and the orders shall, on the 19 thirty-first day, become permanent, and shall remain in full force and effect 20 until and unless later modified or vacated by the Commissioner, for good cause 21 shown.

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STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

23 The <u>Staff Petition</u> dated December 30, 2009 (a copy of which is 24 attached hereto) is incorporated by reference hereto.

1	ORDER
2	WHEREAS, finding it necessary and appropriate and in the public
3	interest, and consistent with the intent and purposes of the New Hampshire
4	banking laws; and
5	WHEREAS, finding that the allegations contained in the Staff Petition,
6	if proved true and correct, form the legal basis of the relief requested;
7	It is hereby ORDERED, that:
8	1. Respondent Unlimited Mortgage Corporation (d/b/a Donna J
9	Doherty)("Respondent Unlimited Mortgage") shall show cause
10	why penalties in the amount of \$7,500.00 should not be
11	imposed against it;
12	2. Respondent Andrew F. Armata ("Respondent Armata") shall show
13	cause why penalties in the amount of \$7,500.00 should not be
14	imposed against him;
15	3. Respondent Stacey Alcorn ("Respondent Alcorn") shall show
16	cause why penalties in the amount of \$7,500.00 should not be
17	imposed against her;
18	4. The above named Respondents shall show cause why, in addition
19	to the penalties listed in Paragraphs 1 through 3 above, the
20	remaining examination fee balance of \$135.00 for the March
21	2007 examination should not be paid to the Department;
22	5. The above named Respondents shall show cause why, in addition
23	to the penalties listed in Paragraphs 1 through 4 above, the
24	examination fee of \$1,231.89 for the August 2008 examination
25	should not be paid to the Department;

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1 6. The above named Respondents shall show cause why, in addition to the penalties listed in Paragraphs 1 through 4 above, the 2 fine for \$1,225.00 for the late filing of the financial 3 statement should not be paid to the Department; 4 5 7. Respondents shall be jointly and severally liable for the above amounts alleged in Paragraphs 1 through 6 above; 6 8. The above named Respondents shall show cause why, in addition 7 to the penalties listed in Paragraphs 1 through 7 above, 8 Respondent Unlimited Mortgage's license should 9 not be 10 revoked; 9. The above named Respondents shall show cause why, in addition 11 to the penalties listed in Paragraphs 1 through 8 above, 12 Respondent Armata should not be removed or banned from office 13 14 or employment; 10. The above named Respondents shall show cause why, in addition 15 to the penalties listed in Paragraphs 1 through 9 above, 16 Respondent Alcorn should not be removed or banned from office 17 18 or employment. It is hereby further ORDERED that: 19 11. Along with the administrative penalties listed for the above 20 named Respondents, the outstanding sum of \$2,591.89 shall be 21 immediately paid; and 22 23 24 25

1	12. Failure to request a hearing within 30 days of the date of
2	receipt or valid delivery of this Order shall result in a
3	default judgment being rendered and administrative penalties
4	imposed upon the defaulting Respondent(s).
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6	SIGNED,
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8	Dated: <u>12/30/09</u> /s/ PETER C. HILDRETH
9	BANK COMMISSIONER
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1	State of New Hampshire Banking Department
2)Case No.: 08-191 In re the Matter of:)
3) State of New Hampshire Banking)
4)Staff Petition Department,)
5)December 30, 2009 Petitioner,)
6	and)
7) Unlimited Mortgage Corporation (d/b/a)
8) Donna J. Doherty), Andrew F. Armata,
9	and Stacey Alcorn,
10	Respondents)
11	I. STATEMENT OF ALLEGATIONS
12	The Staff of the Banking Department, State of New Hampshire (hereinafter
13	"Department") alleges the following facts:
14	Facts Common on All Counts:
15	1. Respondent Unlimited Mortgage Corporation (d/b/a Donna J.
16	Doherty) (hereinafter "Respondent Unlimited Mortgage") has been
17	licensed as a Mortgage Broker from at least January 1, 2000 (with
18	an amended license date of July 15, 2005).
19	2. Respondent Andrew F. Armata (hereinafter "Respondent Armata") is
20	the 50% owner and President of Respondent Unlimited Mortgage.
21	3. Respondent Stacey Alcorn (hereinafter "Respondent Alcorn") is the
22	50% owner and Vice President of Respondent Unlimited Mortgage.
23	MARCH 2007 EXAMINATION:
24	Violation of RSA 397-A:12, V Failure to Pay Examination Fee (1 Count):
25	4. Paragraphs 1 through 3 are hereby realleged as fully set forth

herein.

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- 5. The Department conducted an examination of Unlimited Mortgage on March 12, 2007, while Respondent Unlimited Mortgage was still licensed with the Department.
- 6. The Department sent Respondents the report of examination and examination invoice for \$3,135.00 via U.S. Certified Mail Return Receipt requested on December 26, 2007, which Respondents received December 27, 2007.
 - The above named Respondents failed to respond to the December 26,
 2007 correspondence from the Department.
 - 8. The Department, via U.S. mail, mailed Respondents a second notice on February 5, 2008 and a third notice on March 14, 2008.
- 9. On or about December 30, 2008, Respondents verbally agreed with the Department to a pay plan to pay off all outstanding invoices, including the one for the March 2007 examination. Respondents subsequently paid all but \$135.00 of the March 2007 \$3,135.00 examination fee.
- 10. To date, the above named Respondents still owe the \$135.00 remaining portion of the examination fee for the 6.27 day examination.

21 AUGUST 2008 EXAMINATION:

22 Violation of RSA 397-A:12, V Failure to Pay Examination Fee (1 Count):

- 11. Paragraphs 1 through 10 are hereby realleged as fully set forth herein.
 - 12. The Department conducted an examination of Unlimited Mortgage on

1	August 18, 2008, while Respondent Unlimited Mortgage was still
2	licensed with the Department.
3	13. The Department sent Respondents the report of examination and
4	examination invoice for \$1,231.89 via U.S. Certified Mail Return
5	Receipt requested on October 10, 2008, which Respondents received
6	October 11, 2008.
7	14. The above named Respondents failed to respond to the October 10,
8	2008 correspondence from the Department.
9	15. The Department, via U.S. mail, mailed Respondents a second notice
10	on November 21, 2008 and a third notice on January 20, 2009.
11	16.On or about December 30, 2008, Respondents verbally agreed with
12	the Department to a pay plan to pay off all outstanding invoices,
13	including the one for the August 2008 examination. Respondents
14	failed to pay any monies toward the \$1,231.89 outstanding
15	examination fee.
16	17. To date, the above named Respondents still owe the \$1,231.89
17	remaining portion of the examination fee for the 2.13 day
18	examination.
19	Violation of RSA 397-A:13, IV Failure to Pay Late Penalty Owed for Late
20	Filing of Financial Statement (1 Count):
21	18. Paragraphs 1 through 17 are hereby realleged as fully set forth
22	herein.
23	19. Respondent Unlimited Mortgage was licensed in 2008 and therefore,
24	subject to the filing of the 2008 financial statement.
25	20.Respondent Unlimited Mortgage's financial statement was due on or
	Staff Petition - 3

1	before March 31, 2009 and could be filed on the NMLS in lieu of a
2	hard copy filing. Respondent Unlimited Mortgage was notified,
3	along with other licensees, of this option on or about January
4	13, 2009.
5	21. On April 4, 2009, the NMLS notified Respondents of the failure to
6	file the financial statement.
7	22. On June 9, 2009, the Department sent a reminder email and on July
8	24, 2009, the Department sent a certified letter.
9	23. To date, Respondent Unlimited Mortgage has failed to file the
10	financial statement and now owes \$2,500.00 in fines (\$25.00 a
11	day; maximum 100 days).
12	II. <u>ISSUES OF LAW</u>
13	The staff of the Department alleges the following issues of law:
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14	1. The Department realleges the above stated facts in Paragraphs 1
	1. The Department realleges the above stated facts in Paragraphs 1 through 23 as fully set forth herein.
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14 15	through 23 as fully set forth herein.
14 15 16	through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation
14 15 16 17	through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities
14 15 16 17 18	<pre>through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3.</pre>
14 15 16 17 18 19	 through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3. 3. RSA 397-A:12,V provides that the expense of such examination shall
14 15 16 17 18 19 20	 through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3. 3. RSA 397-A:12,V provides that the expense of such examination shall be chargeable to and paid by the licensee. Each of the above
14 15 16 17 18 19 20 21	 through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3. 3. RSA 397-A:12,V provides that the expense of such examination shall be chargeable to and paid by the licensee. Each of the above named Respondents violated this provision on at least two
14 15 16 17 18 19 20 21 21 22	 through 23 as fully set forth herein. 2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3. 3. RSA 397-A:12,V provides that the expense of such examination shall be chargeable to and paid by the licensee. Each of the above named Respondents violated this provision on at least two occasions as alleged above. To date, the above named Respondents

4. RSA 397-A:13,IV provides that any mortgage banker or mortgage broker failing to file either the annual report or the financial statement required by RSA Chapter 397-A within the time prescribed may be required to pay to the Department a penalty of \$25.00 for each calendar day the annual report or financial statement is overdue, up to a maximum penalty of \$2,500.00 per report or statement. Each of the above named Respondents violated this provision on at least one occasion as alleged above. Respondents failed to file the 2008 financial statement, thus incurring a fine of \$2,500.00.

- 5. RSA 397-A:17, I provides in part that the Commissioner may by order, upon due notice and opportunity for hearing, assess penalties or deny, suspend, or revoke a license or application if it is in the public interest and the applicant, respondent, or licensee, any partner, officer, member, or director, any person occupying a similar status or performing similar functions, or any directly or indirectly controlling person the applicant, respondent, or licensee: (a) has violated any provision of RSA Chapter 397-A or rules thereunder, or (b) has not met the standards established in RSA Chapter 397-A.
 - 6. RSA 397-A:17,II(e)(1) provides that the Commissioner may issue an order or directive to remove or ban from office or employment, including license revocation, any person conducting business under RSA Chapter 397-A who violates RSA Chapter 397-A.

7. RSA 397-A:17, VIII provides that in addition to any other penalty

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provided for under RSA Chapter 397-A or RSA 383:10-d, after notice and opportunity for hearing, the Commissioner may enter an order of rescission, restitution, or disgorgement of profits directed to a person who has violated RSA Chapter 397-A, or a rule or order thereunder.

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- 8. RSA 397-A:17,X provides an action to enforce any provision of RSA Chapter 397-A shall be commenced within 6 years after the date on which the violation occurred.
- 9. RSA 397-A:18,I provides that the Department may issue a complaint setting forth charges whenever the Department is of the opinion that the licensee or person over whom the Department has jurisdiction, has violated any provision of RSA Chapter 397-A or orders thereunder.
- 10. RSA 397-A:21,IV provides that any person who, either knowingly or negligently, violates any provision of RSA Chapter 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to an administrative fine not to exceed \$2,500.00, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire Banking laws.
 - 11. RSA 397-A:21,V provides that every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar

function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

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III. RELIEF REQUESTED

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 Staff Petition;
- 2. Make conclusions of law relative to the allegations contained in section II of this Staff Petition;
 - 3. Pursuant RSA 397-A:17, order each of the above to named Respondents to show cause why their license should not be revoked;
- 4. Pursuant to RSA 397-A:17, II(e)(1), order Respondent Armata be removed or banned from office or employment;
- 5. Pursuant to RSA 397-A:17, II (e) (1), order Respondent Alcorn be removed or banned from office or employment;

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1	6. Assess fines and administrative penalties in accordance with RSA
2	397-A:21, for violations of RSA Chapter 397-A, in the number and
3	amount equal to the violations set forth in section II of this
4	Staff Petition; and
5	7. Take such other administrative and legal actions as necessary for
6	enforcement of the New Hampshire Banking Laws, the protection of
7	New Hampshire citizens, and to provide other equitable relief.
8	IV. <u>RIGHT TO AMEND</u>
9	The Department reserves the right to amend this Staff Petition and to
10	request that the Commissioner take additional administrative action.
11	Nothing herein shall preclude the Department from bringing additional
12	enforcement action under RSA Chapter 397-A or the regulations thereunder.
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14	Respectfully submitted by:
15	/s/ 12/30/09
16	Maryam Torben Desfosses Date Hearings Examiner Date
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