

1 State of New Hampshire Banking Department

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3 In re the Matter of: )Case No.: 08-370  
 )  
 4 State of New Hampshire Banking )Notice of Hearing - Order to Show  
 )Cause with Immediate Suspension and  
 5 Department, )Cease and Desist Order  
 )  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 Allied Capital Mortgage Company (d/b/a )  
 )  
 9 Allied Capital Mortgage Company of )  
 )  
 10 Baymeadows), Douglas E. Klezmer, Sean )  
 )  
 11 H. Belghazi, and Kristopher Michael )  
 )  
 12 Lyle, )  
 )  
 13 Respondents )  
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15 NOTICE OF HEARING

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. The Commissioner has the  
 20 further authority to impose an immediate suspension. Upon a finding of  
 21 irreparable harm if revocation of the license is delayed, the Commissioner  
 22 may summarily suspend any license pending final determination of the Order to  
 Show Cause.

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

1 Pursuant to New Hampshire Banking law, RSA 397-A:5 III (c) each  
2 mortgage banker shall post a continuous surety bond in the amount of  
3 \$20,000.00 to the Department.

4 The Department issued to the above named Respondents an Order to Show  
5 Cause with an Immediate Suspension and Cease and Desist Order of the license  
6 on August 22, 2008. RSA 541-A requires the Department to hold a hearing on  
7 such summary action within ten (10) working days.

8 The Department alleges the following:

9 **Issue 1: Failure to post continuous surety bond (RSA 397-A:5, III (c));**

10 **Issue 2: Failure to update information on file with Bank Commissioner (RSA  
11 397-A:10, IV);**

12 **Issue 3: Failure to inform Bank Commissioner of office closure (RSA 397-A:10,  
13 III); and**

14 **Issue 4: Failure to properly surrender license (RSA 397-A:10-a, I(a));**

15 Accordingly, an adjudicative proceeding shall be commenced pursuant to  
16 541-A:31 and Chapter 200 of the Department's rules (NH Code of  
17 Administrative Rules BAN 200 and JUS 800 as applicable) for the purpose of  
18 permitting the Respondents to show compliance with the above state violations  
19 in Issues 1 through 16.

20 Each party has the right to have an attorney present to represent the  
21 party at the party's expense, or may represent itself.

22 THEREFORE, IT IS ORDERED, that the Respondents appear before the New  
23 Hampshire Banking Department on **September 8, 2008 at 10:00 am**, at the  
24 Department's offices at 53 Regional Drive, Suite 200, Concord, New Hampshire  
25 03301, for the purpose of participating in an adjudicative proceeding, at  
which time the Respondents will have the opportunity to demonstrate why the  
relief sought in the show cause order with immediate suspension should not  
become permanent; and

1           IT IS FURTHER ORDERED, that if the Respondents elect to be represented  
2 by Counsel, said Counsel shall file notice of appearance at the earliest  
3 possible date; and

4           IT IS FURTHER ORDERED, that Maryam Torben Desfosses, Staff Attorney,  
5 New Hampshire Banking Department is designated as Hearing Counsel in this  
6 matter with authority to represent the public interest within the scope of  
7 the Department's authority. Hearing Counsel shall have the status of a party  
8 to this proceeding; and

9           IT IS FURTHER ORDERED, that the Commissioner designates Todd Wells to  
10 serve as the Presiding Officer in this proceeding who shall issue a  
11 RECOMMENDED DECISION in this matter which shall be reviewed and approved,  
12 disapproved or modified by the Bank Commissioner; and

13           IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,  
14 for identification only, and filed with the Department and provided to the  
15 opposing party **as soon as possible**. Hearing Counsel shall pre-mark the  
16 Department's exhibits with Arabic numbers. The Respondents shall pre-mark  
17 exhibits with capital letters. An index/list of exhibits providing a brief  
18 description of each exhibit with its corresponding pre-marked number or  
19 letter shall be filed by both parties simultaneous with the filing of  
20 exhibits; and

21           IT IS FURTHER ORDERED, that the parties shall exchange a list of all  
22 exhibits and witnesses to be called at the hearing with a brief summary at  
23 the hearing, and shall at the same time file a copy of their respective lists  
24 with the Presiding Officer; and

25           IT IS FURTHER ORDERED, that all periods referenced in this notice shall  
be calendar days. If the last day of the period so computed falls on a  
Saturday, Sunday, or legal holiday, then the time period shall be extended to  
include the first business day that is not a Saturday, Sunday, or legal  
holiday; and

1           IT IS FURTHER ORDERED, that the Department shall have the burden of  
2 setting forth a *prima facie* case, then the Respondents shall have the burden  
3 of showing compliance with applicable law by a preponderance of the evidence;

4           IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,  
5 date, and place specified may result in the hearing being held *in absentia*  
6 and/or default ruling in favor of the Department, without further notice or  
7 opportunity to be heard; and

8           IT IS FURTHER ORDERED, that a record of the proceeding shall be made by  
9 a certified shorthand court reporter provided by the Department.

10           IT IS FURTHER ORDERED, that all documents shall be filed with the  
11 Presiding Officer in the form of an original and one (1) copy and shall bear a  
12 certification that a copy is being delivered to Hearing Counsel and any other  
13 parties to this matter in accordance with NH Code of Administrative Rules Ban  
14 204.08. All documents shall be filed by mailing or delivering them to the New  
15 Hampshire Banking Department, ATTN: Presiding Officer 08-370, 53 Regional  
16 Drive, Suite 200, Concord, NH 03301. Filing by facsimile or electronic  
17 transmission shall not be accepted; and

18           IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,  
19 which shall include findings of fact and conclusions of law, separately  
20 stated, no later than ten (10) days following conclusion of the hearing(s) in  
21 this matter; and

22           IT IS FURTHER ORDERED, that routine procedural inquiries may be made by  
23 telephoning Abigail Shaine at (603)-271-3561, but all other communications  
24 with the Presiding Officer and with the Department shall be in writing and  
25 shall be filed as provided above. *Ex parte* communications are forbidden by  
statute; and

          IT IS FURTHER ORDERED, that a copy of this Notice of Hearing shall be  
mailed to all named Respondents at their addresses of record and that a copy

1 shall also be delivered to Maryam Torben Desfosses, Hearing Counsel, and to  
2 the Presiding Officer at the New Hampshire Banking Department.

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**SO ORDERED,**

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      / S /        
Peter C. Hildreth  
Commissioner  
State of New Hampshire  
Banking Department

August 22, 2008  
Date

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