

1 State of New Hampshire Banking Department

)Case No.: 09-019

2 In re the Matter of:

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3 State of New Hampshire Banking

)

)Order to Show Cause

4 Department,

)

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5 Petitioner,

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6 and

)

)

7 UST Mortgage Company (d/b/a UST

)

)

8 Mortgage Company Inc), and Donald A.

)

)

9 Bressoud,

)

)

10 Respondents

)

11 NOTICE OF ORDER

12 This Order commences an adjudicative proceeding under the provisions  
13 of RSA 397-A and RSA 541-A.

14 LEGAL AUTHORITY AND JURISDICTION

15 Pursuant to RSA 397-A:17, the Banking 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 imposed.

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

24 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or  
25 rescind such orders as are reasonably necessary to comply with the

1 provisions of the Chapter.

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

6 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct  
7 that is or may be an unfair or deceptive act or practice under RSA 358-A and  
8 exempt under RSA 358-A:3,I or that may violate any of the provisions of  
9 Titles XXXV and XXXVI and administrative rules adopted thereunder. The  
10 Commissioner may hold hearings relative to such conduct and may order  
11 restitution for a person or persons adversely affected by such conduct. The  
12 Commissioner may utilize all remedies available under the Consumer  
13 Protection Act.

14 **NOTICE OF RIGHT TO REQUEST A HEARING**

15 The above named Respondents have the right to request a hearing on  
16 this Order to Show Cause, as well as the right to be represented by counsel  
17 at each Respondent's own expense. All hearings shall comply with RSA 541-A.  
18 Any such request for a hearing shall be in writing, and signed by the  
19 Respondent or the duly authorized agent of the above named Respondent, and  
20 shall be delivered either by hand or certified mail, return receipt  
21 requested, to the Banking Department, State of New Hampshire, 53 Regional  
22 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within  
23 10 days of the Department's receipt of the request. If the Respondent fails  
24 to appear at the hearing after being duly notified, such person shall be  
25 deemed in default, and the proceeding may be determined against the Respondent

1 upon consideration of the Order to Show Cause, the allegations of which may be  
2 deemed to be true.

3 If any of the above named Respondents fails to request a hearing within  
4 30 calendar days of receipt of such order or reach formal settlement with the  
5 Department within that time frame, then such person shall likewise be deemed  
6 in default, and the orders shall, on the thirty-first day, become permanent,  
7 and shall remain in full force and effect until and unless later modified or  
8 vacated by the Commissioner, for good cause shown.

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

10 The Staff Petition dated January 30, 2009 (a copy of which is attached  
11 hereto) is incorporated by reference hereto.

12 **ORDER**

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

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

18 It is hereby ORDERED, that:

- 19 1. Respondent UST Mortgage Company (d/b/a UST Mortgage Company  
20 Inc) ("Respondent UST Mortgage") shall show cause why  
21 penalties in the amount of \$2,500.00 should not be imposed  
22 against it;
- 23 2. Respondent Donald A. Bressoud ("Respondent Bressoud") shall  
24 show cause why penalties in the amount of \$2,500.00 should  
25 not be imposed against him;

1 3. The above named Respondents shall show cause why, in addition  
2 to the penalties listed in Paragraphs 1 through 2 above, the  
3 \$500.00 examination fee should not be paid to the Department;

4 4. Respondents shall be jointly and severally liable for the  
5 above amounts alleged in Paragraphs 1 through 3 above;

6 5. The above named Respondents shall show cause why, in addition  
7 to the penalties listed in Paragraphs 1 through 4 above,  
8 Respondent UST Mortgage's license should not be revoked.

9 It is hereby further ORDERED that:

10 6. Along with the administrative penalties listed for the above  
11 named Respondents, the outstanding sum of \$500.00 shall be  
12 immediately paid; and

13 7. Failure to request a hearing within 30 days of the date of  
14 receipt or valid delivery of this Order shall result in a  
15 default judgment being rendered and administrative penalties  
16 imposed upon the defaulting Respondent(s).

17  
18 SIGNED,

19  
20 Dated: 01/30/09

\_\_\_\_\_  
21 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-019  
3 State of New Hampshire Banking )  
4 Department, ) Staff Petition  
5 Petitioner, ) January 30, 2009  
6 and )  
7 UST Mortgage Company (d/b/a UST )  
8 Mortgage Company Inc), and Donald A. )  
9 Bressoud, )  
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 UST Mortgage Company (d/b/a UST Mortgage Company Inc)  
16 (hereinafter "Respondent UST Mortgage") was licensed as a  
17 Mortgage Banker from at least November 4, 2002 until it  
18 surrendered its license on May 31, 2007.

19 2. Respondent Donald A. Bressoud (hereinafter "Respondent  
20 Bressoud") was the President of Respondent UST Mortgage, when  
21 licensed by the Department.

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

23 3. Paragraphs 1 through 2 are hereby realleged as fully set forth  
24 herein.

25 4. The Department conducted an examination of Respondent UST Mortgage

1 on June 4, 2007, for activities that occurred while Respondent  
2 UST Mortgage was still licensed with the Department.

3 5. On July 17, 2008, the Department mailed cost of examination letter  
4 and invoice for \$500.00 to Respondent UST Mortgage, via U.S.  
5 Certified Mail Return Receipt requested, which the post office  
6 returned to the Department on July 24, 2008 as "return to  
7 sender".

8 6. On August 4, 2008, the Department mailed cost of examination  
9 letter and invoice for \$500.00 to Respondent UST Mortgage, via  
10 UPS, which was returned to the Department on August 13, 2008.

11 7. The Department, via U.S. mail, mailed a second notice on August  
12 20, 2008 and a third notice on September 23, 2008.

13 8. The above named Respondents did not respond to any of the three  
14 notices for payment of the \$500.00 invoice.

15 9. To date, the above named Respondents still owe the \$500.00  
16 examination fee for the 3.27 day examination.

17 **II. ISSUES OF LAW**

18 The staff of the Department alleges the following issues of law:

19 1. The Department realleges the above stated facts in Paragraphs 1  
20 through 9 as fully set forth herein.

21 2. The Department has jurisdiction over the licensing and regulation  
22 of persons engaged in mortgage banker or broker activities  
23 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

24 3. RSA 397-A:12,V provides that the expense of such examination shall  
25 be chargeable to and paid by the licensee. Each of the above

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 \$500.00 examination invoice.

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

14 5. RSA 397-A:18,I provides that the Department may issue a complaint  
15 setting forth charges whenever the Department is of the opinion  
16 that the licensee or person over whom the Department has  
17 jurisdiction, has violated any provision of RSA 397-A or orders  
18 thereunder.

19 6. RSA 397-A:21,IV provides that any person who, either knowingly or  
20 negligently, violates any provision of Chapter 397-A, may upon  
21 hearing, and in addition to any other penalty provided for by  
22 law, be subject to an administrative fine not to exceed  
23 \$2,500.00, or both. Each of the acts specified shall constitute  
24 a separate violation, and such administrative action or fine may  
25

1 be imposed in addition to any criminal penalties or civil  
2 liabilities imposed by New Hampshire Banking laws.

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

19 **III. RELIEF REQUESTED**

20 The staff of the Department requests the Commissioner take the following  
21 action:

- 22 1. Find as fact the allegations contained in section I of this Staff  
23 Petition;
- 24 2. Make conclusions of law relative to the allegations contained in  
25 section II of this Staff Petition;



