

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-078  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Order to Show Cause  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Northern Mortgage Services LLC (d/b/a )  
 )  
 8 NMS Mortgage), George N. Piandes, and )  
 )  
 9 Bretton A. Joy, )  
 )  
 10 Respondents )

---

11 NOTICE OF ORDER

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

14 LEGAL AUTHORITY AND JURISDICTION

15 Pursuant to RSA 397-A:17, the Commissioner of the New Hampshire  
16 Banking Department (hereinafter the "Department") has the authority to issue  
17 an order to show cause why license revocation and penalties for violations  
18 of New 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,IV, 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 Chapter  
8 358-A and exempt under RSA 358-A:3,I or that may violate any of the  
9 provisions of Titles XXXV and XXXVI and administrative rules adopted  
10 thereunder. The Commissioner may hold hearings relative to such conduct and  
11 may order restitution for a person or persons adversely affected by such  
12 conduct.

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

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

1 deemed to be true.

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

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

10 The Staff Petition dated April 30, 2010 (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 Northern Mortgage Services LLC (d/b/a NMS  
20 Mortgage) ("Respondent Northern Mortgage") shall show cause  
21 why penalties in the amount of \$5,000.00 should not be  
22 imposed against it;
- 23 2. Respondent George N. Piandes ("Respondent Piandes") shall  
24 show cause why penalties in the amount of \$7,500.00 should  
25 not be imposed against him;

1 3. Respondent Bretton A. Joy ("Respondent Joy") shall show cause  
2 why penalties in the amount of \$7,500.00 should not be  
3 imposed against him;

4 4. The above named Respondents shall show cause why, in addition  
5 to the penalties listed in Paragraphs 1 through 3 above, the  
6 \$765.00 examination fee should not be paid to the Department;

7 5. The above named Respondents shall show cause why, in addition  
8 to the penalties listed in Paragraphs 1 through 4 above, the  
9 fee of \$625.00 for the late filing of the financial statement  
10 should not be paid to the Department;

11 6. Respondents shall be jointly and severally liable for the  
12 above amounts alleged in Paragraphs 1 through 5 above;

13 7. The above named Respondents shall show cause why, in addition  
14 to the penalties listed in Paragraphs 1 through 6 above,  
15 Respondent Northern Mortgage's license should not be revoked.

16 It is hereby further ORDERED that:

17 8. Along with the administrative penalties listed for the above  
18 named Respondents, the outstanding sum of \$1,390.00 shall be  
19 immediately paid; and  
20  
21

22 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
23  
24  
25

1 9. Failure to request a hearing within 30 days of the date of  
2 receipt or valid delivery of this Order to Show Cause shall  
3 result in a default judgment being rendered and  
4 administrative penalties imposed upon the defaulting  
5 Respondent(s).

6  
7 SIGNED,

8  
9 Dated: 04/30/10

/s/

PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-078  
3 State of New Hampshire Banking )  
4 Department, ) Staff Petition  
5 Petitioner, ) April 30, 2010  
6 and )  
7 Northern Mortgage Services LLC (d/b/a )  
8 NMS Mortgage), George N. Piandes, and )  
9 Bretton A. Joy, )  
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 Northern Mortgage Services LLC (d/b/a NMS Mortgage)  
16 (hereinafter "Respondent Northern Mortgage") was licensed as a  
17 Mortgage Broker from at least January 31, 2005 until its license  
18 expired on December 31, 2008.
- 19 2. Respondent George N. Piandes (hereinafter "Respondent Piandes")  
20 was the 50% owner and President of Respondent Northern Mortgage,  
21 when licensed by the Department.
- 22 3. Respondent Bretton A. Joy (hereinafter "Respondent Joy") was the  
23 50% owner and Vice President of Respondent Northern Mortgage,  
24 when licensed by the Department.

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

2 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to

3 Department Inquiries (1 Count):

4 4. Paragraphs 1 through 3 are hereby realleged as fully set forth  
5 herein.

6 5. The Department conducted an examination of Respondent Northern  
7 Mortgage on December 17, 2007, while Respondent Northern Mortgage  
8 was still licensed with the Department.

9 6. On March 28, 2008, the Department mailed the report of examination  
10 and invoice for \$765.00 to Respondent Northern Mortgage, via U.S.  
11 Certified Mail Return Receipt requested, which Respondents  
12 received on April 3, 2008.

13 7. The above named Respondents failed to respond to the March 28,  
14 2008 correspondence from the Department.

15 8. The Department, via U.S. mail, mailed a second notice on April 29,  
16 2008 and a third notice on June 24, 2008.

17 9. The above named Respondents did not respond to any of the notices  
18 for payment of the \$765.00 invoice.

19 10. To date, the above named Respondents still owe the \$765.00  
20 examination fee for the 1.53 day examination.

21 Violation of RSA 397-A:13,IV Failure to Pay Late Penalty Owed for Late

22 Filing of Financial Statement(1 Count):

23 11. Paragraphs 1 through 10 are hereby realleged as fully set forth  
24 herein.

25 12. Respondent Northern Mortgage's financial statement was due on or

1 before March 31, 2008.

2 13. Respondent Northern Mortgage was still licensed at the time its  
3 financial statement filing was due to the Department.

4 14. The Department received Respondent Northern Mortgage's financial  
5 statement on April 25, 2008 (25 days late), which generated a  
6 fine of \$625.00 (\$25.00 a day; maximum \$2,500.00).

7 15. To date, Respondents have not paid the fine.

8 **II. ISSUES OF LAW**

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

10 1. The Department realleges the above stated facts in Paragraphs 1  
11 through 15 as fully set forth herein.

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

15 3. RSA 397-A:12,V provides that the expense of such examination shall  
16 be chargeable to and paid by the licensee. Each of the above  
17 named Respondents violated this provision on at least one occasion  
18 as alleged above. To date, the above named Respondents have  
19 failed to pay the \$765.00 examination invoice.

20 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage  
21 broker failing to file either the annual report or the financial  
22 statement required by RSA Chapter 397-A within the time prescribed  
23 may be required to pay to the Department a penalty of \$25.00 for  
24 each calendar day the annual report or financial statement is  
25 overdue, up to a maximum penalty of \$2,500.00 per report or



1 statement. Each of the above named Respondents violated this  
2 provision on at least one occasion as alleged above. The above  
3 named Respondents filed a financial statement that was 25 days  
4 late, and incurred a penalty of \$625.00.

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

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

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

25 8. RSA 397-A:21,IV provides that any person who, either knowingly or

1 negligently, violates any provision of Chapter 397-A, may upon  
2 hearing, and in addition to any other penalty provided for by law,  
3 be subject to an administrative fine not to exceed \$2,500.00, or  
4 both. Each of the acts specified shall constitute a separate  
5 violation, and such administrative action or fine may be imposed  
6 in addition to any criminal penalties or civil liabilities imposed  
7 by New Hampshire Banking laws.

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

