

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-141  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Order to Show Cause  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 The Mortgage Authority LLC, and Gustavo )  
 )  
 8 Martin Reyes, )  
 )  
 9 Respondents )

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10 NOTICE OF ORDER

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

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 397-A:17, the Commissioner of the New Hampshire  
15 Banking Department (hereinafter "Department") has the authority to issue an  
16 order to show cause why license revocation and penalties for violations of  
17 New Hampshire Banking laws should not be imposed.

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

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

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

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

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

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



1 refund in the amount of \$4,959.52 to Consumer A should not be  
2 imposed;

3 4. Nothing in this Order to Show Cause shall prevent the  
4 Department from taking any further administrative action  
5 under New Hampshire law;

6 5. The above named Respondents shall be jointly and severally  
7 liable for the above amounts alleged in Paragraphs 1 through  
8 4 above.

9 6. The above named Respondent shall show cause why, in addition  
10 to the penalties listed in Paragraphs 1 through 5 above,  
11 Respondent Mortgage Authority's license should not be  
12 revoked;

13 It is hereby further ORDERED that:

14 7. Along with the administrative penalties listed for the above  
15 named Respondents, restitution should be given to Consumer A  
16 in the amount of \$4,959.52; and

17 8. Failure to request a hearing within 30 days of the date of  
18 receipt or valid delivery of this Order to Show Cause shall  
19 result in a default judgment being rendered and  
20 administrative penalties imposed upon the defaulting  
21 Respondent(s).

22 SIGNED,

23  
24 Dated: 01/28/10

25 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 09-141  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Staff Petition  
 )  
 5 Petitioner, ) January 25, 2010  
 )  
 6 and )  
 )  
 7 The Mortgage Authority LLC, and Gustavo )  
 )  
 8 Martin Reyes, )  
 )  
 9 Respondents )

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10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter  
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent The Mortgage Authority LLC (hereinafter "Respondent  
15 Mortgage Authority") was licensed as a Mortgage Broker from May  
16 12, 2003 until it surrendered its license on May 19, 2008.
- 17 2. Respondent Gustavo Martin Reyes (hereinafter "Respondent Reyes")  
18 was the 91% owner and President of Respondent Mortgage Authority,  
19 when licensed by the Department.

20 Violation of RSA 397-A:15-a,I Failure to Properly Respond to a Consumer

21 Complaint via a Department Inquiry (1 Count):

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

23 Department Inquiries (1 Count):

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

- 1           4. Consumer A initially filed a complaint with the Department on or  
2           about March 13, 2008.
- 3           5. The Department mailed, via U.S. Certified Mail Return Receipt  
4           requested, the complaint to the Respondents, which the  
5           Respondents received on April 4, 2008 (based on an acknowledgment  
6           sent to the Department).
- 7           6. Respondents had 30 days from April 4, 2008 to acknowledge the  
8           March 13, 2008 complaint and 60 days total from April 4, 2008 to  
9           respond to the Department. The 30 day deadline was May 4, 2008  
10          and the 60 day deadline was June 3, 2008.
- 11          7. Respondents acknowledged the complaint in a timely manner by  
12          April 11, 2008.
- 13          8. Respondents partially responded substantively to the complaint in  
14          a timely manner on May 8, 2008.
- 15          9. However, based upon a review of the file and some missing  
16          documentation, the Department submitted a follow-up inquiry to  
17          the Respondents via U.S. Certified Mail Return Receipt requested  
18          on December 16, 2008, which Respondents received on December 26,  
19          2008.
- 20          10. To date, Respondents have failed to respond to the Department's  
21          follow-up inquiry dated December 16, 2008, wherein the Department  
22          sought a copy of the appraisal request form and an explanation as  
23          to the loan's interest rate and prepayment penalty.
- 24          11. Since the above named Respondents have blatantly ignored the  
25          Department regarding the two inquiries that may have absolved



1 notify both the consumer and the Department with documentation or  
2 (b) submit a written explanation or clarification to the consumer  
3 and Department, setting forth reasons why the licensee believes  
4 its actions are correct, including copies of documentary evidence  
5 thereof. Each of the above named Respondents violated this  
6 provision on at least one occasion as alleged above.

7 5. RSA 397-A:17 provides the Commissioner has the authority to issue  
8 an order to show cause why license revocation and penalties for  
9 violations of New Hampshire Banking laws should not be imposed.

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

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

18 8. RSA 397-A:20,IV provides that the Commissioner may issue, amend,  
19 or rescind such orders as are reasonably necessary to comply with  
20 the provisions of RSA Chapter 397-A.

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

1 a separate violation, and such administrative action or fine may  
2 be imposed in addition to any criminal penalties or civil  
3 liabilities imposed by New Hampshire Banking laws.

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

20 **III. RELIEF REQUESTED**

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

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

