

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-334
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Hampton Bay Mortgage Company Inc, and)
)
 8 Randall L. Pratt,)
)
 9 Respondents)

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 Banking Department of the State of New
15 Hampshire (hereinafter the "Department") has the authority to issue an order
16 to show cause why license revocation and penalties for violations of New
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, 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 the Chapter.

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 own 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 the Respondent fails
22 to appear at the hearing after being duly notified, such person shall be
23 deemed in default, and the proceeding may be determined against the Respondent
24 upon consideration of the Order to Show Cause, the allegations of which may be
25 deemed to be true.

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

8 STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

9 The Staff Petition dated November 19, 2009 (a copy of which is
10 attached hereto) is incorporated by reference hereto.

11 ORDER

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

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

17 It is hereby ORDERED, that:

- 18 1. Respondent Hampton Bay Mortgage Company Inc ("Respondent
19 Hampton Bay") shall show cause why penalties in the amount of
20 \$780,000.00 should not be imposed against it;
- 21 2. Respondent Randall L. Pratt ("Respondent Pratt") shall show
22 cause why penalties in the amount of \$780,000.00 should not
23 be imposed against him;
- 24 3. The above named Respondents shall show cause why, in addition
25 to the penalties listed in Paragraphs 1 through 2 above, the

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-334
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 3 State of New Hampshire Banking)
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 4 Department,) Staff Petition
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 5 Petitioner,) November 19, 2009
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 6 and)
)
 7 Hampton Bay Mortgage Company Inc, and)
)
 8 Randall L. Pratt,)
)
 9 Respondents)

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 Hampton Bay Mortgage Company Inc (hereinafter
15 "Respondent Hampton Bay") was licensed as a Mortgage Broker from
16 at least 2005 but upgraded to a Mortgage Banker license in 2007
17 and surrendered its license on November 19, 2008.
- 18 2. Respondent Randall L. Pratt (hereinafter "Pratt") was the 100%
19 owner and President of Respondent Hampton Bay, when licensed by
20 the Department.

21 Violation of RSA 397-A:17,I(c) Conducted Mortgage Activity with Unlicensed
22 Mortgage Brokers (312 Counts):

- 23 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
24 herein.
- 25 4. The Department's Examiner conducted an examination of Respondent

1 Hampton Bay on April 9, 2007.

2 5. The Department's Examiner discovered the above named Respondents
3 conducted activity with at least four (4) unlicensed mortgage
4 brokers: Mill City Funding, LLC, Mill City Mortgage LLC, Creative
5 Loan Financing, LLC and Three & Three Mortgage Associates LLC.

6 a. The Department's Examiner discovered two such loans
7 brokered by or with Creative Loan Financing, LLC. The two
8 loans, identified as Consumer 1 and Consumer 2, are
9 listed on Attachment 1 to this Order to Show Cause.

10 b. The Department's Examiner discovered about three hundred
11 five (305) such loans brokered by or with Three & Three
12 Mortgage Associates LLC in Nashua, New Hampshire. Three &
13 Three Mortgage Associates LLC was an unlicensed entity that
14 operated out of Respondent Hampton Bay's Nashua branch.
15 Consumers 3 through 306, are listed on Attachment 1 to this
16 Order to Show Cause.

17 6. The total consumer restitution for Consumers 1 through 307 is
18 \$927,698.27.

19 **II. ISSUES OF LAW**

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

- 21 1. The Department realleges the above stated facts in Paragraphs 1
22 through 6 as fully set forth herein.
- 23 2. The Department has jurisdiction over the licensing and regulation
24 of persons engaged in mortgage banker or broker activities
25 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

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

11 4. RSA 397-A:17,I(c) provides that it is a violation of RSA Chapter
12 397-A to accept or process loan applications transmitted or
13 brokered by a mortgage broker who is not licensed, and is not
14 exempt from licensing. Each of the above named Respondents
15 violated this statute on at least three-hundred seven (307)
16 occasions as alleged above, for a total of \$927,698.27 in
17 restitution.

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

23 6. RSA 397-A:21,IV provides that any person who, either knowingly or
24 negligently, violates any provision of RSA Chapter 397-A, may
25 upon hearing, and in addition to any other penalty provided for

1 by law, be subject to an administrative fine not to exceed
2 \$2,500.00, or both. Each of the acts specified shall constitute
3 a separate violation, and such administrative action or fine may
4 be imposed in addition to any criminal penalties or civil
5 liabilities imposed by New Hampshire Banking laws.

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

22 **III. RELIEF REQUESTED**

23 The staff of the Department requests the Commissioner take the following
24 action:

25 1. Find as fact the allegations contained in section I of this Staff

1
2
3
4 **ATTACHMENT 1 TO THE ORDER TO SHOW CAUSE RE:**

5 **HAMPTON BAY MORTGAGE COMPANY INC, ET AL.**

6 **DOCKET #08-334**

7 The Department hereby presents the following list of Consumers who are
8 entitled to restitution in the form of fees charged and collected when
9 Respondent Hampton Bay Mortgage Company Inc conducted mortgage activity
10 with unlicensed mortgage brokers Creative Loan Financing, LLC ("Creative
11 Loan Financing") and Three & Three Mortgage Associates, LLC ("Three &
12 Three"):
13

14	CONSUMER NUMBER	UNLICENSED ENTITY	TOTAL RESTITUTION
15	1	Creative Loan Financing	\$2,360.63
16	2	Creative Loan Financing	\$1,782.00
17	3	Three & Three	\$3,918.75
18	4	Three & Three	\$2,392.00
19	5	Three & Three	\$1,890.00
20	6	Three & Three	\$11,479.80
21	7	Three & Three	\$2,344.50
22	8	Three & Three	\$3,238.20
23	9	Three & Three	\$4,417.50
24	10	Three & Three	\$3,060.00
25	11	Three & Three	\$8,322.00

1	12	Three & Three	\$3,375.00
2	13	Three & Three	\$10,150.00
3	14	Three & Three	\$2,318.20
4	15	Three & Three	\$3,990.00
5	16	Three & Three	\$6,750.00
6	17	Three & Three	\$2,497.50
7	18	Three & Three	\$1,908.00
8	19	Three & Three	\$3,721.25
9	20	Three & Three	\$4,660.00
10	21	Three & Three	\$6,980.00
11	22	Three & Three	\$4,172.81
12	23	Three & Three	\$2,924.00
13	24	Three & Three	\$5,522.94
14	25	Three & Three	\$2,880.00
15	26	Three & Three	\$6,991.40
16	27	Three & Three	\$6,127.50
17	28	Three & Three	\$2,275.00
18	29	Three & Three	\$5,040.00
19	30	Three & Three	\$2,705.54
20	31	Three & Three	\$6,468.75
21	32	Three & Three	\$4,366.17
22	33	Three & Three	\$3,160.50
23	34	Three & Three	\$3,600.00
24	35	Three & Three	\$3,900.00
25	36	Three & Three	\$3,753.75

1	37	Three & Three	\$4,768.20
2	38	Three & Three	\$2,625.00
3	39	Three & Three	\$0.00
4	40	Three & Three	\$6,600.00
5	41	Three & Three	\$7600.84
6	42	Three & Three	\$2,497.20
7	43	Three & Three	\$4,795.00
8	44	Three & Three	\$3,092.00
9	45	Three & Three	\$3,384.00
10	46	Three & Three	\$2,365.00
11	47	Three & Three	\$2,600.00
12	48	Three & Three	\$3,960.00
13	49	Three & Three	\$4,042.50
14	50	Three & Three	\$3,800.00
15	51	Three & Three	\$3,214.80
16	52	Three & Three	\$1,699.20
17	53	Three & Three	\$5,687.50
18	54	Three & Three	\$3,147.21
19	55	Three & Three	\$9,600.00
20	56	Three & Three	\$10,800.00
21	57	Three & Three	\$9,022.00
22	58	Three & Three	\$0.00
23	59	Three & Three	\$2,280.00
24	60	Three & Three	\$3,040.00
25	61	Three & Three	\$6,160.00

1	62	Three & Three	\$5,508.98
2	63	Three & Three	\$3,620.00
3	64	Three & Three	\$8,412.50
4	65	Three & Three	\$4,116.00
5	66	Three & Three	\$4,888.00
6	67	Three & Three	\$3,750.00
7	68	Three & Three	\$1,520.00
8	69	Three & Three	\$2,100.00
9	70	Three & Three	\$1,733.25
10	71	Three & Three	\$1,486.48
11	72	Three & Three	\$3,345.06
12	73	Three & Three	\$2,306.01
13	74	Three & Three	\$976.48
14	75	Three & Three	\$10,105.00
15	76	Three & Three	\$3,000.00
16	77	Three & Three	\$3,975.00
17	78	Three & Three	\$1,785.96
18	79	Three & Three	\$7,139.97
19	80	Three & Three	\$2,790.00
20	81	Three & Three	\$6,069.70
21	82	Three & Three	\$2,254.80
22	83	Three & Three	\$6,720.00
23	84	Three & Three	\$4,125.00
24	85	Three & Three	\$6,625.00
25	86	Three & Three	\$5,160.00

1	87	Three & Three	\$2,865.28
2	88	Three & Three	\$1,583.20
3	89	Three & Three	\$11,400.00
4	90	Three & Three	\$6,225.00
5	91	Three & Three	\$8,232.00
6	92	Three & Three	\$4,824.00
7	93	Three & Three	\$3,080.00
8	94	Three & Three	\$2,424.00
9	95	Three & Three	\$2,455.20
10	96	Three & Three	\$3,454.75
11	97	Three & Three	\$250.00
12	98	Three & Three	\$7,321.50
13	99	Three & Three	\$3,701.25
14	100	Three & Three	\$8,840.00
15	101	Three & Three	\$3,538.75
16	102	Three & Three	\$7,080.00
17	103	Three & Three	\$2,331.00
18	104	Three & Three	\$6,300.00
19	105	Three & Three	\$4,261.40
20	106	Three & Three	\$6,842.50
21	107	Three & Three	\$9,673.60
22	108	Three & Three	\$5,152.00
23	109	Three & Three	\$2,592.00
24	110	Three & Three	\$4,418.00
25	111	Three & Three	\$4,233.00

1	112	Three & Three	\$6,739.78
2	113	Three & Three	\$4,331.25
3	114	Three & Three	\$7,535.00
4	115	Three & Three	\$3,177.00
5	116	Three & Three	\$3,400.00
6	117	Three & Three	\$1,881.78
7	118	Three & Three	\$4,593.75
8	119	Three & Three	\$2,000.00
9	120	Three & Three	\$7,536.00
10	121	Three & Three	\$3,030.00
11	122	Three & Three	\$5,024.00
12	123	Three & Three	\$1,095.00
13	124	Three & Three	\$3,315.00
14	125	Three & Three	\$2,393.60
15	126	Three & Three	\$5,359.78
16	127	Three & Three	\$4,797.60
17	128	Three & Three	\$3,579.31
18	129	Three & Three	\$4,522.00
19	130	Three & Three	\$0.00
20	131	Three & Three	\$2,500.00
21	132	Three & Three	\$4,960.00
22	133	Three & Three	\$2,098.80
23	134	Three & Three	\$30,544.27
24	135	Three & Three	\$4,956.00
25	136	Three & Three	\$2,884.00

1	137	Three & Three	\$4,869.90
2	138	Three & Three	\$5,150.40
3	139	Three & Three	\$6,332.50
4	140	Three & Three	\$3,100.00
5	141	Three & Three	\$5,510.00
6	142	Three & Three	\$3,720.00
7	143	Three & Three	\$2,688.00
8	144	Three & Three	\$6,500.00
9	145	Three & Three	\$5,088.00
10	146	Three & Three	\$2,700.00
11	147	Three & Three	\$3,825.00
12	148	Three & Three	\$4,641.00
13	149	Three & Three	\$3,871.25
14	150	Three & Three	\$3,416.00
15	151	Three & Three	\$5,600.00
16	152	Three & Three	\$2,785.24
17	153	Three & Three	\$4,036.48
18	154	Three & Three	\$4,240.00
19	155	Three & Three	\$4,592.00
20	156	Three & Three	\$5,680.00
21	157	Three & Three	\$4,865.52
22	158	Three & Three	\$6,600.00
23	159	Three & Three	\$4,675.00
24	160	Three & Three	\$7,425.00
25	161	Three & Three	\$3,673.60

1	162	Three & Three	\$6,133.41
2	163	Three & Three	\$5,240.25
3	164	Three & Three	\$3,680.00
4	165	Three & Three	\$3,420.00
5	166	Three & Three	\$5,481.00
6	167	Three & Three	\$7,185.78
7	168	Three & Three	\$5,117.50
8	169	Three & Three	\$4,900.00
9	170	Three & Three	\$7,420.00
10	171	Three & Three	\$5,592.00
11	172	Three & Three	\$5,185.00
12	173	Three & Three	\$920.00
13	174	Three & Three	\$5,775.00
14	175	Three & Three	\$3,353.25
15	176	Three & Three	\$3,300.00
16	177	Three & Three	\$2,863.27
17	178	Three & Three	\$500.00
18	179	Three & Three	\$3,473.67
19	180	Three & Three	\$3,125.00
20	181	Three & Three	\$3,978.00
21	182	Three & Three	\$4,770.00
22	183	Three & Three	\$4,151.25
23	184	Three & Three	\$3,659.40
24	185	Three & Three	\$4,959.15
25	186	Three & Three	\$4,080.00

1	187	Three & Three	\$6,030.60
2	188	Three & Three	\$4,020.00
3	189	Three & Three	\$3,780.00
4	190	Three & Three	\$6,005.00
5	191	Three & Three	\$3,952.00
6	192	Three & Three	\$2,773.44
7	193	Three & Three	\$4,298.75
8	194	Three & Three	\$2,595.60
9	195	Three & Three	\$0.00
10	196	Three & Three	\$0.00
11	197	Three & Three	\$500.00
12	198	Three & Three	\$0.00
13	199	Three & Three	\$439.25
14	200	Three & Three	\$0.00
15	201	Three & Three	\$750.00
16	202	Three & Three	\$0.00
17	203	Three & Three	\$419.80
18	204	Three & Three	\$750.00
19	205	Three & Three	\$0.00
20	206	Three & Three	\$750.00
21	207	Three & Three	\$900.00
22	208	Three & Three	\$0.00
23	209	Three & Three	\$1,650.00
24	210	Three & Three	\$374.70
25	211	Three & Three	\$0.00

1	212	Three & Three	\$100.00
2	213	Three & Three	\$2,377.93
3	214	Three & Three	\$0.00
4	215	Three & Three	\$0.00
5	216	Three & Three	\$750.00
6	217	Three & Three	\$0.00
7	218	Three & Three	\$1,000.00
8	219	Three & Three	\$0.00
9	220	Three & Three	\$0.00
10	221	Three & Three	\$1,248.00
11	222	Three & Three	\$750.00
12	223	Three & Three	\$0.00
13	224	Three & Three	\$560.00
14	225	Three & Three	\$2,240.00
15	226	Three & Three	\$484.75
16	227	Three & Three	\$750.00
17	228	Three & Three	\$0.00
18	229	Three & Three	\$0.00
19	230	Three & Three	\$433.50
20	231	Three & Three	\$598.00
21	232	Three & Three	\$5.40
22	233	Three & Three	\$534.00
23	234	Three & Three	\$3,800.00
24	235	Three & Three	\$0.00
25	236	Three & Three	\$750.00

1	237	Three & Three	\$500.00
2	238	Three & Three	\$0.00
3	239	Three & Three	\$375.80
4	240	Three & Three	\$0.00
5	241	Three & Three	\$750.00
6	242	Three & Three	\$0.00
7	243	Three & Three	\$0.00
8	244	Three & Three	\$606.00
9	245	Three & Three	\$750.00
10	246	Three & Three	\$424.50
11	247	Three & Three	\$1,000.00
12	248	Three & Three	\$0.00
13	249	Three & Three	\$1,000.00
14	250	Three & Three	\$0.00
15	251	Three & Three	\$2,420.00
16	252	Three & Three	\$0.00
17	253	Three & Three	\$0.00
18	254	Three & Three	\$0.00
19	255	Three & Three	\$0.00
20	256	Three & Three	\$0.00
21	257	Three & Three	\$1,000.00
22	258	Three & Three	\$500.00
23	259	Three & Three	\$0.00
24	260	Three & Three	\$1,162.00
25	261	Three & Three	\$750.00

1	262	Three & Three	\$0.00
2	263	Three & Three	\$1,279.96
3	264	Three & Three	\$250.00
4	265	Three & Three	\$0.00
5	266	Three & Three	\$500.00
6	267	Three & Three	\$0.00
7	268	Three & Three	\$750.00
8	269	Three & Three	\$0.00
9	270	Three & Three	\$0.00
10	271	Three & Three	\$697.13
11	272	Three & Three	\$0.00
12	273	Three & Three	\$43.38
13	274	Three & Three	\$0.00
14	275	Three & Three	\$0.00
15	276	Three & Three	\$750.00
16	277	Three & Three	\$0.00
17	278	Three & Three	\$1,326.00
18	279	Three & Three	\$0.00
19	280	Three & Three	\$0.00
20	281	Three & Three	\$358.00
21	282	Three & Three	\$463.75
22	283	Three & Three	\$231.88
23	284	Three & Three	\$750.00
24	285	Three & Three	\$750.00
25	286	Three & Three	\$71.00

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287	Three & Three	\$900.00
288	Three & Three	\$0.00
289	Three & Three	\$0.00
290	Three & Three	\$1,073.75
291	Three & Three	\$0.00
292	Three & Three	\$0.00
293	Three & Three	\$0.00
294	Three & Three	\$1,000
295	Three & Three	\$0
296	Three & Three	\$62.50
297	Three & Three	\$75.00
298	Three & Three	\$0.00
299	Three & Three	\$0.00
300	Three & Three	\$260.00
301	Three & Three	\$500.00
302	Three & Three	\$1,000.00
303	Three & Three	\$0.00
304	Three & Three	\$0.00
305	Three & Three	\$0.00
306	Three & Three	\$500.00
307	Three & Three	\$750.00