

1 State of New Hampshire Banking Department

2

3 In re the Matter of:) Case No.: 07-006
)
 4 State of New Hampshire Banking)
) Cease and Desist Order
 5 Department,)
)
 6 and)
)
 7 Lead Association Corp. d/b/a)
)
 8 Neighborhood Loan,)
)
 9 Respondent (s))
)
 10)
)
 11)

12 NOTICE OF ORDER

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14 This Order commences an adjudicative proceeding under the provisions of
15 RSA 397-A:18 II and BAN 200 et seq.

16 LEGAL AUTHORITY AND JURISDICTION

17 Pursuant to RSA 397-A:18 II, the Banking Department of the State of New
18 Hampshire (hereinafter the "Department") has the authority to issue and cause
19 to be served an order requiring any person engaged in any act or practice
20 constituting a violation of RSA 397-A or any rule or order thereunder, to
21 cease and desist from violations of RSA 397-A.

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

25 Pursuant to RSA 383:10-d, the Commissioner shall have exclusive
authority and jurisdiction to investigate conduct that is or may be an unfair
or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or

1 that may violate any of the provisions of Titles XXXV and XXXVI and
2 administrative rules adopted thereunder. The Commissioner may hold hearings
3 relative to such conduct and may order restitution for a person or persons
4 adversely affected by such conduct.

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

6 The above named respondent has the right to request a hearing on this
7 Order to Cease and Desist, as well as the right to be represented by counsel.
8 A hearing shall be held not later than 10 days after the request for such
9 hearing is received by the commissioner after which and within 20 days of the
10 date of the hearing the commissioner shall issue a further order vacating the
11 cease and desist order or making it permanent as the facts require. All
12 hearings shall comply with 541-A. If the person to whom a cease and desist
13 order is issued fails to appear at the hearing after being duly notified, such
14 person shall be deemed in default, and the proceeding may be determined against
15 him or her upon consideration of the cease and desist order, the allegations of
16 which may be deemed to be true.

17 If the person to whom a cease and desist order is issued fails to request
18 a hearing within 30 calendar days of receipt of such order, then such person
19 shall likewise be deemed in default, and the order shall, on the thirty-first
20 day, become permanent, and shall remain in full force and effect until and
21 unless later modified or vacated by the commissioner, for good cause shown.
22 Any such request for a hearing shall be in writing, and signed by the
23 respondent or by the duly authorized agent of the above named respondent, and
24 shall be delivered either by hand or certified mail, return receipt request,
25 to the Banking Department, State of New Hampshire, 64B Old Suncook Road,
Concord, NH 03301.

1 **STATEMENT OF ALLEGATIONS**

2 The allegations contained in the Staff Petition for Relief dated May
3 16, 2007 (a copy of which is attached hereto) are incorporated by reference
4 hereto.

5 **ORDER**

6 WHEREAS, finding it necessary and appropriate and in the public
7 interest, and consistent with the intent and purposes of the New Hampshire
8 banking laws, and

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

11 It is hereby ORDERED, that:

- 12 1. The Respondent shall immediately cease engaging in the
13 activity of a mortgage banker / broker on residential property
14 in New Hampshire; and
- 15 2. The Respondent shall repay to consumers all fees collected as
16 a result of their unlicensed activity; and
- 17 3. Respondent shall show cause why it should not be ordered to
18 pay \$17,500.00 for violations of the Chapter; and
- 19 4. Failure to request a hearing within 30 days of the date of
20 receipt of this Order shall result in a default judgment being
21 rendered, administrative penalties being imposed upon the
22 defaulting Respondents, refunds of all commissions being
23 ordered and such further action as is necessary to determine
24 the proper amount of restitution.

25 SIGNED,

Dated: 5/17/07

/s/
PETER C. HILDRETH
BANK COMMISSIONER

1 **NOTE: VIOLATION OF A CEASE AND DESIST ORDER IS A**
2 **CRIMINAL OFFENSE.**

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12 STATEMENT OF ALLEGATIONS

13 I. The staff of the Banking Department, State of New Hampshire (hereinafter
14 referred to as the "Department") alleges the following facts:

- 15 1. During an examination of a licensed entity, the Examiner in Charge
 16 ("EIC") noted the licensee had accepted mortgage originations from an
 17 entity they knew as Neighborhood Loan.
- 18 2. Upon information and belief Neighborhood Loan is the trade name of Lead
 19 Association Corporation (herinafter Respodent).
- 20 3. Respondent's primary business location is San Diego, California.
- 21 4. Respondent through its website at <http://www.neighborhoodloan.com> at a
 22 minimum, accepts non-public consumer information, information relating
 23 to the type of loan product desired and a property location which will
 24 secure the mortgage loan.
- 25 5. The EIC noted that Respondent originated at least 6 loans, then placed
 these loans with the licensed entity he was examining in expectation of
 compensation.

1 6. Respondent was not licensed as a mortgage broker nor was it entitled to
2 any compensation. Respondent engaged in activity that required it to
3 obtain a license.

4 7. The Department twice contacted Respondent via certified mail and
5 advised them of their need to seek licensure. To date there has been no
6 response to said letters.

7 II. The staff of the Banking Department, State of New Hampshire alleges the
8 following issues of law:

9 1. The Banking Department ("Department"), has jurisdiction over the
10 licensing and regulation of persons engaged in first mortgage banker /
11 broker activities pursuant to NH RSA 397-A:3.

12 2. Pursuant to the New Hampshire Banking laws, RSA 397-A:3 requires any
13 person not exempt under RSA 397-A:4 that, in its own name or on behalf
14 of other persons, engages in the business of making or brokering first
15 mortgage loans secured by real property located in this state shall be
16 required to obtain a license from the banking department.

17 3. Pursuant to NH RSA 397-A:18, the Department has the power to issue and
18 to serve an order requiring persons to cease and desist from violations
19 of the chapter whenever it has reasonable cause to believe that any
20 person has engaged in any act or practice constituting a violation of
21 the banking laws, or any rule or order thereunder. Respondent has
22 violated RSA 397-A:3 by conducting unlicensed mortgage banker / broker
23 activities in New Hampshire.

24 4. Pursuant to RSA 397-A:1 originators may only work for one mortgage
25 broker at a time.

5. Pursuant to RSA 397-A:16 only licensed mortgage brokers and bankers are
entitled to retain commissions for their services.

6. Pursuant to RSA 397-A:21 any person who, either knowingly or

1 negligently, violates any provision of this chapter may, upon notice and
2 opportunity for hearing, and in addition to any such other penalty
3 provided for by law, be subject to suspension, revocation or denial of
4 any registration or license, including forfeiture of any application fee,
5 or an administrative fine not to exceed \$2,500, or both. Each of the
6 acts specified shall constitute a separate violation, and each such
7 administrative action or fine may be imposed in addition to any criminal
8 or civil penalties imposed.

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

20 8. Pursuant to RSA 383:10-d, the commissioner shall have exclusive
21 authority and jurisdiction to investigate conduct that is or may be an
22 unfair or deceptive act or practice under RSA 358-A and exempt under RSA
23 358-A:3, I or that may violate any of the provisions of Titles XXXV and
24 XXXVI and administrative rules adopted thereunder. The commissioner may
25 hold hearings relative to such conduct and may order restitution for a
person or persons adversely affected by such conduct.

RELIEF REQUESTED

