

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-028
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Manhattan Financial Services, Inc.,)
)
 8 Respondent)
)

9
10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions of
12 RSA 397-A:17, RSA 541-A and BAN 200.

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 penalties for violations of New
17 Hampshire Banking laws should not be imposed.

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

21 NOTICE OF RIGHT TO REQUEST A HEARING

22 The above named respondent has the right to request a hearing on this
23 Order to Show Cause, as well as the right to be represented by counsel at the
24 Respondent's own expense. All hearings shall comply with RSA 541-A. Any such
25 request for a hearing shall be in writing, and signed by the respondent or
the duly authorized agent of the above named respondent, and shall be
delivered either by hand or certified mail, return receipt requested, to the

1 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
2 03301. Such hearings will be scheduled within 10 days of the request. If the
3 Respondent fails to appear at the hearing after being duly notified, such
4 person shall be deemed in default, and the proceeding may be determined against
5 the Respondent upon consideration of the Order to Show Cause, the allegations
6 of which may be deemed to be true.

7 If the Respondent fails to request a hearing within 30 calendar days of
8 receipt of such order or reach formal settlement with the Department within
9 that time frame, then such person shall likewise be deemed in default, and the
10 orders shall, on the thirty-first day, become permanent, and shall remain in
11 full force and effect until and unless later modified or vacated by the
12 commissioner, for good cause shown.

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

14 The Staff Petition dated May 7, 2007 (a copy of which is attached
15 hereto) is incorporated by reference hereto.

16 **ORDER**

17 WHEREAS, finding it necessary and appropriate and in the public
18 interest, and consistent with the intent and purposes of the New Hampshire
19 banking laws, and

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

22 It is hereby ORDERED, that the Respondent shall show cause why:

23 1. Administrative penalties of \$2,500.00 should not be imposed;

24 and

25 2. Respondents license should not be revoked; and

It is hereby ORDERED that:

3. Respondent shall pay \$635.00 in examination fees immediately;

and

1 4. Failure to request a hearing within 30 days of the date of
2 receipt of this Order shall result in a default judgment being
3 rendered, license revocation and administrative penalties
4 imposed upon the defaulting Respondent.

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6 SIGNED,

7 Dated: 5/8/07

8 /s/
9 PETER C. HILDRETH
10 BANK COMMISSIONER
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1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-028
)
 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) May 7, 2007
)
 6 and)
)
 7 Manhattan Financial Services, Inc.,)
)
 8 Respondent)
)

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10 STATEMENT OF ALLEGATIONS

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

14 1. On or about May 4, 2006 the Department began conducting an
15 examination of Manhattan Financial Services, Inc. (hereinafter
16 "Respondent").

17 2. Respondent was licensed as a Mortgage Broker and at all times
18 relevant to this action held a Department license since at least
19 2006.

20 3. The Department sent an invoice for the cost of the exam in the
21 amount of \$635 to the Respondent via US Certified Mail on June 30,
22 2006 (mail piece number: 7006 0100 0000 7310 6298). The
23 Respondent received and signed for the mail piece on or about July
24 6, 2006.

25 4. A second invoice was sent to the Respondent on August 1, 2006.

5. A third invoice was sent to the Respondent on September 12, 2006.

1 6. On October 11, 2006 the Department sent a warning letter to the
2 Respondent via US Certified Mail (mail piece number: 7006 0100
3 0000 7311 1049). The Respondent received and signed for the
4 letter on October 13, 2006.

5 7. On March 15, 2007 the Department sent a final letter to the
6 Respondent via US Certified Mail (mail piece number 7006 2760 0002
7 2476 9693). The Respondent received and signed for the letter on
8 March 19, 2007.

9 8. To date, the Respondent has not paid the outstanding invoice.
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11 **ISSUES OF LAW**

12 II. The staff of the Department, alleges the following issues of law:

13 1. The Department realleges the above stated facts in paragraphs 1
14 through 7.

15 2. The Department has jurisdiction over the licensing and
16 regulation of persons engaged in mortgage broker activities
17 pursuant to NH RSA 397-A:3.

18 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the
19 Department may examine the business affairs of any licensee or
20 any other person, whether licensed or not, as it deems necessary
21 to determine compliance with this Chapter and the rules adopted
22 pursuant to it and with the Consumer Credit Protection Act, as
23 amended (15 U.S.C. 1601 et seq.).

24 4. RSA 397-A:12 provides that licensees are to pay the costs of
25 examinations.

1 5. RSA 397-A:21 IV provides that any person who, either knowingly
2 or negligently, violates any provision of Chapter 397-A, may
3 upon hearing, and in addition to any other penalty provided for
4 by law, be subject to an administrative fine not to exceed
5 \$2,500, or both. Each of the acts specified shall constitute a
6 separate violation, and such administrative action or fine may
7 be imposed in addition to any criminal penalties or civil
8 liabilities imposed by New Hampshire Banking laws.

9 **RELIEF REQUESTED**

10 III. The staff of the Department requests the Commissioner take the
11 following Action:

- 12 1. Find as fact the allegations contained in section I of this
13 petition;
- 14 2. Make conclusions of law relative to the allegations contained
15 in section II of the this petition;
- 16 3. Order Respondent to Show Cause why its license should not be
17 revoked;
- 18 4. Assess fines and administrative penalties in accordance with
19 RSA 397-A:21, for violations of Chapter 397-A, in the number
20 and amount equal to the violations set forth in section II of
21 this petition; and
- 22 5. Order the Respondent to pay the exam fee from RSA 397-A:12.
- 23 6. Take such other administrative and legal actions as necessary
24 for enforcement of the New Hampshire Banking Laws, the
25 protection of New Hampshire citizens, and to provide other
 equitable relief.

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2 RIGHT TO AMEND

3 IV. The Department reserves the right to amend this Staff Petition and
4 to request that the Commissioner take additional administrative
5 action. Nothing herein shall preclude the Department from bringing
6 additional enforcement action under RSA 397-A or the regulations
7 thereunder.

8 Respectfully submitted by:

9
10 /s/ _____
11 James Shepard
12 Staff Attorney

13
14 5/7/07 _____
15 Date