

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-128
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Pine Tree Mortgage Inc.,)
)
 8 Respondent)
)

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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 September 17, 2007 (a copy of which is
15 attached 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 \$7,500.00 should not be imposed;
- 24 and
- 25 2. Statutory penalties of \$5,000.00 should not be imposed; and
3. Respondents license should not be revoked; and

It is hereby ORDERED that:

4. Respondent shall pay \$1,376.67 in examination fees
immediately; and

1 State of New Hampshire Banking Department

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)
 7 Pine Tree Mortgage, 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 November 21, 2005 the Department began conducting an
 15 examination of Pine Tree Mortgage Inc (hereinafter "Respondent").
 - 16 2. Respondent is licensed as a Mortgage Broker and at all times
 17 relevant to this action has held a Department license since at
 18 least 2003.
 - 19 3. The Department sent an invoice for the cost of the exam in the
 20 amount of \$1,178.80 for the First Mortgage segment and in the
 21 amount of \$197.87 for the Second Mortgage segment to the
 22 Respondent via US Certified Mail on February 23, 2006 (mail piece
 23 number: 7002 2030 0000 9676 6288). The Respondent received and
 24 signed for the mail piece on or about February 27, 2006.
 - 25 4. A second invoice was submitted to the Respondent on April 7, 2006.
 5. A third invoice was submitted to the Respondent on May 9, 2006.

- 1 2. The Department has jurisdiction over the licensing and
2 regulation of persons engaged in mortgage broker activities
3 pursuant to NH RSA 397-A:3.
- 4 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the
5 Department may examine the business affairs of any licensee or
6 any other person, whether licensed or not, as it deems necessary
7 to determine compliance with this Chapter and the rules adopted
8 pursuant to it and with the Consumer Credit Protection Act, as
9 amended (15 U.S.C. 1601 et seq.). RSA 397-A:12 provides that
10 licensees are to pay the costs of such examinations.
- 11 4. RSA 383:11 provides that licensees are to pay the costs of
12 examinations within 60 days of receipt of notice. The
13 Respondent violated this provision by failing to pay the
14 outstanding invoices.
- 15 5. RSA 397-A:13 II provides that a licensee shall file its
16 financial statement within 90 days from the date of its fiscal
17 year end. The Respondent violated this provision by failing to
18 submit its financial statement.
- 19 6. RSA 397-A:13 IV provides that any mortgage broker which fails to
20 file its annual report within the time prescribed may be
21 required to pay to the department a penalty of \$25.00 for each
22 calendar day the report is overdue up to a maximum penalty of
23 \$2,500.00.
- 24 7. RSA 397-A:13 I provides that a licensee shall file its annual
25 report on or before February 1 each year concerning operations
 for the preceding year or license period ending December 31.

1 The Respondent violated this provision by failing to submit its
2 annual report.

3 8. RSA 397-A:13 IV provides that any mortgage broker which fails to
4 file its annual report within the time prescribed may be
5 required to pay to the department a penalty of \$25.00 for each
6 calendar day the report is overdue up to a maximum penalty of
7 \$2,500.00.

8 9. RSA 397-A:21 IV provides that any person who, either knowingly
9 or negligently, violates any provision of Chapter 397-A, may
10 upon hearing, and in addition to any other penalty provided for
11 by law, be subject to suspension or revocation of their license
12 or an administrative fine not to exceed \$2,500.00, or both.

13 Each of the acts specified shall constitute a separate
14 violation, and such administrative action or fine may be imposed
15 in addition to any criminal penalties or civil liabilities
16 imposed by New Hampshire Banking laws.

17 **RELIEF REQUESTED**

18 III. The staff of the Department requests the Commissioner take the
19 following Action:

- 20 1. Find as fact the allegations contained in section I of this
21 petition;
- 22 2. Make conclusions of law relative to the allegations contained
23 in section II of the this petition;
- 24 3. Order Respondent to Show Cause why its license should not be
25 revoked;

