

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-130
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Safeguard Mortgage LLC,)
)
 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 October 26, 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. Statutory penalties of \$2,500.00 should not be imposed; and
3. Respondents license should not be revoked; and

It is hereby ORDERED that:

4. Failure to request a hearing within 30 days of the date of
receipt of this Order shall result in a default judgment being

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-130
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3 State of New Hampshire Banking) Staff Petition
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4 Department,))
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5 Petitioner,) October 26, 2007
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6 and))
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7 Safeguard Mortgage LLC,))
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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. Safeguard Mortgage LLC (hereinafter "Respondent") was licensed as
15 a Mortgage Broker and at all times relevant to this action and has
16 held a Department license since at least 2004.

17 2. The Respondent's annual report was due on or before February 1,
18 2007.

19 3. On February 2, 2007 the Department sent the Respondent a reminder
20 notice via facsimile

21 4. The Department sent a final notice to the Respondent via US
22 Certified Mail on March 5, 2007 (mail piece number: 7006 2760 0002
23 2477 2006). The notice was received and signed for by the
24 Respondent on or about March 8, 2007.

25 5. A final attempt was made on June 4, 2007 and received on June 6,
2007.

1 6. To date the Respondent has failed to file the annual report.

2 ISSUES OF LAW

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

4 1. The Department realleges the above stated facts in paragraphs 1
5 through 6.

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

9 3. RSA 397-A:13 I provides that a licensee shall file its annual
10 report on or before February 1 each year concerning operations
11 for the preceding year or license period ending December 31.

12 The Respondent violated this provision by failing to submit its
13 annual report.

14 4. RSA 397-A:13 IV provides that any mortgage broker which fails to
15 file its annual report within the time prescribed may be
16 required to pay to the department a penalty of \$25.00 for each
17 calendar day the report is overdue up to a maximum penalty of
18 \$2,500.00.

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

24 Each of the acts specified shall constitute a separate
25 violation, and such administrative action or fine may be imposed

1 in addition to any criminal penalties or civil liabilities
2 imposed by New Hampshire Banking laws.

3 **RELIEF REQUESTED**

4 III. The staff of the Department requests the Commissioner take the
5 following Action:

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

20 **RIGHT TO AMEND**

21 IV. The Department reserves the right to amend this Staff Petition and
22 to request that the Commissioner take additional administrative
23 action. Nothing herein shall preclude the Department from bringing
24 additional enforcement action under RSA 397-A or the regulations
25 thereunder.

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Respectfully submitted by:

 /S/
James Shepard
Staff Attorney

10/26/07
Date