

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-131
))
3 State of New Hampshire Banking) Order to Show Cause
))
4 Department,)
))
5 Petitioner,)
))
6 and)
))
7 Prime One Mortgage 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 August 14, 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 \$5,000.00 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:

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-131
)
 3 State of New Hampshire Banking) Staff Petition
)
 4 Department,)
)
 5 Petitioner,) August 14, 2007
)
 6 and)
)
 7 Prime One 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 December 26, 2006 the Department was scheduled to begin
 15 an examination of Prime One Mortgage Inc. (hereinafter
 16 "Respondent").
 - 17 2. Respondent is licensed as a Mortgage Broker and at all times
 18 relevant to this action has held a Department license since at least
 19 2004.
 - 20 3. The Department sent a notice of an upcoming examination to the
 21 Respondent via US Certified Mail on November 17, 2006 (mail piece
 22 number: 7006 0100 0000 7311 1995). The Respondent received and
 23 signed for the mail piece on or about November 28, 2006.
 - 24 4. On February 7, 2007 the Department sent the Respondent via US
 25 Certified Mail a second letter (mail piece number: 7002 2030 0000
 9677 0025) referencing the first letter and requesting the

1 information. The Respondent received and signed for the mail piece
2 on or about February 17, 2007.

3 5. The Respondent's annual report was due on or before February 1,
4 2007.

5 6. On February 2, 2007 the Department sent the Respondent a reminder
6 notice via facsimile that the annual report had not been received.

7 7. On March 5, 2007 the Department sent the Respondent a letter via US
8 Certified Mail (mail piece number: 7006 2760 0002 2477 1979)
9 advising them that the annual report had not been received and they
10 had until March 26, 2007 to file the report to avoid enforcement
11 action. The Respondent received and signed for the letter on March
12 14, 2007.

13 8. To date the Respondent has failed to provide the materials requested
14 for the examination and has failed to submit its annual report.

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16 **ISSUES OF LAW**

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

18 1. The Department realleges the above stated facts in paragraphs 1
19 through 8.

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

23 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the
24 Department may examine the business affairs of any licensee or
25 any other person, whether licensed or not, as it deems necessary
to determine compliance with this Chapter and the rules adopted

1 pursuant to it and with the Consumer Credit Protection Act, as
2 amended (15 U.S.C. 1601 et seq.). In determining compliance,
3 the Department may examine the books, accounts, records, files,
4 and other documents or matters of any licensee or person. RSA
5 397-A:12 further requires every person being examined, and all
6 of the officers, directors, employees, agents, and
7 representatives of such person shall make freely available to
8 the commissioner or his examiners, the accounts, records,
9 documents, files, information, assets, and matters in their
10 possession or control relating to the subject of the examination
11 and shall facilitate the examination. The Respondent violated
12 this provision by failing to provide exam materials requested by
13 the Department.

14 4. RSA 397-A:13 I requires licensees to file, under oath, an annual
15 report on or before February 1 each year concerning operations
16 for the preceding year or license period ending December 31.
17 The Respondent violated this provision by failing to file its
18 annual report.

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

1 any criminal penalties or civil liabilities imposed by New
2 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

8/14/07
Date