

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-147
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Home Capital 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. Respondents are entitled to at least 30
7 days' notice regarding the hearing date.

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

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

15 The Staff Petition dated July 17, 2007 (a copy of which is attached
16 hereto) is incorporated by reference hereto.

17 **ORDER**

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

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

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

24 1. Administrative penalties of \$5,000.00 should not be imposed;

25 and

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.: 07-147
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3 State of New Hampshire Banking) Staff Petition
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4 Department,))
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5 Petitioner,) July 17, 2007
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6 and))
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7 Home Capital 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. Respondent is licensed as a Mortgage Banker and at all times
15 relevant to this action has held a Department license since at
16 least 2006.
- 17 2. The Respondent's fiscal year end was December 31, 2006 and the
18 financial statement was due on or before April 2, 2007.
- 19 3. On April 4, 2007 the Department sent the Respondent a letter
20 advising them that the financial statement had not been received
21 and they had begun to accrue a \$25.00 per day fine for late
22 submission of materials.
- 23 4. On April 25, 2007 the Department sent the Respondent a second
24 reminder letter regarding the accruing fine.
- 25 5. On May 2, 2007 the Department received notification from the State
of Michigan that a call placed to the company resulted in a

1 recording that indicated the company had ceased operations and
2 that customers would be contacted by a representative.

3 6. The Department checked the Respondent's website and attempted to
4 contact the Respondent at the contact number provided. A message
5 was received that all circuits were busy.

6 7. The Department attempted to call the telephone number on file and
7 received the recording referenced in #5.

8 8. The Department contacted the Respondent via email inquiring as to
9 its status. The Respondent notified the Department it was
10 experiencing financial difficulties and had ceased operations as
11 of April 13, 2007. The Respondent also indicated it was unable to
12 provide a list of loans in the pipeline.

13 9. Despite the foregoing the licensee has made no attempt to
14 surrender the license, submit required reports, or pay outstanding
15 fines

16 **ISSUES OF LAW**

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

18 1. The Department has jurisdiction over the licensing and
19 regulation of persons engaged in mortgage banker activities
20 pursuant to NH RSA 397-A:3.

21 2. RSA 397-A:13 II provides that a licensee shall file its
22 financial statement within 90 days from the date of its fiscal
23 year end. The Respondent violated this provision by failing to
24 submit its financial statement.

25 3. RSA 397-A:13 IV provides that any mortgage banker which fails to
file its financial statement within the time prescribed may be

1 required to pay to the department a penalty of \$25.00 for each
2 calendar day the statement is overdue up to a maximum penalty of
3 \$2,500.00.

4 4. RSA 397-A:11 provides that a licensee shall maintain such
5 records as will enable the department to determine whether the
6 licensee's business is in compliance with the provisions of the
7 chapter. The Respondent violated this provision by failing to
8 provide a pipeline report at the Department's request.

9 5. RSA 397-A:17 VIII provides that if the commissioner finds that a
10 licensee is no longer in business the commissioner may by order
11 revoke the license and impose penalties.

12 6. RSA 397-A:21 IV provides that any person who, either knowingly
13 or negligently, violates any provision of Chapter 397-A, may
14 upon hearing, and in addition to any other penalty provided for
15 by law, be subject to suspension or revocation of their license
16 or an administrative fine not to exceed \$2,500.00, or both.
17 Each of the acts specified shall constitute a separate
18 violation, and such administrative action or fine may be imposed
19 in addition to any criminal penalties or civil liabilities
20 imposed by New Hampshire Banking laws.

21 **RELIEF REQUESTED**

22 III. The staff of the Department requests the Commissioner take the
23 following Action:

- 24 1. Find as fact the allegations contained in section I of this
25 petition;

