

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 07-177  
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 4 State of New Hampshire Banking )  
 ) Cease and Desist Order  
 5 Department, )  
 )  
 6 and ) Consent Order  
 )  
 7 Boardwalk Mortgage Services, Inc., )  
 )  
 8 James M. Joly, and David E. Hurley, )  
 )  
 9 Respondents )  
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12 CONSENT ORDER

13 I. For purposes of settling the above-referenced matter, among other  
14 things, the New Hampshire Banking Department (hereinafter referred to  
15 as "the Department") and Respondents Boardwalk Mortgage Services, Inc.,  
16 James M. Joly and David E. Hurley (hereinafter referred to as  
17 "Respondent Boardwalk", "Respondent Joly", and "Respondent Hurley"  
18 respectively or Respondents collectively), do hereby enter this  
19 Agreement and stipulate to the following:

- 18 1. Respondent Boardwalk was never licensed to conduct mortgage  
 19 brokering in New Hampshire by the Department.
- 20 2. The Department and Respondents agree that Respondent Boardwalk  
 21 was subject to licensure as a result of activities conducted by  
 22 Respondents and others as alleged in the staff petition of July  
 23 18, 2007 in this same cause.
- 24 3. The Respondents acknowledge that only licensed mortgage brokers  
 25 and bankers may collect fees for their services pursuant to RSA  
 397-A:16.

1           4. The Respondents do not admit that they have committed any  
2           violation of New Hampshire Banking Laws or Regulations but wish  
3           to avoid further formal process.

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5       II. For purposes of amicably resolving and closing the above-referenced  
6       matters the Respondents agree to the following terms and conditions and the  
7       Department accepts the same:

- 8           1. The Respondents agree that they have voluntarily entered into this  
9           Agreement without reliance upon any discussions between the  
10           Department and Respondents, without promise of a benefit of any kind  
11           (other than concessions contained in this Agreement), and without  
12           threats, force, intimidation, or coercion of any kind. The  
13           Respondents further acknowledge their understanding of the nature of  
14           the offenses stated above, including the penalties provided by law.
- 15           2. The Respondents agree to waive any and all rights to a hearing and  
16           appeal thereof.
- 17           3. The Respondents agree that they will not deny the factual basis for  
18           this Agreement to which they have stipulated above and will not give  
19           conflicting statements about such facts or their involvement in the  
20           stipulated facts.
- 21           4. The Respondents agree that all terms of this Agreement are  
22           contractual and none is a mere recital.
- 23           5. The Respondents agree they are subject to an administrative penalty  
24           of \$10,000.00.
- 25           6. The Department agrees to waive the penalty on receipt of Respondents  
            compliance with its further agreements herein.
7. Respondents consent to having the Cease and Desist Order being made  
            permanent against Boardwalk Mortgage Services, Inc., provided that  
            nothing herein shall prevent the said corporation from applying for  
            a license to provide mortgage brokerage services in New Hampshire.
8. Respondents shall repay directly to consumers all fees or  
            commissions collected from New Hampshire consumers for any loans  
            closed by Respondents while acting in an unlicensed capacity said  
            payments to be made within 60 days of this agreement's execution by  
            the Commissioner. Such fees collectively total \$8,226.69.

- 1        9.       Respondents shall provide an accounting of said payments to the  
2           Department to include cancelled checks by the 75<sup>th</sup> day.
- 3        10.       Respondents acknowledge they are jointly and severally liable for  
4           all payments and fines referenced herein.
- 5        11.       The Respondents acknowledge that failure to make payment as agreed  
6           above will result in imposition of the suspended fine, further  
7           administrative fines, and possible criminal liability.

8        This Agreement represents the complete and final resolution of, and discharge  
9        of any basis for any civil or administrative proceeding by the Department  
10       against the Respondents for violations arising as a result of or in  
11       connection with any actions or omissions by the Respondents through the date  
12       of this Order as it applies to unlicensed activity; provided, however, this  
13       release does not apply to facts not known by the Department or not otherwise  
14       provided by the Respondents to the Department as of the date of this Order  
15       nor to actions for Restitution under RSA 383:10-d. The Department expressly  
16       reserves its right to pursue any administrative or civil action or remedy  
17       available to it should the Respondents breach this Agreement or in the future  
18       violate the Act or rules and orders promulgated thereunder.

19       [REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

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1 **WHEREFORE**, based on the foregoing, we have set our hands to this Agreement,  
2 with it taking effect upon the signature of Peter C. Hildreth, Bank  
3 Commissioner.

4 Recommended this 24th day of August, 2007 by

5 \_\_\_\_\_  
6 /s/  
7 James Shepard, Staff Attorney, Banking Department

8 Executed this 22nd day of August, 2007.

9 \_\_\_\_\_  
10 /s/  
11 James M, Joly for himself and on behalf of Boardwalk Real Estate Corp.

12 Executed this 23rd day of August, 2007.

13 \_\_\_\_\_  
14 /s/  
15 David E. Hurley for himself and on behalf of Boardwalk Real Estate Corp.

16 **SO ORDERED,**

17 Entered this 24th day of August, 2007.

18 \_\_\_\_\_  
19 /s/  
20 Peter C. Hildreth,  
21 Bank Commissioner

22 **NOTE: VIOLATION OF A CEASE AND DESIST ORDER IS A CRIMINAL**  
23 **OFFENSE.**

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