

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-104  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Order to Show Cause  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Mortgage Horizons LLC, and Anthony R. )  
 )  
 8 Verduchi, Jr., )  
 )  
 9 Respondents )

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10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions  
12 of RSA 397-A and RSA 541-A.

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 and penalties for violations of New  
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, the Department has the authority to issue a  
19 complaint setting forth charges whenever the Department is of the opinion  
20 that the licensee or person over whom the Department has jurisdiction is  
21 violating or has violated any provision of RSA Chapter 397-A, or any rule or  
22 order thereunder.

23 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or  
24 rescind such orders as are reasonably necessary to comply with the  
25 provisions of the Chapter.

1 Pursuant to RSA 397-A:21, the Commissioner has the authority to  
2 suspend, revoke or deny any license and to impose administrative penalties  
3 of up to \$2,500.00 for each violation of New Hampshire banking law and  
4 rules.

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct  
6 that is or may be an unfair or deceptive act or practice under RSA 358-A and  
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of  
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The  
9 Commissioner may hold hearings relative to such conduct and may order  
10 restitution for a person or persons adversely affected by such conduct. The  
11 Commissioner may utilize all remedies available under the Consumer  
12 Protection Act.

13 **NOTICE OF RIGHT TO REQUEST A HEARING**

14 The above named Respondents have the right to request a hearing on  
15 this Order to Show Cause, as well as the right to be represented by counsel  
16 at each Respondent's own expense. All hearings shall comply with RSA 541-A.  
17 Any such request for a hearing shall be in writing, and signed by the  
18 Respondent or the duly authorized agent of the above named Respondent, and  
19 shall be delivered either by hand or certified mail, return receipt  
20 requested, to the Banking Department, State of New Hampshire, 53 Regional  
21 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within  
22 10 days of the Department's receipt of the request. If the Respondent fails  
23 to appear at the hearing after being duly notified, such person shall be  
24 deemed in default, and the proceeding may be determined against the Respondent  
25 upon consideration of the Order to Show Cause, the allegations of which may be

1 deemed to be true.

2 If any of the above named Respondents fails to request a hearing within  
3 30 calendar days of receipt of such order or reach formal settlement with the  
4 Department within that time frame, then such person shall likewise be deemed  
5 in default, and the orders shall, on the thirty-first day, become permanent,  
6 and shall remain in full force and effect until and unless later modified or  
7 vacated by the Commissioner, for good cause shown.

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

9 The Staff Petition dated January 30, 2009 (a copy of which is attached  
10 hereto) is incorporated by reference hereto.

11 **ORDER**

12 WHEREAS, finding it necessary and appropriate and in the public  
13 interest, and consistent with the intent and purposes of the New Hampshire  
14 banking laws, and

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

17 It is hereby ORDERED, that:

- 18 1. Respondent Mortgage Horizons LLC ("Respondent Mortgage  
19 Horizons") shall show cause why penalties in the amount of  
20 \$37,500.00 should not be imposed against it;
- 21 2. Respondent Anthony R. Verduchi, Jr. ("Respondent Verduchi")  
22 shall show cause why penalties in the amount of \$45,000.00  
23 should not be imposed against him;
- 24 3. The above named Respondents shall show cause why, in addition  
25 to the penalties listed in Paragraphs 1 through 2 above, the

1           \$500.00 examination fee should not be paid to the Department;

2           4. Respondents shall be jointly and severally liable for the  
3           above amounts alleged in Paragraphs 1 through 3 above;

4           5. The above named Respondents shall show cause why, in addition  
5           to the penalties listed in Paragraphs 1 through 4 above,  
6           statutory penalties of \$2,500.00 should not be imposed for  
7           failing to file the 2007 Annual Report;

8           6. The above named Respondents shall show cause why, in addition  
9           to the penalties listed in Paragraphs 1 through 5 above, the  
10          accrued fine of \$21,500.00 (and still accruing) for the  
11          failure to file examination materials should not be paid to  
12          the Department;

13          7. The above named Respondents shall show cause why, in addition  
14          to the penalties listed in Paragraphs 1 through 5 above,  
15          Respondent Mortgage Horizons' license should not be revoked.

16          It is hereby further ORDERED that:

17          8. Along with the administrative penalties listed for the above  
18          named Respondents, the outstanding sum of \$24,500.00 shall be  
19          immediately paid; and

1 9. Failure to request a hearing within 30 days of the date of  
2 receipt or valid delivery of this Order shall result in a  
3 default judgment being rendered and administrative penalties  
4 imposed upon the defaulting Respondent(s).

5  
6 SIGNED,

7  
8 Dated: 1/30/09

9 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-104  
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 3 State of New Hampshire Banking )  
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 4 Department, ) Staff Petition  
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 5 Petitioner, ) January 30, 2009  
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 7 Mortgage Horizons LLC, and Anthony R. )  
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 8 Verduchi, Jr., )  
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 9 Respondents )

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10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter  
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent Mortgage Horizons LLC (hereinafter "Respondent  
15 Mortgage Horizons") was licensed as a Mortgage Broker from at  
16 least September 13, 2004 until its license expired on December  
17 31, 2007.
- 18 2. Respondent Anthony R. Verduchi, Jr. (hereinafter "Respondent  
19 Verduchi") was the Manager of Respondent Mortgage Horizons, when  
20 licensed by the Department.

21 Violation of RSA 397-A:12,VII Failure to Facilitate Exam (1 Count):

22 Violation of RSA 397-A:12,III Examinations: Failure to Provide Requested  
23 Files (5 Counts):

24 Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested

25 Files (5 Counts):

1 Violation of RSA 397-A:13, VI Failure of Officer and Owner to Respond to

2 Department Inquiries (2 Counts):

3 3. Paragraphs 1 through 2 are hereby realleged as fully set forth  
4 herein.

5 4. The Department conducted an examination of Respondent Mortgage  
6 Horizons on November 5, 2007, while Respondent Mortgage Horizons  
7 was still licensed with the Department.

8 5. On October 8, 2007, the Department sent the notice of examination  
9 to Respondent Mortgage Horizons via U.S. Certified Mail Return  
10 Receipt requested, which Respondents received on October 15,  
11 2007.

12 6. The examination materials were due 21 days after Respondents'  
13 receipt of the notice of examination, which would have been  
14 November 5, 2007.

15 7. On February 1, 2008, the Department mailed a second notice via  
16 U.S. Certified Mail Return Receipt requested, which was returned  
17 to the Department as "unclaimed".

18 8. On March 4, 2008, the Department mailed a third notice via UPS,  
19 which Respondents received on March 6, 2008.

20 9. To date, the above named Respondents have failed to respond to the  
21 three notices of examination.

22 10. To date, fines have accrued for failing to provide the requested  
23 files. The current fine to date is \$21,500.00 (\$50.00 a day x  
24 430 days) and is still accruing.

25

1 Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

2 Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to

3 Department Inquiries (1 Count):

4 Violation of RSA 397-A:10,IV Failure to Update Information on File with

5 Commissioner (1 Count):

6 11. Paragraphs 1 through 10 are hereby realleged as fully set forth  
7 herein.

8 12. The Department conducted an examination of Respondent Mortgage  
9 Horizons on November 5, 2007, while Respondent Mortgage Horizons  
10 was still licensed with the Department.

11 13. On July 17, 2008, the Department mailed the report of examination  
12 and invoice for \$500.00 to Respondent Mortgage Horizons, via U.S.  
13 Certified Mail Return Receipt requested, which the U.S. Postal  
14 Service returned to the Department on July 25, 2008 as "Return to  
15 Sender".

16 14. On August 4, 2008, the Department mailed the report of examination  
17 and invoice for \$500.00 to Respondent Mortgage Horizons, via UPS,  
18 which were returned to the Department on August 14, 2008 because  
19 the above named Respondents moved.

20 15. The above named Respondents failed to respond to the July 17, 2008  
21 and August 4, 2008 correspondences from the Department.

22 16. The Department, via U.S. mail, mailed a second notice on August  
23 20, 2008 and a third notice on September 23, 2008.

24 17. The above named Respondents did not respond to any of the four  
25 notices for payment of the \$500.00 invoice.

1 18. To date, the above named Respondents still owe the \$500.00  
2 examination fee for the one day examination.

3 Violation of RSA 397-A:10-a, I(a) Failure to Properly Surrender License (1  
4 Count):

5 Violation of RSA 397-A:13, I Failure to File Annual Report (1 Count):

6 19. Paragraphs 1 through 18 are hereby realleged as fully set forth  
7 herein.

8 20. The 2007 Annual Report was due on or before February 1, 2008.

9 21. On January 4, 2008, the Department sent correspondence, via U.S.  
10 Certified Mail Return Receipt requested, advising the above named  
11 Respondents to submit surrender documents and forms. The U.S.  
12 Postal Service returned the letter to the Department as  
13 "unclaimed" and "unable to forward".

14 22. On February 5, 2008, the Department mailed via U.S. Certified Mail  
15 Return Receipt requested a reminder letter that the annual report  
16 was due on February 1, 2008. The U.S. Postal Service returned the  
17 letter to the Department as "unclaimed and unable to forward".

18 23. On February 19, 2008, the Department sent yet another reminder  
19 letter via U.S. Certified Mail, instructing Respondent Mortgage  
20 Horizons to complete and submit surrender/expiration forms, a  
21 publication notice and the annual report. Again, the U.S. Postal  
22 Service returned the letter to the Department as "unclaimed and  
23 unable to forward".

24 24. To date, the accrued penalty for failure to file an annual report  
25 has reached the maximum cap of \$2,500.00.

1 **II. ISSUES OF LAW**

2 The staff of the Department alleges the following issues of law:

- 3 1. The Department realleges the above stated facts in Paragraphs 1  
4 through 24 as fully set forth herein.
- 5 2. The Department has jurisdiction over the licensing and regulation  
6 of persons engaged in mortgage banker or broker activities  
7 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 8 3. RSA 397-A:10,IV provides that persons licensed under RSA Chapter  
9 397-A are under a continuing obligation to update information on  
10 file with the Commissioner. Each of the above named Respondents  
11 failed to update the Commissioner on at least one occasion as  
12 alleged above.
- 13 4. RSA 397-A:10-a, I (a) provides that a licensee who ceases to  
14 engage in the business of a mortgage banker or mortgage broker at  
15 any time during a license year for any cause shall surrender such  
16 license in person or by registered or certified mail to the  
17 Commissioner within 15 calendar days of such cessation, and shall  
18 cause to be published in a newspaper of general circulation in the  
19 licensee's market area a notice to such effect. Each of the above  
20 named Respondents violated this statute on at least one occasion  
21 as alleged above.
- 22 5. RSA 397-A:11,II provides that requested files and business records  
23 must be received by the Department within 21 calendar days of  
24 request. The licensee will be subject to a \$50.00 a day fine  
25 every day after the 21-day period the records are not produced.

1 Each of the above named Respondents violated this provision on at  
2 least five occasions as alleged above. Respondents currently owe  
3 \$21,500.00 to date and the fine is still accruing.

4 6. RSA 397-A:12,III requires licensees to comply with examination  
5 requests with or without prior notice. All books, papers, files,  
6 related material, and records of assets shall be subject to the  
7 Department's examination. Each of the above named Respondents  
8 violated this statute on at least five occasions as alleged  
9 above.

10 7. RSA 397-A:12,V provides that the expense of such examination shall  
11 be chargeable to and paid by the licensee. Each of the above  
12 named Respondents violated this provision on at least one  
13 occasion as alleged above. To date, the above named Respondents  
14 have failed to pay the \$500.00 examination invoice.

15 8. RSA 397-A:12,VII provides that every person being examined, and  
16 all of the officers, directors, employees, agents, and  
17 representatives of such person shall make freely available to the  
18 Commissioner or his or her examiners, the accounts, records,  
19 documents, files, information, assets, and matters in their  
20 possession or control relating to the subject of the examination  
21 and shall facilitate the examination. Each of the above named  
22 Respondents violated this statute on at least one occasion as  
23 alleged above.

24 9. RSA 397-A:13,I provides that a licensee shall file its annual  
25 report on or before February 1 each year concerning operations

1 for the preceding year or license period ending December 31.  
2 Each of the above named Respondents violated this provision on at  
3 least one occasion as alleged above. The maximum fine for this  
4 specific violation has reached \$2,500.00 since no annual report  
5 was filed for 2007.

6 10. RSA 397-A:13,VI provides that any officer, owner, manager or  
7 agent of any licensee shall reply promptly in writing, or other  
8 designated form, to any written inquiry from the Department.  
9 Respondent Verduchi violated this provision on at least three  
10 occasions as alleged above.

11 11. RSA 397-A:17,I provides in part that the Commissioner may by  
12 order, upon due notice and opportunity for hearing, assess  
13 penalties or deny, suspend, or revoke a license or application if  
14 it is in the public interest and the applicant, respondent, or  
15 licensee, any partner, officer, member, or director, any person  
16 occupying a similar status or performing similar functions, or  
17 any person directly or indirectly controlling the applicant,  
18 respondent, or licensee: (a) has violated any provision of RSA  
19 Chapter 397-A or rules thereunder, or (b) has not met the  
20 standards established in RSA Chapter 397-A.

21 12. RSA 397-A:18,I provides that the Department may issue a complaint  
22 setting forth charges whenever the Department is of the opinion  
23 that the licensee or person over whom the Department has  
24 jurisdiction, has violated any provision of RSA 397-A or orders  
25 thereunder.

1 13. RSA 397-A:21,IV provides that any person who, either knowingly or  
2 negligently, violates any provision of Chapter 397-A, may upon  
3 hearing, and in addition to any other penalty provided for by  
4 law, be subject to an administrative fine not to exceed  
5 \$2,500.00, or both. Each of the acts specified shall constitute  
6 a separate violation, and such administrative action or fine may  
7 be imposed in addition to any criminal penalties or civil  
8 liabilities imposed by New Hampshire Banking laws.

9 14. RSA 397-A:21,V provides that every person who directly or  
10 indirectly controls a person liable under this section, every  
11 partner, principal executive officer or director of such person,  
12 every person occupying a similar status or performing a similar  
13 function, every employee of such person who materially aids in the  
14 act constituting the violation, and every licensee or person acting  
15 as a common law agent who materially aids in the acts constituting  
16 the violation, either knowingly or negligently, may, upon notice  
17 and opportunity for hearing, and in addition to any other penalty  
18 provided for by law, be subject to suspension, revocation, or  
19 denial of any registration or license, including the forfeiture of  
20 any application fee, or the imposition of an administrative fine  
21 not to exceed \$2,500, or both. Each of the acts specified shall  
22 constitute a separate violation, and such administrative action or  
23 fine may be imposed in addition to any criminal or civil penalties  
24 imposed.

25

