

1 State of New Hampshire Banking Department

2	In re the Matter of:)	Case No.: 08-125
)	
3	State of New Hampshire Banking)	
)	Order to Show Cause
4	Department,)	
)	
5	Petitioner,)	
)	
6	and)	
)	
7	Equihome Mortgage, Corp., and Ray V.)	
)	
8	Caprio,)	
)	
9	Respondents)	

10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions
12 of RSA Chapter 397-A and RSA Chapter 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,IV 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 Chapter
7 358-A and exempt under RSA 358-A:3,I or that may violate any of the
8 provisions of Titles XXXV and XXXVI and administrative rules adopted
9 thereunder. The Commissioner may hold hearings relative to such conduct and
10 may order restitution for a person or persons adversely affected by such
11 conduct.

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

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

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-125
)
 3 State of New Hampshire Banking)
)
 4 Department,) Staff Petition
)
 5 Petitioner,) July 9, 2009
)
 6 and)
)
 7 Equihome Mortgage, Corp., and Ray V.)
)
 8 Caprio,)
)
 9 Respondents)

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 Equihome Mortgage, Corp. (hereinafter "Respondent
15 Equihome") was licensed as a Mortgage Banker from at least April
16 7, 2006 until its license expired on December 31, 2006.
- 17 2. Respondent Ray V. Caprio (hereinafter "Respondent Caprio") was
18 the President and Chief Executive Officer of Respondent Equihome,
19 when licensed by the Department.

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

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

22 Department Inquiries (1 Count):

- 23 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
24 herein.
- 25 4. The Department conducted an examination of Respondent Equihome on

1 February 26, 2007, for activities that occurred while Respondent
2 Equihome was still licensed with the Department.

3 5. On June 8, 2007, the Department mailed the report of examination
4 and invoice for \$500.00 to Respondent Equihome, via U.S.
5 Certified Mail Return Receipt requested, which Respondents
6 received on June 13, 2007.

7 6. The above named Respondents failed to respond to the June 8, 2007
8 correspondence from the Department.

9 7. The Department, via U.S. mail, mailed a second notice on August
10 22, 2007 and a third notice on June 24, 2007.

11 8. The above named Respondents did not respond to any of the three
12 notices for payment of the \$500.00 invoice.

13 9. To date, the above named Respondents still owe the \$500.00
14 examination fee for the one day examination.

15 **II. ISSUES OF LAW**

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

17 1. The Department realleges the above stated facts in Paragraphs 1
18 through 9 as fully set forth herein.

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

22 3. RSA 397-A:12,V provides that the expense of such examination shall
23 be chargeable to and paid by the licensee. Each of the above
24 named Respondents violated this provision on at least one occasion
25

1 as alleged above. To date, the above named Respondents have
2 failed to pay the \$500.00 examination invoice.

3 4. RSA 397-A:13,VI provides that any officer, owner, manager or agent
4 of any licensee shall reply promptly in writing, or other
5 designated form, to any written inquiry from the Department.
6 Respondent Caprio violated this provision on at least one occasion
7 as alleged above.

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

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

23 7. RSA 397-A:21,IV provides that any person who, either knowingly or
24 negligently, violates any provision of Chapter 397-A, may upon
25 hearing, and in addition to any other penalty provided for by law,

1 be subject to an administrative fine not to exceed \$2,500.00, or
2 both. Each of the acts specified shall constitute a separate
3 violation, and such administrative action or fine may be imposed
4 in addition to any criminal penalties or civil liabilities imposed
5 by New Hampshire Banking laws.

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

22 **III. RELIEF REQUESTED**

23 The staff of the Department requests the Commissioner take the following
24 action:

25 1. Find as fact the allegations contained in section I of this Staff

