

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 08-183  
 )  
 4 State of New Hampshire Banking ) Cease and Desist Order  
 )  
 5 Department, )  
 )  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 American Home Loans, )  
 )  
 9 Respondent )  
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11 This Order commences an adjudicative proceeding under the provisions of  
12 RSA 397-A:18, RSA 383:10-d, RSA 541-A, BAN 200 and JUS 800 as applicable.

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 397-A:18, the Banking Department of the State of New  
15 Hampshire (hereinafter the "Department") has the authority to issue and cause  
16 to be served an order requiring any person about to engage in or has engaged  
17 in any act or practice constituting a violation of RSA 397-A or any rule or  
18 order thereunder, to cease and desist from violations of RSA 397-A.

19 Pursuant to RSA 383:10-d, the Commissioner shall have exclusive  
20 authority and jurisdiction to investigate conduct that is or may be an unfair  
21 or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or  
22 that may violate any of the provisions of Titles XXXV and XXXVI and  
23 administrative rules adopted thereunder. The Commissioner may hold hearings  
24 relative to such conduct and may order restitution for a person or persons  
25 adversely affected by such conduct.

NOTICE OF RIGHT TO REQUEST A HEARING

1 The above named respondents have the right to request a hearing on this  
2 Cease and Desist Order, as well as the right to be represented by counsel. If  
3 the person to whom a cease and desist order is issued fails to request a  
4 hearing within 30 calendar days of receipt of such order, then such person  
5 shall be deemed in default, and the order shall, on the thirty-first day,  
6 become permanent and shall remain in full force and effect until and unless  
7 later modified or vacated by the commissioner, for good cause shown. Any such  
8 request for a hearing shall be in writing, signed by the respondent or by the  
9 duly authorized agent of the above named respondent, and shall be delivered  
10 either by hand or certified mail, return receipt request, to the Banking  
11 Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301.

12 A hearing shall be held not later than 10 days after the request for such  
13 hearing is received by the commissioner. Within 20 days of the date of any such  
14 hearing the commissioner shall issue a further order either vacating the cease  
15 and desist order or making it permanent as the facts require. All hearings  
16 shall comply with 541-A. If the person to whom a cease and desist order is  
17 issued fails to appear at the requested hearing after being duly notified of  
18 the date and time, such person shall be deemed in default, and the proceeding  
19 may be determined against him or her upon consideration of the cease and desist  
20 order, the allegations of which may be deemed to be true

21 **STATEMENT OF ALLEGATIONS, APPLICABLE LAW, AND RELIEF REQUESTED**

22 The Staff Petition dated May 13, 2008 (a copy of which is attached  
23 hereto) is incorporated by reference hereto.

24 **ORDER**

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



1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 08-183  
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 4 State of New Hampshire Banking ) Staff Petition  
 )  
 5 Department, )  
 ) May 13, 2008  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 American Home Loans, )  
 )  
 9 Respondent )  
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11 STATEMENT OF ALLEGATIONS

12 I. The staff of the Banking Department, State of New Hampshire  
13 (hereinafter referred to as the "Department") alleges the following  
14 facts:

- 15 1. On or about December 13, 2007, the Department received a written  
16 consumer complaint from Consumer A, a New Hampshire resident,  
17 regarding American Home Loans (hereinafter "Respondent").
- 18 2. Consumer A indicated in the complaint that they had been charged  
19 points and other fees by American Home Loans for a residential  
20 mortgage loan.
- 21 3. Upon review of the HUD-1 Settlement Statement provided by  
22 Consumer A, the Department determined that Consumer A paid a  
23 broker processing fee, broker origination fee, and points to the  
24 Respondent on the loan that closed on June 18, 2007.

1 4. The Respondent was not licensed as a mortgage broker, nor was it  
2 entitled to collect fees. The Respondent engaged in activity  
3 that required it to obtain a license.

4 ISSUES OF LAW

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

- 6 1. The Department realleges the above stated facts in paragraphs 1  
7 through 4.
- 8 2. The Banking Department ("Department"), has jurisdiction over the  
9 licensing and regulation of persons engaged in first mortgage  
10 banker / broker activities pursuant to NH RSA 397-A:3.
- 11 3. Pursuant to the New Hampshire Banking laws, RSA 397-A:3 requires  
12 any person not exempt under RSA 397-A:4 that, in its own name or  
13 on behalf of other persons, engages in the business of making or  
14 brokering first mortgage loans secured by real property located  
15 in this state shall be required to obtain a license from the  
16 banking department.
- 17 4. Pursuant to NH RSA 397-A:18, the Department has the power to  
18 issue and to serve an order requiring persons to cease and  
19 desist from violations of the chapter whenever it has reasonable  
20 cause to believe that any person has engaged in any act or  
21 practice constituting a violation of the banking laws, or any  
22 rule or order thereunder. Respondent has violated RSA 397-A:3  
23 by conducting unlicensed mortgage banker / broker activities in  
24 New Hampshire.
- 25 5. Pursuant to RSA 397-A:16 only licensed mortgage brokers and  
bankers are entitled to retain commissions for their services.



