

1 State of New Hampshire Banking Department

)Case No.: 08-245

2 In re the Matter of: )

3 State of New Hampshire Banking )

4 Department, )

)Order to Show Cause

5 Petitioner, )

6 and )

7 Downeast Mortgage Corporation (d/b/a )

8 Homeowners Assistance Company and d/b/a )

9 Integrity One Home Loans), James )

10 Lindvall, Darren Briggs, James Skvorak, )

11 William Denley, and Julie Hibbard, )

12 Respondents )

13 NOTICE OF ORDER

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

16 LEGAL AUTHORITY AND JURISDICTION

17 Pursuant to RSA 397-A:17, the Banking Department of the State of New  
18 Hampshire (hereinafter the "Department") has the authority to issue an order  
19 to show cause why license revocation and penalties for violations of New  
20 Hampshire Banking laws should not be imposed.

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

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

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

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

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

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

1 upon consideration of the Order to Show Cause, the allegations of which may be  
2 deemed to be true.

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

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

11 The Staff Petition dated July 1, 2009 (a copy of which is attached  
12 hereto) is incorporated by reference hereto.

13 **ORDER**

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

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

19 It is hereby ORDERED, that:

- 20 1. Respondent Downeast Mortgage Corporation (d/b/a Homeowners  
21 Assistance Company and d/b/a Integrity One Home Loans)  
22 ("Respondent Downeast Mortgage") shall show cause why  
23 penalties in the amount of \$2,500.00 should not be imposed  
24 against it;
- 25 2. Respondent James Lindvall ("Respondent Lindvall") shall show

1           cause why penalties in the amount of \$2,500.00 should not be  
2           imposed against him;

3           3. Respondent Darren Briggs ("Respondent Briggs") shall show  
4           cause why penalties in the amount of \$2,500.00 should not be  
5           imposed against him;

6           4. Respondent James Skvorak ("Respondent Skvorak") shall show  
7           cause why penalties in the amount of \$2,500.00 should not be  
8           imposed against him;

9           5. Respondent William Denley ("Respondent Denley") shall show  
10          cause why penalties in the amount of \$2,500.00 should not be  
11          imposed against him;

12          6. Respondent Julie Hibbard ("Respondent Hibbard") shall show  
13          cause why penalties in the amount of \$2,500.00 should not be  
14          imposed against her;

15          7. The above named Respondents shall show cause why, in addition  
16          to the penalties listed in Paragraphs 1 through 6 above, the  
17          fine for \$2,500.00 for the failure to file the financial  
18          statement should not be paid to the Department;

19          8. Respondents shall be jointly and severally liable for the  
20          above amounts alleged in Paragraphs 1 through 7 above;

21          9. The above named Respondents shall show cause why, in addition  
22          to the penalties listed in Paragraphs 1 through 8 above,  
23          Respondent Downeast Mortgage's license should not be revoked.

24          It is hereby further ORDERED that:

25          10. Along with the administrative penalties listed for the above



1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-245  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Staff Petition  
 )  
 5 Petitioner, ) July 1, 2009  
 )  
 6 and )  
 )  
 7 Downeast Mortgage Corporation (d/b/a )  
 )  
 8 Homeowners Assistance Company and d/b/a )  
 )  
 9 Integrity One Home Loans), James )  
 )  
 10 Lindvall, Darren Briggs, James Skvorak, )  
 )  
 11 William Denley, and Julie Hibbard, )  
 )  
 12 Respondents )

---

13 I. STATEMENT OF ALLEGATIONS

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

16 Facts Common on All Counts:

- 17 1. Respondent Downeast Mortgage Corporation (d/b/a Homeowners  
18 Assistance Company and d/b/a Integrity Home Loans) (hereinafter  
19 "Respondent Downeast Mortgage") was licensed as a Mortgage Banker  
20 from at least 1997 (with an amended license date of August 2,  
21 2006) until it surrendered its license on May 29, 2008.
- 22 2. Respondent James Lindvall (hereinafter "Respondent Lindvall") was  
23 the 23.22% owner and President of Respondent Downeast Mortgage,  
24 when licensed by the Department.
- 25 3. Respondent Darren Briggs (hereinafter "Respondent Briggs") was

1 the 23.22% owner and Executive Vice President of Respondent  
2 Downeast Mortgage, when licensed by the Department.

3 4. Respondent James Skvorak (hereinafter "Respondent Skvorak") was  
4 the 23.22% owner and Vice President of Respondent Downeast  
5 Mortgage, when licensed by the Department.

6 5. Respondent William Denley (hereinafter "Respondent Denley") was  
7 the 26.5% owner and Director of and control person for Respondent  
8 Downeast Mortgage, when licensed by the Department.

9 6. Respondent Julie Hibbard (hereinafter "Respondent Hibbard") was  
10 the Vice President of and control person for Respondent Downeast  
11 Mortgage, when licensed by the Department.

12 **Violation of RSA 397-A:13,II Failure to File Financial Statement (1 Count):**

13 7. Paragraphs 1 through 6 are hereby realleged as fully set forth  
14 herein.

15 8. The Respondents' fiscal year end was December 31, 2007 and the  
16 financial statement was due on or before March 31, 2008.

17 9. Respondent Downeast Mortgage was licensed on the date the  
18 financial statement filing was due the Department.

19 10. The Department sent Respondent Downeast Mortgage a reminder letter  
20 on January 24, 2008, with a follow-up on April 9, 2008 and the  
21 final follow-up letter on May 8, 2008.

22 11. Respondents have failed to respond to the Department's reminder  
23 letters regarding the financial statement.

24 12. To date, the accrued penalty for failure to file a financial  
25 statement has reached the maximum cap of \$2,500.00 (\$25.00 a day,

1 maximum \$2,500.00).

2 **II. ISSUES OF LAW**

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

4 1. The Department realleges the above stated facts in Paragraphs 1  
5 through 12 as fully set forth herein.

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

9 3. RSA 397-A:13,II provides that each licensee shall file a financial  
10 statement within 90 days from the date of its fiscal year end.

11 Each of the above named Respondents violated this statute on at  
12 least one occasion as alleged above. The maximum fine has  
13 accrued to \$2,500.00 as calculated by RSA 397-A:13,IV below.

14 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage  
15 broker failing to file either the annual report or the financial  
16 statement required by RSA Chapter 397-A within the time  
17 prescribed may be required to pay to the Department a penalty of  
18 \$25.00 for each calendar day the annual report or financial  
19 statement is overdue, up to a maximum penalty of \$2,500.00 per  
20 report or statement. The above named Respondents failed to file a  
21 financial statement, the fine of which has accrued to the maximum  
22 cap of \$2,500.00.

23 5. RSA 397-A:17,I provides in part that the Commissioner may by  
24 order, upon due notice and opportunity for hearing, assess  
25 penalties or deny, suspend, or revoke a license or application if



1 it is in the public interest and the applicant, respondent, or  
2 licensee, any partner, officer, member, or director, any person  
3 occupying a similar status or performing similar functions, or  
4 any person directly or indirectly controlling the applicant,  
5 respondent, or licensee: (a) has violated any provision of RSA  
6 Chapter 397-A or rules thereunder, or (b) has not met the  
7 standards established in RSA Chapter 397-A.

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

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

21 8. RSA 397-A:21,V provides that every person who directly or  
22 indirectly controls a person liable under this section, every  
23 partner, principal executive officer or director of such person,  
24 every person occupying a similar status or performing a similar  
25 function, every employee of such person who materially aids in the

1 act constituting the violation, and every licensee or person acting  
2 as a common law agent who materially aids in the acts constituting  
3 the violation, either knowingly or negligently, may, upon notice  
4 and opportunity for hearing, and in addition to any other penalty  
5 provided for by law, be subject to suspension, revocation, or  
6 denial of any registration or license, including the forfeiture of  
7 any application fee, or the imposition of an administrative fine  
8 not to exceed \$2,500, or both. Each of the acts specified shall  
9 constitute a separate violation, and such administrative action or  
10 fine may be imposed in addition to any criminal or civil penalties  
11 imposed.

### 12 **III. RELIEF REQUESTED**

13 The staff of the Department requests the Commissioner take the following  
14 action:

- 15 1. Find as fact the allegations contained in section I of this Staff  
16 Petition;
- 17 2. Make conclusions of law relative to the allegations contained in  
18 section II of this Staff Petition;
- 19 3. Pursuant to RSA 397-A:17, order each of the above named  
20 Respondents to show cause why their license should not be revoked;
- 21 4. Assess fines and administrative penalties in accordance with RSA  
22 397-A:21, for violations of Chapter 397-A, in the number and  
23 amount equal to the violations set forth in section II of this  
24 Staff Petition; and
- 25 5. Take such other administrative and legal actions as necessary for

