

1 State of New Hampshire Banking Department

2	In re the Matter of:	)	Case No.: 08-253
		)	
3	State of New Hampshire Banking	)	
		)	Order to Show Cause
4	Department,	)	
		)	
5	Petitioner,	)	
		)	
6	and	)	
		)	
7	Moreland Lending Corporation, and	)	
		)	
8	Stephen T. Moreland, III,	)	
		)	
9	Respondents	)	

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

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

9           The Staff Petition dated July 20, 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 Moreland Lending Corporation ("Respondent Moreland  
19 Lending") shall show cause why penalties in the amount of  
20 \$10,000.00 should not be imposed against it;
- 21           2. Respondent Stephen T. Moreland, III ("Respondent Moreland")  
22 shall show cause why penalties in the amount of \$12,500.00  
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 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-253  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Staff Petition  
 )  
 5 Petitioner, ) July 20, 2009  
 )  
 6 and )  
 )  
 7 Moreland Lending Corporation, and )  
 )  
 8 Stephen T. Moreland, III, )  
 )  
 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 Moreland Lending Corporation (hereinafter "Respondent  
15 Moreland Lending") was licensed as a Mortgage Broker from at least  
16 February 27, 2004 (with an amended license date of October 17,  
17 2007) until its license expired on December 31, 2008.

18 2. Respondent Stephen T. Moreland, III (hereinafter "Respondent  
19 Moreland") was the President of Respondent Moreland Lending, when  
20 licensed by the Department.

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

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

23 Department Inquiries (1 Count):

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

1 4. The Department conducted an examination of Respondent Moreland  
2 Lending on February 25, 2008, while Respondent Moreland Lending  
3 was still licensed with the Department. The above named  
4 Respondents failed to facilitate the examination.

5 5. On July 22, 2008, the Department mailed the invoice for \$500.00 to  
6 Respondent Moreland Lending, via U.S. Certified Mail Return  
7 Receipt requested, which the Respondents received on July 24,  
8 2008.

9 6. The Respondents failed to respond to the Department's July 22,  
10 2008 correspondence.

11 7. The Department, via U.S. mail, mailed a second notice on October  
12 9, 2008 and a third notice on October 28, 2008.

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

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

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

18 10. Paragraphs 1 through 9 are hereby realleged as fully set forth  
19 herein.

20 11. The Respondents' fiscal year end was December 31, 2007 and the  
21 financial statement was due on or before March 31, 2008.

22 12. The Department received the financial statement on February 18,  
23 2008 (17 days late), which generated a fine of \$425.00 (\$25.00 a  
24 day x 17 days).

25 13. The Department sent Respondent Moreland Lending invoices in March

1 and May of 2008 and a third and final invoice on June 24, 2008.

2 14. Respondents have failed to respond to the Department's invoices  
3 regarding the late fine.

4 15. To date, Respondents have failed to pay the \$425.00 late fine for  
5 a late filed financial statement.

6 **Violation of RSA 397-A:13, IV Failure to Pay Late Penalty Owed for Late**

7 **Filing of Annual Report (1 Count):**

8 16. Paragraphs 1 through 15 are hereby realleged as fully set forth  
9 herein.

10 17. Respondent Moreland Lending was licensed in 2008 and therefore,  
11 subject to the filing of the 2008 annual report of business.

12 18. Respondent Moreland Lending's 2008 annual report was due on or  
13 before February 1, 2008.

14 19. Respondent Moreland Lending filed its 2008 annual report on  
15 February 18, 2008 (17 days late), generating a fine of \$425.00  
16 (\$25.00 a day x 17 days).

17 20. The Department sent the above named Respondents invoices in March,  
18 May and a third and final one on June 24, 2008. The Licensing  
19 Division within the Department also sent a letter on July 8,  
20 2008.

21 21. To date, Respondent Moreland Lending has failed to pay the \$425.00  
22 late filing of the 2008 annual report fee.

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

24 22. Paragraphs 1 through 21 are hereby realleged as fully set forth  
25 herein.

1 23. The Department attempted to conduct an examination of Respondent  
2 Moreland Lending on February 25, 2008, while Respondent Moreland  
3 Lending was still licensed with the Department.

4 24. On February 5, 2008, the Department sent the notice of examination  
5 to Respondent Moreland Lending via U.S. Certified Mail Return  
6 Receipt requested, which Respondents received on February 6,  
7 2008.

8 25. Respondents submitted a list of loans and stated Respondents have  
9 decided to "cease originations".

10 26. The Department submitted a second notice via U.S. Certified Mail  
11 Return Receipt requested on March 19, 2008, which Respondents  
12 received on March 21, 2008. The request was for the remaining  
13 documents mentioned in the notice of examination.

14 27. The Department made a third attempt on April 22, 2008.

15 28. To date, the Department has not received the examination  
16 materials.

## 17 **II. ISSUES OF LAW**

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

19 1. The Department realleges the above stated facts in Paragraphs 1  
20 through 28 as fully set forth herein.

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

24 3. RSA 397-A:12,V provides that the expense of such examination shall  
25 be chargeable to and paid by the licensee. Each of the above



1 named Respondents violated this provision on at least one occasion  
2 as alleged above. To date, the above named Respondents have  
3 failed to pay the \$500.00 examination invoice.

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

13 5. RSA 397-A:13,II provides that each licensee shall file a financial  
14 statement within 90 days from the date of its fiscal year end.  
15 Each of the above named Respondents violated this statute on at  
16 least one occasion as alleged above. The current fine is \$425.00  
17 for filing 17 days late as calculated by RSA 397-A:13,IV below.

18 6. RSA 397-A:13,IV provides that any mortgage banker or mortgage  
19 broker failing to file either the annual report or the financial  
20 statement required by RSA Chapter 397-A within the time prescribed  
21 may be required to pay to the Department a penalty of \$25.00 for  
22 each calendar day the annual report or financial statement is  
23 overdue, up to a maximum penalty of \$2,500.00 per report or  
24 statement. The above named Respondents failed to timely file a  
25 financial statement, the fine of which has accrued to \$425.00.

1 Further, Respondents filed the annual report seventeen days late,  
2 which generated a fine of \$425.00. Each of the above named  
3 Respondents violated this provision on at least one occasion as  
4 alleged above.

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

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

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

25

1 10. 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 11. 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

1 **III. RELIEF REQUESTED**

2 The staff of the Department requests the Commissioner take the following  
3 action:

- 4 1. Find as fact the allegations contained in section I of this Staff  
5 Petition;
- 6 2. Make conclusions of law relative to the allegations contained in  
7 section II of this Staff Petition;
- 8 3. Pursuant to RSA 397-A:17, order each of the above named  
9 Respondents to show cause why their license should not be revoked;
- 10 4. Assess fines and administrative penalties in accordance with RSA  
11 397-A:21, for violations of Chapter 397-A, in the number and  
12 amount equal to the violations set forth in section II of this  
13 Staff Petition; and
- 14 5. Take such other administrative and legal actions as necessary for  
15 enforcement of the New Hampshire Banking Laws, the protection of  
16 New Hampshire citizens, and to provide other equitable relief.

17 **IV. RIGHT TO AMEND**

18 The Department reserves the right to amend this Staff Petition and to  
19 request that the Commissioner take additional administrative action.  
20 Nothing herein shall preclude the Department from bringing additional  
21 enforcement action under RSA 397-A or the regulations thereunder.

22 Respectfully submitted by:

23  
24         /s/          
Maryam Torben Desfosses  
25 Hearings Examiner

        07/20/09          
Date