

1 State of New Hampshire Banking Department

2	In re the Matter of:	)	Case No.: 08-257
		)	
3	State of New Hampshire Banking	)	
4	Department,	)	Order to Show Cause
		)	
5	Petitioner,	)	
		)	
6	and	)	
		)	
7	HomeLoanAdvisors.com, and Jeffrey A.	)	
		)	
8	Pittman,	)	
		)	
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 9, 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 HomeLoanAdvisors.com ("Respondent HomeLoan") shall  
19           show cause why penalties in the amount of \$12,500.00 should  
20           not be imposed against it;
- 21           2. Respondent Jeffrey A. Pittman ("Respondent Pittman") shall  
22           show cause why penalties in the amount of \$17,500.00 should  
23           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 accrued fine of \$12,200.00 for failing to provide examination  
2 materials should not be paid to the Department;

3 4. The above named Respondents shall show cause why, in addition  
4 to the penalties listed in Paragraphs 1 through 3 above, the  
5 \$500.00 examination fee should not be paid to the Department;

6 5. The above named Respondents shall show cause why, in addition  
7 to the penalties listed in Paragraphs 1 through 4 above, the  
8 fine for \$2,500.00 for the failure to file the financial  
9 statement should not be paid to the Department;

10 6. The above named Respondents shall be jointly and severally  
11 liable for the above amounts alleged in Paragraphs 1 through  
12 5 above;

13 7. The above named Respondents shall show cause why, in addition  
14 to the penalties listed in Paragraphs 1 through 6 above,  
15 Respondent HomeLoan's 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 \$15,200.00 shall be  
19 immediately paid; and

20  
21  
22 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
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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 SIGNED,

6  
7 Dated: 07/09/09

8 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-257  
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 3 State of New Hampshire Banking )  
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 4 Department, ) Staff Petition  
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 5 Petitioner, ) July 9, 2009  
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 6 and )  
 )  
 7 HomeLoanAdvisors.com, and Jeffrey A. )  
 )  
 8 Pittman, )  
 )  
 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 HomeLoanAdvisors.com (hereinafter "Respondent  
15 HomeLoan") was licensed as a Mortgage Banker from at least May  
16 31, 2006 until it surrendered its license on October 10, 2008.
- 17 2. Respondent Jeffrey A. Pittman (hereinafter "Respondent Pittman")  
18 was the President of Respondent HomeLoan, when licensed by the  
19 Department.

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

21 Violation of RSA 397-A:12,III Examinations: Failure to Provide Requested  
22 Files (1 Count):

23 Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested  
24 Files (1 Count):

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

1 Department Inquiries (2 Counts):

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

4 4. The Department attempted to conduct an examination of Respondent  
5 HomeLoan on November 10, 2008, for activities that occurred while  
6 Respondent HomeLoan was licensed with the Department.

7 5. On October 10, 2008, the Department sent the notice of examination  
8 to Respondent HomeLoan via U.S. Certified Mail Return Receipt  
9 requested, which Respondents received on October 17, 2008.

10 6. The materials requested in the notice of examination were due on  
11 November 7, 2008, which is 21 days after the October 17, 2008  
12 delivery of the notice of examination.

13 7. On December 15, 2008, the Department sent the notice of  
14 examination to Respondent HomeLoan via U.S. Certified Mail Return  
15 Receipt requested, which Respondents received on December 22,  
16 2008.

17 8. On December 15, 2008, the Department sent the notice of  
18 examination to Respondent HomeLoan via facsimile, but the number  
19 was disconnected.

20 9. To date, the Department has not received the examination  
21 materials.

22 10. To date, fines have accrued for failing to provide the requested  
23 files. The current fine to date is \$12,200.00 (\$50.00 a day x  
24 244 days).

25

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

2 11. Paragraphs 1 through 10 are hereby realleged as fully set forth  
3 herein.

4 12. The Department conducted an examination of Respondent HomeLoan on  
5 November 10, 2008, for activities that occurred while Respondent  
6 HomeLoan was licensed with the Department.

7 13. Respondent HomeLoan failed to facilitate the examination.

8 14. On February 20, 2009, the Department mailed the invoice for  
9 \$500.00 to Respondent HomeLoan, via U.S. Certified Mail Return  
10 Receipt requested.

11 15. The Department, via U.S. mail, mailed a second notice on March 26,  
12 2009 and a third notice on April 30, 2009.

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

15 17. 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 18. Paragraphs 1 through 17 are hereby realleged as fully set forth  
19 herein.

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

22 20. Respondent HomeLoan was licensed on the date the financial  
23 statement filing was due the Department.

24 21. The Department sent Respondent HomeLoan a reminder letter on  
25 January 24, 2008, with a follow-up on April 9, 2008 and the final



1 follow-up letter on May 8, 2008.

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

4 23. To date, the accrued penalty for failure to file a financial  
5 statement has reached the maximum cap of \$2,500.00 (\$25.00 a day,  
6 maximum \$2,500.00).

7 **II. ISSUES OF LAW**

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

9 1. The Department realleges the above stated facts in Paragraphs 1  
10 through 23 as fully set forth herein.

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

14 3. RSA 397-A:11,II provides that requested files and business records  
15 must be received by the Department within 21 calendar days of  
16 request. The licensee will be subject to a \$50.00 a day fine  
17 every day after the 21-day period the records are not produced.  
18 Respondents currently owe \$12,200.00. Each of the above named  
19 Respondents violated this statute on at least one occasion as  
20 alleged above.

21 4. RSA 397-A:12,III requires licensees to comply with examination  
22 requests with or without prior notice. All books, papers, files,  
23 related material, and records of assets shall be subject to the  
24 Department's examination. Each of the above named Respondents  
25 violated this statute on at least one occasion as alleged above.

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

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

15          7. RSA 397-A:13,II provides that each licensee shall file a financial  
16          statement within 90 days from the date of its fiscal year end.  
17          Each of the above named Respondents violated this statute on at  
18          least one occasion as alleged above. The maximum fine has accrued  
19          to \$2,500.00 as calculated by RSA 397-A:13,IV below.

20          8. RSA 397-A:13,IV provides that any mortgage banker or mortgage  
21          broker failing to file either the annual report or the financial  
22          statement required by RSA Chapter 397-A within the time prescribed  
23          may be required to pay to the Department a penalty of \$25.00 for  
24          each calendar day the annual report or financial statement is  
25          overdue, up to a maximum penalty of \$2,500.00 per report or

1 statement. The above named Respondents failed to file a financial  
2 statement, the fine of which has accrued to the maximum cap of  
3 \$2,500.00. Each of the above named Respondents violated this  
4 provision on at least one occasion as alleged above.

5 9. 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 Pittman violated this provision on at least two  
9 occasions as alleged above.

10 10. 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  
16 any 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 11. 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 12. RSA 397-A:21,IV provides that any person who, either knowingly or

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

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

