

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-108
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 Hudson Home Loans LLC (d/b/a Hudson)
)
 8 Home Loans), Joanne Gauthier and Boran)
)
 9 Armstrong,)
)
 10 Respondents)

11 NOTICE OF ORDER TO SHOW CAUSE

12 This Order to Show Cause commences an adjudicative proceeding under
13 the provisions of RSA Chapter 397-A and RSA Chapter 541-A.

14 LEGAL AUTHORITY AND JURISDICTION

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

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

24 Pursuant to RSA 397-A:20,IV, the Commissioner may issue, amend, or
25 rescind such orders as are reasonably necessary to comply with the

1 provisions of the Chapter.

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

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

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

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

1 deemed to be true.

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

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

10 The Staff Petition dated March 1, 2010 (a copy of which is attached
11 hereto) is incorporated by reference hereto.

12 **ORDER**

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

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

18 It is hereby ORDERED, that:

- 19 1. Respondent Hudson Home Loans LLC (d/b/a Hudson Home Loans)
20 ("Respondent Hudson") shall show cause why penalties in the
21 amount of \$2,500.00 should not be imposed against it;
- 22 2. Respondent Joanne Gauthier ("Respondent Gauthier") shall show
23 cause why penalties in the amount of \$2,500.00 should not be
24 imposed against her;
- 25 3. Respondent Boran Armstrong ("Respondent Armstrong") shall

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

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 fine for \$1,325.00 for the late filing of the 2008 annual
6 report should not be paid to the Department;

7 5. Respondents shall be jointly and severally liable for the
8 above amounts alleged in Paragraphs 1 through 4 above;

9 6. The above named Respondents shall show cause why, in addition
10 to the penalties listed in Paragraphs 1 through 5 above,
11 Respondent Hudson's license should not be revoked.

12 It is hereby further ORDERED that:

13 7. Along with the administrative penalties listed for the above
14 named Respondents, the outstanding sum of \$1,325.00 shall be
15 immediately paid; and

16 8. Failure to request a hearing within 30 days of the date of
17 receipt or valid delivery of this Order to Show Cause shall
18 result in a default judgment being rendered and
19 administrative penalties imposed upon the defaulting
20 Respondent(s).

21 SIGNED,

22 Dated: 03/11/10

/s/

23 PETER C. HILDRETH
24 BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-108
3 State of New Hampshire Banking)
4 Department,) Staff Petition
5 Petitioner,) March 1, 2010
6 and)
7 Hudson Home Loans LLC (d/b/a Hudson)
8 Home Loans), Joanne Gauthier and Boran)
9 Armstrong,)
10 Respondents)

11 I. STATEMENT OF ALLEGATIONS

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

14 Facts Common on All Counts:

- 15 1. Respondent Hudson Home Loans LLC (d/b/a Hudson Home Loans)
16 (hereinafter "Respondent Hudson") was licensed as a Mortgage
17 Broker from at least January 1, 2006 (with an amended license
18 date of March 24, 2009) until it surrendered its license on
19 August 5, 2009.
- 20 2. Respondent Joanne Gauthier (hereinafter "Respondent Gauthier")
21 was the 50% owner and Chief Executive Officer of Respondent
22 Hudson, when licensed by the Department.
- 23 3. Respondent Boran Armstrong (hereinafter "Respondent Armstrong")
24 was the 50% owner and President of Respondent Hudson at all
25 relevant times up until June 11, 2009, when licensed by the

1 Department.

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

3 Filing of Annual Report (1 Count):

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

6 5. Respondent Hudson was licensed in 2008 and therefore, subject to
7 the filing of the 2008 annual report of business.

8 6. Respondent Hudson's 2008 annual report was due on or before March
9 31, 2009.

10 7. Respondent Hudson filed its 2008 annual report on June 12, 2009
11 (73 days late), generating a fine of \$1,825.00 (\$25.00 a day x 73
12 days).

13 8. Upon request by the above named Respondents, the fine was reduced
14 by \$500.00 to \$1,325.00.

15 9. The Department sent the above named Respondents invoices in June,
16 August and a third and final one on September 29, 2009.

17 10. To date, Respondent Hudson has failed to pay the \$1,325.00 late
18 filing of the 2008 annual report fee.

19 **II. ISSUES OF LAW**

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

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

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

1 3. RSA 397-A:13,IV provides that any mortgage banker or mortgage
2 broker failing to file either the annual report or the financial
3 statement required by RSA Chapter 397-A within the time prescribed
4 may be required to pay to the Department a penalty of \$25.00 for
5 each calendar day the annual report or financial statement is
6 overdue, up to a maximum penalty of \$2,500.00 per report or
7 statement. Respondents filed the annual report 73 days late, which
8 generated a reduced fine of \$1,325.00. Each of the above named
9 Respondents violated this provision on at least one occasion as
10 alleged above.

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

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

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

9 7. 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.

