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State of New Hampshire Banking Department

In re the Matter of:	)Case No.: 10-013
	)
State of New Hampshire Banking	)
Department,	)Order to Show Cause with Immediate
	)Emergency Suspension and
Petitioner,	)
	)Cease and Desist Order
and	)
	)
Jeffrey Shawn Frost,	)
	)
Respondent	)

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NOTICE OF ORDER

This Order to Show Cause with Immediate Emergency Suspension and Cease and Desist Order commences an adjudicative proceeding under the provisions of RSA Chapter 397-A and RSA Chapter 541-A (including but not limited to RSA 541-A:30).

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17,I the Commissioner of the New Hampshire Banking Department (hereinafter "Department") has the authority to issue an order to show cause why license revocation or suspension and penalties for violations of RSA Chapter 397-A should not be imposed. The Commissioner may by order summarily postpone or suspend any license or application pending final determination of any order to show cause, or other order, or of any other proceeding under RSA 397-A:17, provided that the Commissioner finds that the public interest would be irreparably harmed by delaying in issuing such order.

RSA 397-A:17,I further provides in part that the Commissioner may by order, upon due notice and opportunity for hearing, assess penalties or

1 deny, suspend, or revoke a license or application if it is in the public  
2 interest and the applicant, respondent, or licensee, any partner, officer,  
3 member, or director, any person occupying a similar status or performing  
4 similar functions, or any person directly or indirectly controlling the  
5 applicant, respondent, or licensee has, inter alia,: (a) violated any  
6 provision of RSA Chapter 397-A or rules thereunder, (b) not met the  
7 standards established in RSA Chapter 397-A..., (d) has filed an application  
8 for licensing which as of its effective date, or as of any date after  
9 filing in the case of an order denying effectiveness, was incomplete in any  
10 material respect, or contained any statement which was, in light of the  
11 circumstances under which it was made, false or misleading with respect to  
12 any material fact..., (e) has made a false or misleading statement to the  
13 Commissioner or in any reports to the Commissioner..., or (k) engaged in  
14 dishonest or unethical practices in the conduct of the business of making  
15 or collecting mortgage loans.

16 Pursuant to RSA 397-A:17,II(a), the Commissioner has the authority to  
17 order or direct persons subject to RSA Chapter 397-A to cease and desist  
18 from conducting business, including immediate temporary orders to cease and  
19 desist.

20 Pursuant to RSA 397-A:17,II(b), the Commissioner has the authority to  
21 order or direct persons subject to RSA Chapter 397-A to cease any harmful  
22 activities or violations of RSA Chapter 397-A, including immediate  
23 temporary orders to cease and desist.

24 Pursuant to RSA 397-A:17,II(c), the Commissioner has the authority to  
25 enter immediate temporary orders to cease business under a license if the

1 Commissioner has determined that such license was erroneously granted or  
2 the licensee is currently in violation of RSA Chapter 397-A, or rules or  
3 order thereunder.

4 Pursuant to RSA 397-A:17,II(e)(1) the Commissioner has the authority  
5 to remove or ban from office or employment, including license revocation,  
6 any person conducting business under RSA Chapter 397-A who violates RSA  
7 Chapter 397-A.

8 Pursuant to RSA 397-A:17,II(e)(4) the Commissioner has the authority  
9 to remove or ban from office or employment, including license revocation,  
10 any person conducting business under RSA Chapter 397-A if by a  
11 preponderance of evidence the Commissioner determines that the person no  
12 longer demonstrates the financial responsibility, character, and general  
13 fitness such as to command the confidence of the community and to warrant a  
14 determination that the person subject to RSA Chapter 397-A will operate  
15 honestly, fairly, and efficiently within the purposes of RSA Chapter 397-A.

16 Pursuant to RSA 397-A:17,II(f) the Commissioner has the authority to  
17 deny, suspend, revoke, condition, or decline to renew a license if an  
18 applicant or licensee fails at any time to meet the requirements of RSA  
19 397-A:5,IV-c or RSA 397-A:5,IV-d, or withholds information or makes a  
20 material misstatement in an application for a license or renewal of a  
21 license. RSA 397-A:5,IV-c,(a)(5) states the Commissioner shall not issue a  
22 mortgage loan originator license unless the Commissioner makes at a  
23 minimum, inter alia, a finding that the applicant has demonstrated  
24 financial responsibility, character, and general fitness such as to command  
25 the confidence of the community and to warrant a determination that the

1 mortgage loan originator will operate honestly, fairly, and efficiently  
2 within the purposes of RSA Chapter 397-A. RSA 397-A:5,IV-d(a)(1) states  
3 that, in addition to other provisions of New Hampshire law and rules, in  
4 order to be eligible to renew a license, a mortgage originator shall, inter  
5 alia, meet and continue to meet the minimum standards for license issuance  
6 under RSA 397-A:5,IV-c.

7 Pursuant to RSA 397-A:17,III, if the Commissioner finds that  
8 protection of consumers, lenders, or investors requires emergency action  
9 and incorporates a finding to that effect in his or her order, immediate  
10 suspension of a license may be ordered pending an adjudicative proceeding.  
11 The adjudicative proceeding shall be commenced not later than 10 business  
12 days after the date of the order suspending the license. Unless expressly  
13 waived by the license, the Commissioner's failure to commence an  
14 adjudicative proceeding within 10 business days shall mean that the  
15 suspension order is automatically vacated.

16 Pursuant to RSA 397-A:17,V, the Department may take action for  
17 immediate suspension of a license, pursuant to RSA 541-A:30,III.

18 Pursuant to RSA 397-A:17,VIII, in addition to any other penalty  
19 provided for under RSA Chapter 397-A or RSA 383:10-d, after notice and  
20 opportunity for hearing, the Commissioner may enter an order of rescission,  
21 restitution, or disgorgement of profits directed to a person who has  
22 violated RSA Chapter 397-A, or a rule or order thereunder.

23 Pursuant to RSA 397-A:17,IX, in addition to any other penalty  
24 provided for under RSA Chapter 397-A, after notice and opportunity for  
25 hearing, the Commissioner may assess fines and penalties against a mortgage

1 loan originator in an amount not to exceed \$25,000.00 (for each violation)  
2 if the Commissioner finds the mortgage loan originator has violated or  
3 failed to comply with the S.A.F.E. Mortgage Licensing Act of 2008, Public  
4 Law 110-289, Title V or any regulation or order issued thereunder. Each of  
5 the acts specified shall constitute a separate violation.

6 Pursuant to RSA 397-A:17,X, an action to enforce any provision of RSA  
7 Chapter 397-A shall be commenced within 6 years after the date on which the  
8 violation occurred.

9 Pursuant to RSA 397-A:18, the Department has the authority to issue a  
10 complaint setting forth charges whenever the Department is of the opinion  
11 that the licensee or person over whom the Department has jurisdiction is  
12 violating or has violated any provision of RSA Chapter 397-A, or any rule or  
13 order thereunder.

14 Pursuant to RSA 397-A:18,II, the Department has the authority to issue  
15 and cause to be served an order requiring any person engaged in any act or  
16 practice constituting a violation of RSA Chapter 397-A or any rule or order  
17 thereunder, to cease and desist from violations of RSA Chapter 397-A.

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

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

25 Pursuant to RSA 397-A:21,I-a, any person who willfully violates any

1 provisions of RSA 397-A:2,VI or VII or a cease and desist order or  
2 injunction issued pursuant to RSA 397-A:18,II shall be guilty of a class B  
3 felony. Each of the acts specified shall constitute a separate offense and  
4 a prosecution or conviction for any one of such offenses shall not bar  
5 prosecution or conviction of any other offense.

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 Pursuant to RSA 541-A:30,III, if the agency finds that public health,  
14 safety or welfare requires emergency action and incorporates a finding to  
15 that effect in its order, immediate suspension of a license may be ordered  
16 pending an adjudicative proceeding. The agency shall commence this  
17 adjudicative proceeding not later than 10 working days after the date of the  
18 agency order suspending the license. A record of the proceeding shall be  
19 made by a certified shorthand court reporter provided by the agency. Unless  
20 expressly waived by the licensee, agency failure to commence an adjudicative  
21 proceeding within 10 working days shall mean that the suspension order is  
22 automatically vacated.

1 NOTICE OF RIGHT TO REQUEST A HEARING

2 Pursuant to RSA 541-A:30, the Department shall hold a hearing within  
3 ten (10) working days after the date of this Order to Show Cause with  
4 Immediate Emergency Suspension and Cease and Desist Order suspending the  
5 Respondent's mortgage loan originator license. Such hearing is noticed under  
6 separate cover. A record of this proceeding shall be made by a certified  
7 shorthand court reporter provided by this Department. If the Respondent fails  
8 to appear at the hearing after being duly notified, such person shall be  
9 deemed in default, and the proceeding may be determined against the  
10 defaulting Respondent upon consideration of this Order to Show Cause with  
11 Immediate Emergency Suspension and Cease and Desist Order, the allegations of  
12 which may be deemed to be true.

13 After said hearing and within 20 days of the date of the hearing the  
14 Commissioner shall issue a further order vacating this Order to Show Cause  
15 with Immediate Emergency Suspension and Cease and Desist Order or making it  
16 permanent as the facts require and making such findings as are necessary. All  
17 hearings shall comply with 541-A.

18 The above named Respondent has the right to be represented by counsel  
19 at the Respondent's own expense. Any such request shall be in writing, and  
20 signed by the Respondent or by the duly authorized agent of the above named  
21 Respondent, and shall be delivered either by hand or certified mail, return  
22 receipt requested, to the New Hampshire Banking Department, 53 Regional  
23 Drive, Suite 200, Concord, NH 03301.

1                    STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

2                    The Staff Petition dated March 23, 2010 (a copy of which is attached  
3 hereto) is incorporated by reference hereto.

4                    ORDER

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

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

11                    WHEREAS, finding that the allegations contained in the Staff Petition,  
12 if proved by a preponderance of the evidence that the above named person no  
13 longer demonstrates the financial responsibility, character, and general  
14 fitness such as to command the confidence of the community and to warrant a  
15 determination that the person subject to RSA Chapter 397-A will operate  
16 honestly, fairly, and efficiently within the purposes of RSA Chapter 397-A,  
17 forms the legal basis of the relief requested;

18                    WHEREAS, finding that the public interest would be irreparably harmed  
19 by delay in issuing this immediate suspension;

20                    WHEREAS, finding a substantial likelihood that delay will cause  
21 irreparable harm to the public, health, safety or welfare, requiring  
22 emergency action;

23                    WHEREAS, finding that the protection of consumers, lenders, or  
24 investors requires emergency action;



1 It is hereby ORDERED, that:

- 2 1. Respondent Jeffrey Shawn Frost's ("Respondent Frost") New  
3 Hampshire license as a mortgage loan originator is  
4 immediately suspended; and
- 5 2. Pursuant to RSA 541-A:30,III, and adjudicative hearing  
6 shall be held within ten (10) working days of the date of  
7 this Order to Show Cause with Immediate Emergency  
8 Suspension and Cease and Desist Order.

9 It is hereby FURTHER ORDERED, that:

- 10 3. Respondent Frost is hereby ordered to cease and desist  
11 from conducting business regulated by RSA Chapter 397-A in  
12 New Hampshire;
- 13 4. Respondent Frost is hereby ordered to cease and desist  
14 from violating New Hampshire state law and federal law and  
15 any rules or orders thereunder;
- 16 5. Respondent Frost shall show cause why penalties in the  
17 amount of \$57,500.00 should not be imposed against him plus  
18 any additional penalty not to exceed \$25,000.00 for each  
19 violation (\$575,000.00) pursuant to RSA 397-A:17,IX;
- 20 6. Nothing in this Order to Show Cause with Immediate  
21 Emergency Suspension and Cease and Desist Order shall  
22 prevent the Department from taking any further  
23 administrative action under New Hampshire law;
- 24 7. Nothing in this Order to Show Cause and Cease and Desist  
25 Order shall prevent the Attorney General from bringing an

1 action against Respondent Frost in any New Hampshire  
2 superior court, with or without prior administrative action  
3 by the Commissioner;

4 8. Respondent Frost shall show cause why, in addition to the  
5 penalties listed in Paragraphs 1 through 7 above,  
6 Respondent Frost's mortgage loan originator license should  
7 not be revoked;

8 9. Respondent Frost shall show cause why, in addition to the  
9 penalties listed in Paragraphs 1 through 8 above,  
10 Respondent Frost should not be removed or banned from  
11 office or employment;

12 It is hereby further ORDERED that:

13 10. Along with the administrative penalties listed for  
14 Respondent Frost, any applicable rescission, restitution or  
15 disgorgement of profits shall be immediately paid; and

16 11. Failure to attend the hearing to be held within 10 working  
17 days of this Order to Show Cause with Immediate Emergency  
18 Suspension and Cease and Desist Order shall result in a  
19 default judgment being rendered and administrative penalties  
20 imposed upon Respondent Frost.

21  
22 SIGNED,

23  
24 Dated: 03/23/10

25 /s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 10-013  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Staff Petition  
 )  
 5 Petitioner, ) March 23, 2010  
 )  
 6 and )  
 )  
 7 Jeffrey Shawn Frost, )  
 )  
 8 Respondent )

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9 I. STATEMENT OF ALLEGATIONS

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

12 Facts Common on All Counts:

- 13 1. Respondent Jeffrey Shawn Frost (hereinafter "Respondent Frost")  
 14 has been licensed as a Mortgage Loan Originator in New  
 15 Hampshire since April 1, 2009. Respondent Frost has been  
 16 sponsored by Academy Mortgage (a Department licensee) since  
 17 March 24, 2009 (prior to the required Mortgage Loan Originator  
 18 licensure).
- 19 2. Respondent Frost submitted and attested to his New Hampshire  
 20 Mortgage Loan Originator MU4 application on or about March 21,  
 21 2009 or March 23, 2009.

22 Violation of RSA 397-A:1,XVII(a) Simultaneously Representing More Than One  
23 Mortgage Banker or Mortgage Broker (2 Counts):

24 Violation of RSA 397-A:3,III Simultaneously Representing More Than One  
25 Mortgage Banker or Mortgage Broker (2 Counts):

1 Violation of RSA 397-A:14,IV(d) Conduct Business Covered By RSA Chapter 397-  
2 A Without a Valid License Required by RSA Chapter 397-A (2 Counts):

3 Violation of RSA 397-A:14,IV(e) Failure to Make Disclosures Required by RSA  
4 397-A (2 Counts):

5 Violation of RSA 397-A:14,IV(f) Failure to Comply with RSA Chapter 397-A or  
6 Other New Hampshire State Law (2 Counts):

7 Violation of RSA 397-A:14,IV(h) Negligently Making Any False Statement or  
8 Knowingly Make A False Statement or Knowingly and Willfully Make Any  
9 Omission of a Material Fact in Connection with Information or Reports Filed  
10 with the Department and the Nationwide Mortgage Licensing System and  
11 Registry (2 Counts):

12 Violation of RSA 397-A:17,I(a) Violation of RSA Chapter 397-A Generally (2  
13 Counts):

14 Violation of RSA 397-A:17,I(b) Failing to Meet Standards Established by RSA  
15 Chapter 397-A (1 Count):

16 Violation of RSA 397-A:17,I(d) Filed a Mortgage Loan Originator Application  
17 that is Materially Incomplete and Contains False and Misleading Statements  
18 (2 Counts):

19 Violation of RSA 397-A:17,I(e) Made a False or Misleading Statement to the  
20 Commissioner (2 Counts):

21 Violation of RSA 397-A:17,I(k) Engaged in Dishonest or Unethical Practices  
22 (2 Counts):

23 If Respondent Frost Considers the 2 Unlicensed Entities Mortgage Brokers,  
24 then a Mortgage Servicer Registration Would be Needed To Service the Two  
25 Closed Residential Mortgage Loans: Violation of RSA 397-B:1,IV-c

1 Simultaneously Representing More Than One Mortgage Servicer (2 Counts):

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

4 4. At the time of Respondent Frost's New Hampshire Mortgage Loan  
5 Originator MU4 application or attestation, he was and still is  
6 self-employed through the Frost Family LLC. Respondent Frost  
7 stated in both his original MU4 application and in his amended  
8 application attested to on or about April 8, 2009 that Frost  
9 Family LLC is not a financial services-related employment. In  
10 Respondent Frost's MU4 application to which he attested on or  
11 about March 21, 2009, Respondent Frost's duties with Frost  
12 Family LLC are to manage some of his properties with long term  
13 leases.

14 5. In fact, Frost Family LLC served as either the mortgage broker  
15 or mortgage banker for one residential mortgage loan, which  
16 closed on September 3, 2008, well before Respondent Frost  
17 submitted or attested to his MU4 New Hampshire Mortgage Loan  
18 Originator application.

19 6. Frost Family LLC continues to actively service this residential  
20 mortgage loan, which means if Frost Family LLC brokered the  
21 loan as an unlicensed entity, it is servicing this residential  
22 mortgage loan without a New Hampshire mortgage servicer  
23 registration.

24 7. If Frost Family LLC served as the unlicensed mortgage banker on  
25 this residential mortgage loan, it is currently servicing this

1 loan without a valid mortgage banker license.

2 8. Respondent Frost failed to include in any version of his New  
3 Hampshire MU4 Mortgage Loan Originator application that he is  
4 also part owner in Chretien/Tillinghast, LLC, which closed one  
5 residential mortgage loan prior to his MU4 application.

6 9. On March 13, 2009 (the closing date of one residential mortgage  
7 loan), Chretien/Tillinghast, LLC served as either the mortgage  
8 broker or mortgage banker.

9 10. The March 13, 2009 closed residential mortgage loan closed  
10 prior to Respondent Frost's March 21, 2009 submittal or  
11 attestation to his MU4 New Hampshire Mortgage Loan Originator  
12 application.

13 11. Chretien/Tillinghast, LLC continues to actively service this  
14 March 13, 2009 closed residential mortgage loan, which means if  
15 Chretien/Tillinghast, LLC brokered the loan as an unlicensed  
16 entity, it is servicing this residential mortgage loan without  
17 a New Hampshire mortgage servicer registration.

18 12. If Chretien/Tillinghast, LLC served as the unlicensed mortgage  
19 banker on this March 13, 2009 closed residential mortgage loan,  
20 it is currently servicing this loan without a valid mortgage  
21 banker license.

22 13. Respondent Frost, by continuing his employment with both Frost  
23 Family, LLC and Chretien/Tillinghast, LLC while employed by  
24 mortgage banker licensee Academy Mortgage as a licensed  
25 Mortgage Loan Originator, works for more than one mortgage

1 banker or mortgage broker and mortgage servicer and is  
2 therefore in violation of RSA 397-A:1,XVII(a), RSA 397-A:3,III,  
3 and/or RSA 397-B:1,IV-c.

4 **II. ISSUES OF LAW**

5 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 13 as fully set forth herein.
- 8 2. The Department has jurisdiction over the licensing and  
9 regulation of persons engaged in mortgage banker or broker  
10 activities pursuant to RSA 397-A:2 and RSA 397-A:3.
- 11 3. The Department has jurisdiction over the registration and  
12 regulation of persons engaged in mortgage servicing activities  
13 pursuant to RSA 397-B:2.
- 14 4. RSA 397-A:1,X provides that "licensee" means a person, whether  
15 mortgage banker, mortgage broker, or mortgage originator, duly  
16 licensed by the Commissioner pursuant to the provisions of RSA  
17 Chapter 397-A.
- 18 5. RSA 397-A:1,XVII(a) provides that an originator or mortgage  
19 loan originator or mortgage originator or loan originator means  
20 an individual who for direct or indirect compensation or gain  
21 or in the expectation of direct or indirect compensation or  
22 gain, takes a mortgage application or offers, negotiates,  
23 solicits, arranges, or finds a mortgage loan or who assists a  
24 consumer in obtaining or applying to obtain a mortgage loan by,  
25 among other things, advising on loan terms (including rates,

1 fees, and other costs), preparing loan packages, or collecting  
2 information on behalf of the consumer with regard to a mortgage  
3 loan or who offers or negotiates terms of a residential  
4 mortgage loan. No individual may act as an originator for more  
5 than one mortgage broker, mortgage servicer, or mortgage  
6 banker. A sole proprietor licensed as a mortgage broker,  
7 mortgage servicer, or mortgage banker shall also obtain a  
8 license as a mortgage originator prior to engaging in the  
9 activities of a mortgage originators. Respondent Frost  
10 violated this provision on at least two occasions as alleged  
11 above.

12 6. RSA 397-A:3,III provides that it is unlawful for any mortgage  
13 banker or mortgage broker to employ, retain, or otherwise  
14 engage an originator unless the originator is licensed. No  
15 originator shall at any time represent more than one mortgage  
16 banker or mortgage broker. Respondent Frost violated this  
17 provision on at least two occasions as alleged above.

18 7. RSA 397-A:14,IV(d) provides that no person subject to RSA  
19 Chapter 397-A shall conduct any business covered by RSA Chapter  
20 397-A without holding a valid license as required under RSA  
21 Chapter 397-A, or assist or aid and abet any person in the  
22 conduct of business under RSA Chapter 397-A without a valid  
23 license as required under RSA Chapter 397-A. Respondent Frost  
24 violated this provision on at least two occasions as alleged  
25 above.



1 8. RSA 397-A:14,IV(e) provides that no person subject to RSA  
2 Chapter 397-A shall fail to make disclosures as required by RSA  
3 Chapter 397-A and any other applicable state or federal law  
4 including rules and regulations thereunder. Respondent Frost  
5 violated this provision on at least two occasions as alleged  
6 above

7 9. RSA 397-A:14,IV(f) provides that no person subject to RSA  
8 Chapter 397-A shall fail to comply with RSA Chapter 397-A or  
9 rules or orders promulgated thereunder, or fail to comply with  
10 any other state or federal law, including the rules and  
11 regulations thereunder, applicable to any business authorized  
12 or conducted under RSA Chapter 397-A. Respondent Frost  
13 violated this provision on at least two occasions as alleged  
14 above.

15 10. RSA 397-A:14,IV(h) provides that no person subject to RSA  
16 Chapter 397-A shall negligently make any false statement or  
17 knowingly and willfully make any omission of material fact in  
18 connection with any information or reports filed with a  
19 governmental agency or the Nationwide Mortgage Licensing System  
20 and Registry or in connection with any investigation conducted  
21 by the Commissioner or another governmental agency. Respondent  
22 Frost violated this provision on at least two occasions as  
23 alleged above.

24 11. Pursuant to RSA 397-A:17,I the Commissioner of the New  
25 Hampshire Banking Department (hereinafter "Department") has the

1 authority to issue an order to show cause why license  
2 revocation or suspension and penalties for violations of RSA  
3 Chapter 397-A should not be imposed. The Commissioner may by  
4 order summarily postpone or suspend any license or application  
5 pending final determine of any order to show cause, or other  
6 order, or of any other proceeding under RSA 397-A:17, provided  
7 that the Commissioner finds that the public interest would be  
8 irreparably harmed by delaying in issuing such order.

9 12. RSA 397-A:17, I further provides in part that the Commissioner  
10 may by order, upon due notice and opportunity for hearing,  
11 assess penalties or deny, suspend, or revoke a license or  
12 application if it is in the public interest and the applicant,  
13 respondent, or licensee, any partner, officer, member, or  
14 director, any person occupying a similar status or performing  
15 similar functions, or any person directly or indirectly  
16 controlling the applicant, respondent, or licensee has, inter  
17 alia, : (a) violated any provision of RSA Chapter 397-A or rules  
18 thereunder, (b) not met the standards established in RSA  
19 Chapter 397-A..., (d) has filed an application for licensing which  
20 as of its effective date, or as of any date after filing in the  
21 case of an order denying effectiveness, was incomplete in any  
22 material respect, or contained any statement which was, in  
23 light of the circumstances under which it was made, false or  
24 misleading with respect to any material fact..., (e) has made a  
25 false or misleading statement to the Commissioner or in any

1 reports to the Commissioner..., or (k) engaged in dishonest or  
2 unethical practices in the conduct of the business of making or  
3 collecting mortgage loans. Respondent Frost has violated each  
4 subparagraphs (a), (d), (e) and (k) on at least two occasions  
5 and subparagraph (b) on at least one occasion as alleged above.

6 13. Pursuant to RSA 397-A:17,II(a), the Commissioner has the  
7 authority to order or direct persons subject to RSA Chapter  
8 397-A to cease and desist from conducting business, including  
9 immediate temporary orders to cease and desist.

10 14. Pursuant to RSA 397-A:17,II(b), the Commissioner has the  
11 authority to order or direct persons subject to RSA Chapter  
12 397-A to cease any harmful activities or violations of RSA  
13 Chapter 397-A, including immediate temporary orders to cease  
14 and desist.

15 15. Pursuant to RSA 397-A:17,II(c), the Commissioner has the  
16 authority to enter immediate temporary orders to cease business  
17 under a license if the Commissioner has determined that such  
18 license was erroneously granted or the licensee is currently in  
19 violation of RSA Chapter 397-A, or rules or order thereunder.

20 16. Pursuant to RSA 397-A:17,II(e)(1) the Commissioner has the  
21 authority to remove or ban from office or employment, including  
22 license revocation, any person conducting business under RSA  
23 Chapter 397-A who violates RSA Chapter 397-A.

24 17. Pursuant to RSA 397-A:17,II(e)(4) the Commissioner has the  
25 authority to remove or ban from office or employment, including

1 license revocation, any person conducting business under RSA  
2 Chapter 397-A if by a preponderance of evidence the  
3 Commissioner determines that the person no longer demonstrates  
4 the financial responsibility, character, and general fitness  
5 such as to command the confidence of the community and to  
6 warrant a determination that the person subject to RSA Chapter  
7 397-A will operate honestly, fairly, and efficiently within the  
8 purposes of RSA Chapter 397-A.

9 18. Pursuant to RSA 397-A:17,II(f) the Commissioner has the  
10 authority to deny, suspend, revoke, condition, or decline to  
11 renew a license if an applicant or licensee fails at any time  
12 to meet the requirements of RSA 397-A:5,IV-c or RSA 397-A:5,IV-  
13 d, or withholds information or makes a material misstatement in  
14 an application for a license or renewal of a license. RSA 397-  
15 A:5,IV-c,(a)(5) states the Commissioner shall not issue a  
16 mortgage loan originator license unless the Commissioner makes  
17 at a minimum, inter alia, a finding that the applicant has  
18 demonstrated financial responsibility, character, and general  
19 fitness such as to command the confidence of the community and  
20 to warrant a determination that the mortgage loan originator  
21 will operate honestly, fairly, and efficiently within the  
22 purposes of RSA Chapter 397-A. RSA 397-A:5,IV-d(a)(1) states  
23 that, in addition to other provisions of New Hampshire law and  
24 rules, in order to be eligible to renew a license, a mortgage  
25 originator shall, inter alia, meet and continue to meet the

1 minimum standards for license issuance under RSA 397-A:5,IV-c.

2 19. Pursuant to RSA 397-A:17,III, if the Commissioner finds that  
3 protection of consumers, lenders, or investors requires  
4 emergency action and incorporates a finding to that effect in  
5 his or her order, immediate suspension of a license may be  
6 ordered pending an adjudicative proceeding. The adjudicative  
7 proceeding shall be commenced not later than 10 business days  
8 after the date of the order suspending the license. Unless  
9 expressly waived by the license, the Commissioner's failure to  
10 commence an adjudicative proceeding within 10 business days  
11 shall mean that the suspension order is automatically vacated.

12 20. Pursuant to RSA 397-A:17,V, the Department may take action for  
13 immediate suspension of a license, pursuant to RSA 541-  
14 A:30,III.

15 21. Pursuant to RSA 397-A:17,VIII, in addition to any other penalty  
16 provided for under RSA Chapter 397-A or RSA 383:10-d, after  
17 notice and opportunity for hearing, the Commissioner may enter  
18 an order of rescission, restitution, or disgorgement of profits  
19 directed to a person who has violated RSA Chapter 397-A, or a  
20 rule or order thereunder.

21 22. Pursuant to RSA 397-A:17,IX, in addition to any other penalty  
22 provided for under RSA Chapter 397-A, after notice and  
23 opportunity for hearing, the Commissioner may assess fines and  
24 penalties against a mortgage loan originator in an amount not  
25 to exceed \$25,000.00 (for each violation) if the Commissioner

1 finds the mortgage loan originator has violated or failed to  
2 comply with the S.A.F.E. Mortgage Licensing Act of 2008, Public  
3 Law 110-289, Title V or any regulation or order issued  
4 thereunder. Each of the acts specified shall constitute a  
5 separate violation. Respondent Frost violated twelve New  
6 Hampshire statutory provisions on at least twenty-three  
7 occasions total as alleged above.

8 23. Pursuant to RSA 397-A:17,X, an action to enforce any provision  
9 of RSA Chapter 397-A shall be commenced within 6 years after  
10 the date on which the violation occurred.

11 24. Pursuant to RSA 397-A:18,I the Department has the authority to  
12 issue a complaint setting forth charges whenever the Department  
13 is of the opinion that the licensee or person over whom the  
14 Department has jurisdiction is violating or has violated any  
15 provision of RSA Chapter 397-A, or any rule or order  
16 thereunder.

17 25. Pursuant to RSA 397-A:18,II, the Department has the authority  
18 to issue and cause to be served an order requiring any person  
19 engaged in any act or practice constituting a violation of RSA  
20 Chapter 397-A or any rule or order thereunder, to cease and  
21 desist from violations of RSA Chapter 397-A.

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

25 27. RSA 397-A:21,IV provides that any person who, either knowingly

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

8 28. 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  
13 the act constituting the violation, and every licensee or person  
14 acting as a common law agent who materially aids in the acts  
15 constituting the violation, either knowingly or negligently,  
16 may, upon notice and opportunity for hearing, and in addition to  
17 any other penalty provided for by law, be subject to suspension,  
18 revocation, or denial of any registration or license, including  
19 the forfeiture of any application fee, or the imposition of an  
20 administrative fine not to exceed \$2,500, or both. Each of the  
21 acts specified shall constitute a separate violation, and such  
22 administrative action or fine may be imposed in addition to any  
23 criminal or civil penalties imposed.

24 29. RSA 397-A:21,VI provides that the attorney general on the  
25 Commissioner's behalf, may, with or without prior

1 administrative action by the Commissioner, bring an action  
2 against any person in any superior court in New Hampshire to  
3 enjoin the acts or practices and to enforce compliance with RSA  
4 Chapter 397-A or any rules or orders thereunder. Upon a proper  
5 showing, a permanent or temporary injunction, bar, restraining  
6 order, or writ of mandamus shall be granted and a receiver may  
7 be appointed for the defendant or the defendant's assets. The  
8 court shall not require the Commissioner or attorney general to  
9 post a bond. The court shall have the power to enforce  
10 obedience to such injunction, in addition to all of the court's  
11 customary powers, by a fine not exceeding \$10,000.00 or by  
12 imprisonment, or both. In a proceeding in superior court under  
13 RSA Chapter 397-A:21,VI where the state prevails, the  
14 Commissioner and the attorney general shall be entitled to  
15 recover all costs and expenses of investigation, and the court  
16 shall include the costs in its final judgment.

17 30. Pursuant to RSA 397-A:21,I-a, any person who willfully violates  
18 any provisions of RSA 397-A:2,VI or VII or a cease and desist  
19 order or injunction issued pursuant to RSA 397-A:18,II shall be  
20 guilty of a class B felony. Each of the acts specified shall  
21 constitute a separate offense and a prosecution or conviction  
22 for any one of such offenses shall not bar prosecution or  
23 conviction of any other offense.

24 31. RSA 397-B:1,IV-c provides that originator and mortgage loan  
25 originator shall have the same meaning as provided in RSA 397-



1 A:1,XVII. Respondent violated this provision on at least two  
2 occasions as alleged above.

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

11 33. Pursuant to RSA 541-A:30,III, if the agency finds that public  
12 health, safety or welfare requires emergency action and  
13 incorporates a finding to that effect in its order, immediate  
14 suspension of a license may be ordered pending an adjudicative  
15 proceeding. The agency shall commence this adjudicative  
16 proceeding not later than 10 working days after the date of the  
17 agency order suspending the license. A record of the  
18 proceeding shall be made by a certified shorthand court  
19 reporter provided by the agency. Unless expressly waived by  
20 the licensee, agency failure to commence an adjudicative  
21 proceeding within 10 working days shall mean that the  
22 suspension order is automatically vacated.

1 **III. RELIEF REQUESTED**

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

- 4 1. Pursuant to RSA 397-A:17,I and RSA 397-A:20,IV, find this  
5 action and all resulting findings and orders herein necessary  
6 and appropriate and in the public interest, and consistent with  
7 the intent and purposes of the New Hampshire banking laws;
- 8 2. Find that the allegations contained in the Staff Petition, are  
9 true and correct and form the legal basis of the relief  
10 requested;
- 11 3. Pursuant to RSA 397-A:17,II(e)(4), find that the allegations  
12 contained in this Staff Petition, if proved by a preponderance  
13 of the evidence that the above named person no longer  
14 demonstrates the financial responsibility, character, and  
15 general fitness such as to command the confidence of the  
16 community and to warrant a determination that the person  
17 subject to RSA Chapter 397-A will operate honestly, fairly, and  
18 efficiently within the purposes of RSA Chapter 397-A, forms the  
19 legal basis of the relief requested;
- 20 4. Pursuant to RSA 397-A:17,I find that the public interest would  
21 be irreparably harmed by delay in issuing this immediate  
22 suspension;
- 23 5. Pursuant to RSA 541-A:30,III, find that delay will cause harm  
24 to the public, health, safety or welfare, requiring emergency  
25 action;

- 1           6. Pursuant to RSA 397-A:17,III, find that the protection of
- 2           consumers, lenders, or investors requires emergency action;
- 3           7. Find as fact the allegations contained in section I of this
- 4           Staff Petition;
- 5           8. Make conclusions of law relative to the allegations contained
- 6           in section II of this Staff Petition;Pursuant to RSA 397-A:17,
- 7           order Respondent Frost's New Hampshire mortgage loan originator
- 8           license be immediately suspended;
- 9           9. Pursuant to RSA 397-A:17,II (a),(b) and (c) and RSA 397-
- 10          A:18,II, order Respondent Frost to cease and desist from
- 11          conducting business in New Hampshire;
- 12          10. Pursuant to RSA 397-A:17,II (a),(b) and (c) and RSA 397-
- 13          A:18,II, order Respondent Frost to cease and desist from
- 14          violating New Hampshire state law and federal law and any rules
- 15          or orders thereunder;
- 16          11. Pursuant to RSA 397-A:17, order Respondent Frost to show cause
- 17          why his mortgage loan originator license should not be revoked;
- 18          12. Pursuant to RSA 397-A:17,II(e)(1), order Respondent Frost to
- 19          show cause why he should not be banned or removed from office;
- 20          13. Pursuant to RSA 397-A:17,VIII, order Respondent Frost to
- 21          rescind, give restitution, or disgorge profits;
- 22          14. Pursuant to RSA 397-A:17,IX, order Respondent Frost to show
- 23          cause why, in additional to administrative penalties, he should
- 24          not be assessed an additional penalty not to exceed \$25,000.00
- 25          for each violation alleged above.

