

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 10-165
)
 3 State of New Hampshire Banking)
)
 4 Department,)
)
 5 Petitioner,) AMENDED Notice of Hearing -
) Complaint, Order to Show Cause and
) Cease and Desist
 6 and)
)
 7 National Loan Restructuring, LLC,)
)
 8 (fictitious name for Atlas Financial,)
)
 9 Incorporated), Robert Ready and Charlie)
)
 10 Stevens,)
)
 11 Respondents)
)

12 AMENDED NOTICE OF COMPLAINT, ORDER TO SHOW CAUSE AND CEASE AND DESIST

13 HEARING

14 1. The Department issued to the above named Respondents a Complaint, Order
 15 to Show Cause and Cease and Desist on April 20, 2011. RSA Chapter 541-A and
 16 RSA Chapter 397-A require the Department to schedule a hearing on such
 17 matter within ten (10) calendar days of a written request for hearing unless
 18 otherwise waived by the Respondents. Respondents filed a timely request for
 19 hearing and waived their right to a ten (10) day hearing on June 2, 2011.

20 IT IS HEREBY ORDERED that:

21 2. Respondents shall appear before the New Hampshire Banking Department on
 22 Thursday, January 26, 2012 at 10:00 am, at the New Hampshire Banking
 23 Department located at 53 Regional Drive, Suite 200, Concord, New Hampshire
 24 03301, for the purpose of participating in an adjudicative proceeding, at
 25 which time the Respondents will have the opportunity to demonstrate why the

1 relief sought in the Complaint, Order to Show Cause and Cease and Desist
2 should not become permanent.

3 3. Pursuant to RSA 541-A:31,III(b), the legal authorities under which the
4 hearing is to be held are: RSA 541-A:30,III, RSA 397-A:17, RSA
5 397-A:18 and RSA 397-A:21.

6 4. The Department's alleged violations against the above named Respondents
7 in the Complaint, Order to Show Cause and Cease and Desist are as follows

8 a. Respondent National Loan Restructuring, LLC (fictitious name for
9 Atlas Financial, Incorporated):

10 Violation #1: Unlicensed Mortgage Broker Activity (RSA 397-
11 A:3,I) - 1 Count;

12 Violation #2: Failure to Provide Requested Information (RSA 397-
13 A:12,VII)- 1 Count;

14 Violation #3: Collection of Advance Fee for a mortgage loan
15 modification (RSA 397-A:14,IV(m))- 1 Count;

16 Violation #4: Receiving a best efforts Commission or Fee for a
17 mortgage loan modification (RSA 397-A:14,IV(b)) - 1 Count;

18 b. Respondent Robert Ready:

19 Violation #1: Violation of the S.A.F.E. Act for unlicensed loan
20 origination (RSA 397-A:17,IX) - 1 Count;

21 Violation #2: Failure to Provide Requested Information (RSA 397-
22 A:12,VII)- 1 Count;

23 Violation #3: Collection of Advance Fee for a mortgage loan
24 modification (RSA 397-A:14,IV(m))- 1 Count;

25 Violation #4: Receiving a best efforts Commission or Fee for a

1 mortgage loan modification (RSA 397-A:14,IV(b)) - 1 Count;

2 c. Respondent Charlie Stevens:

3 Violation #1: Violation of the S.A.F.E. Act for unlicensed loan
4 origination (RSA 397-A:17,IX) - 1 Count;

5 Violation #2: Failure to Provide Requested Information (RSA 397-
6 A:12,VII)- 1 Count;

7 Violation #3: Collection of Advance Fee for a mortgage loan
8 modification (RSA 397-A:14,IV(m))- 1 Count;

9 Violation #4: Receiving a best efforts Commission or Fee for a
10 mortgage loan modification (RSA 397-A:14,IV(b)) - 1 Count.

11 5. The Department's alleged violations against Respondents also include:

12 a. An order to show cause why rescission, restitution, or
13 disgorgement of profits or commissions for services rendered,
14 including \$3,500.00 back to Consumer A should not be imposed
15 against Respondents; and

16 b. An order to show cause why the investigation cost of \$2,250.00
17 should not be imposed against Respondents.

18 6. The facts as alleged in the Complaint, Order to Show Cause and Cease and
19 Desist are herein incorporated by reference.

20 7. An adjudicative proceeding shall be commenced pursuant to RSA 541-A:31
21 for the purpose of permitting the above named Respondents to show compliance
22 with the stated violations.

23 8. Each party has the right to have an attorney present to represent the
24 party at the party's expense, or may represent itself or himself. If the
25 Respondents elect to be represented by Counsel, said Counsel shall file a

1 notice of appearance at the earliest possible date.

2 9. Maryam Torben Desfosses, Hearings Examiner, New Hampshire Banking
3 Department is designated as Hearings Examiner in this matter with authority
4 to represent the public interest within the scope of the Department's
5 authority. The Hearings Examiner shall have the status of a party to this
6 proceeding.

7 10. A Presiding Officer will be delegated to preside over this matter
8 pursuant to RSA 383:7-a and see also RSA 541-A:1,XV.

9 11. Any proposed exhibits shall be pre-marked, for identification only, and
10 filed with the Department and provided to the opposing party by Thursday,
11 January 19, 2012. The Hearings Examiner shall pre-mark the Department's
12 exhibits with Arabic numbers. The Respondents shall pre-mark exhibits with
13 capital letters. An index/list of exhibits providing a brief description of
14 each exhibit with its corresponding pre-marked number or letter shall be
15 filed by both parties simultaneous with the filing of exhibits.

16 12. The parties shall exchange a list of all exhibits and witnesses to be
17 called at the hearing with a brief summary at the hearing, and shall at the
18 same time file a copy of their respective lists with the Presiding Officer.

19 13. All periods referenced in this notice shall be calendar days. If the
20 last day of the period so computed falls on a Saturday, Sunday, or legal
21 holiday, then the time period shall be extended to include the first
22 business day that is not a Saturday, Sunday, or legal holiday.

23 14. The Department shall have the burden of setting forth a *prima facie*
24 case, then the Respondents shall have the burden of showing compliance with
25 applicable law by a preponderance of the evidence.

1 15. Any Respondent's failure to appear at the time, date, and place
2 specified may result in the hearing being held *in absentia* and/or default
3 ruling in favor of the Department, without further notice or opportunity to
4 be heard.

5 16. The entirety of all verbal proceedings shall be recorded verbatim by the
6 Department. Upon request of any party, or upon the Presiding Officer's own
7 initiative, such record shall be transcribed by a certified court reporter
8 designated by the Presiding Officer, and that all costs shall be borne
9 solely by the requesting party.

10 17. Each party has the right to have the Department provide a certified
11 shorthand court reporter at the requesting party's expense. Any such request
12 shall be submitted in writing to the Presiding Officer at least 10 days
13 prior to the hearing.

14 18. All documents shall be filed with the Presiding Officer in the form of an
15 original and one (1) copy and shall bear a certification that a copy is being
16 delivered to Hearings Examiner and any other parties to this matter in
17 accordance with applicable laws. All documents shall be filed by mailing or
18 delivering them to the New Hampshire Banking Department, ATTN: Presiding
19 Officer 10-165, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by
20 facsimile or electronic transmission shall not be accepted.

21 19. The parties may submit Proposed Orders, which shall include findings of
22 fact and conclusions of law, separately stated, no later than ten (10) days
23 following conclusion of the hearing(s) in this matter.

24 20. Routine procedural inquiries may be made by telephoning Maryam Torben
25 Desfosses, Hearings Examiner at (603)271-3561, but all other communications

