

1 State of New Hampshire Banking Department

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3 In re the Marriage of:) Case No.: 06-263
)
 4 State of New Hampshire Banking) Notice of Hearing - Cease and Desist
) Order
 5 Department,)
)
 6 Petitioner,)
)
 7 and)
)
 8 2Amoskeag5 Realty LLC, 2Maisie5)
)
 9 Realty I LLC, Walter Bressler III,)
)
 10 Sadie Stanhope, Michael T Prieto
 11 Respondent

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13 NOTICE OF HEARING

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

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

22 Pursuant to the New Hampshire Banking laws, RSA 397-A:3 requires any
23 person not exempt under RSA 397-A:4 that, in its own name or on behalf of
24 other persons, engages in the business of making or brokering first mortgage
25 loans secured by real property located in this state shall be required to
obtain a license from the banking department.

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2 The Department issued the Respondent a Cease and Desist Order on
3 November 21, 2006. The Respondent filed a timely request for a hearing
4 regarding this matter.

5 The Department alleges the following:

6 **Issue 1:** Unlicensed Mortgage Brokering/Banking

7 **Issue 2:** Unlicensed Second Mortgage Banking

8 **Issue 3:** Unlicensed Debt Adjustment

9 Accordingly, an adjudicative proceeding shall be commenced pursuant to
10 541-A:31 and Chapter 200 of the Department's rules (NH Code of
11 Administrative Rules BAN 200) for the purpose of permitting the Respondent to
12 show compliance with RSA 397-A:3.

13 Each party has the right to have an attorney present to represent the
14 party at the party's expense, or may represent itself. Each party has the
15 right to have the Department provide a certified shorthand court reporter at
16 the requesting party's expense. Any such request must be submitted in
17 writing to the Department at least 10 days prior to a scheduled hearing date.

18 THEREFORE, IT IS ORDERED, that the Respondent appear before the New
19 Hampshire Banking Department on January, 25, 2007 at 10:00am, at the
20 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the
21 purpose of participating in an adjudicative proceeding, at which time the
22 Respondent will have the opportunity to demonstrate why the cease and desist
23 order should not become permanent; and

24 IT IS FURTHER ORDERED, that if the Respondent elects to be represented
25 by Counsel, said Counsel shall file notice of appearance at the earliest
possible date; and

IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
Hampshire Banking Department is designated as Hearing Counsel in this matter
with authority to represent the public interest within the scope of the

1 Department's authority. Hearing Counsel shall have the status of a party to
2 this proceeding; and

3 IT IS FURTHER ORDERED, that Olga Slutskaya, shall serve as the
4 Presiding Officer in this proceeding and shall issue a RECOMMENDED DECISION
5 in this matter which shall be reviewed and approved, disapproved or modified
6 by the Bank Commissioner; and

7 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
8 for identification only, and filed with the Department and provided to the
9 opposing party as soon as possible. Hearing Counsel shall pre-mark the
10 Department's exhibits with Arabic numbers. The Respondent People shall pre-
11 mark exhibits with capital letters. An index/list of exhibits providing a
12 brief description of each exhibit with its corresponding pre-marked number or
13 letter shall be filed by both parties simultaneous with the filing of
14 exhibits; and

15 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
16 exhibits and witnesses to be called at the hearing with a brief summary prior
17 to January, 22, 2006, and shall at the same time file a copy of their
18 respective witness lists with the Presiding Officer; and

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

24 IT IS FURTHER ORDERED, that the Department shall burden of setting forth
25 a *prima fascia* case, then the Respondent shall have the burden of showing
26 compliance with applicable law by a preponderance of the evidence;

IT IS FURTHER ORDERED, that Respondent's failure to appear at the time,
date, and place specified may result in the hearing being held *in absentia*

1 and/or default ruling in favor of the Department, without further notice or
2 opportunity to be heard; and

3 IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall be
4 recorded verbatim by the Banking Department. Upon request of any party, or
5 upon the Presiding Officer's own initiative, such record shall be transcribed
6 by a certified court reporter designated by the Presiding Officer, and that all
7 costs shall be borne solely by the requesting party. Any such request shall be
8 submitted in writing to the Presiding Officer prior to hearing.

9 IT IS FURTHER ORDERED, that all documents shall be filed with the
10 Presiding Officer in the form of an original and one (1) copy and shall bear a
11 certification that a copy is being delivered to Hearing Counsel and any other
12 parties to this matter in accordance with NH Code of Administrative Rules Ban
13 204.08. All documents shall be filed by mailing or delivering them to the New
14 Hampshire Banking Department, ATTN: Olga Slutskaya, 64-B Old Suncook Road,
15 Concord, NH 03301. Filing by facsimile or electronic transmission shall not be
16 accepted; and

17 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders, which
18 shall include findings of fact and conclusions of law, separately stated, no
19 later than ten (10) days following conclusion of the hearing(s) in this matter;
20 and

21 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
22 telephoning Maryam Torben-Desfosses at (603)-271-3561, but all other
23 communications with the Presiding Officer and with the Department shall be in
24 writing and shall be filed as provided above. *Ex parte* communications are
25 forbidden by statute; and

IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
mailed to Andrew Sullivan, Counsel for Respondents, 24 Eastman Avenue,
Bedford, NH 03110 and that a copy shall also be delivered to James Shepard,

