

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-212
)
 3 State of New Hampshire Banking) Order to Show Cause
)
 4 Department,) with Immediate Suspension
)
 5 Petitioner,) Notice of Hearing
)
 6 and)
)
 7 Saxon Mortgage Services, Inc.,)
)
 8 Respondents)
)

9
10 NOTICE OF HEARING

11 Pursuant to RSA 397-B:6, the Banking Department of the State of New
12 Hampshire (hereinafter the "Department") has the authority to issue an order
13 to show cause why license revocation penalties for violations of New
14 Hampshire Banking laws should not be imposed.

15 Pursuant to RSA 397-B:3, the Commissioner has the authority to suspend,
16 revoke or deny any license and to impose administrative penalties of up to
17 \$2,500.00 for each violation of New Hampshire banking law and rules. Upon a
18 finding of irreparable harm if revocation of the license is delayed the
19 Commissioner may summarily suspend any license pending final determination of
20 the Order to Show Cause.

21 The Department issued the Respondents an Order to Show Cause with
22 Immediate Suspension on June 4, 2008. Since the Orders were issued with an
23 immediate suspension the Department must schedule a hearing to be held within
24 ten days of said order.

25 The Department alleges the following:

- Issue 1: Failure to respond to Department inquiries (RSA 397-B:4-b)**
- Issue 2: Failure to facilitate investigation (RSA 397-B:9)**

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2 Accordingly, an adjudicative proceeding shall be commenced pursuant to
3 541-A:31 and Chapter 200 of the Department's rules (NH Code of
4 Administrative Rules BAN 200 supplemented by JUS 800 as applicable) for the
5 purpose of permitting the Respondents to show compliance with RSA 397-B and
6 the Rules adopted thereunder.

7 Each party has the right to have an attorney present to represent the
8 party at the party's expense, or may represent itself.

9 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
10 Hampshire Banking Department on **June 13, 2007 at 10:00 am**, at the
11 Department's offices at 53 Regional Drive, Concord, New Hampshire, for the
12 purpose of participating in an adjudicative proceeding, at which time the
13 Respondents will have the opportunity to demonstrate why the relief sought in
14 the show cause order should not become permanent; and

15 IT IS FURTHER ORDERED, that if the Respondents elect to be represented
16 by Counsel, said Counsel shall file notice of appearance at the earliest
17 possible date; and

18 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
19 Hampshire Banking Department is designated as Hearing Counsel in this matter
20 with authority to represent the public interest within the scope of the
21 Department's authority. Hearing Counsel shall have the status of a party to
22 this proceeding; and

23 IT IS FURTHER ORDERED, that the Commissioner designates Maryam Torben-
24 Desfosses to serve as the Presiding Officer in this proceeding who shall
25 issue a RECOMMENDED DECISION in this matter which shall be reviewed and
approved, disapproved or modified by the Bank Commissioner; and

 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
for identification only, and filed with the Department and provided to the
opposing party **as soon as possible**. Hearing Counsel shall pre-mark the

1 Department's exhibits with Arabic numbers. The Respondents shall pre-mark
2 exhibits with capital letters. An index/list of exhibits providing a brief
3 description of each exhibit with its corresponding pre-marked number or
4 letter shall be filed by both parties simultaneous with the filing of
5 exhibits; and

6 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
7 exhibits and witnesses to be called at the hearing with a brief summary at
8 the hearing, and shall at the same time file a copy of their respective lists
9 with the Presiding Officer; and

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

15 IT IS FURTHER ORDERED, that the Department shall have the burden of
16 setting forth a *prima facie* case, then the Respondents shall have the burden
17 of showing compliance with applicable law by a preponderance of the evidence;

18 IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,
19 date, and place specified may result in the hearing being held *in absentia*
20 and/or default ruling in favor of the Department, without further notice or
21 opportunity to be heard; and

22 IT IS FURTHER ORDERED, that a record of the proceeding shall be made by
23 a certified shorthand court reporter provided by the Department.

24 IT IS FURTHER ORDERED, that all documents shall be filed with the
25 Presiding Officer in the form of an original and one (1) copy and shall bear a
certification that a copy is being delivered to Hearing Counsel and any other
parties to this matter in accordance with NH Code of Administrative Rules Ban
204.08. All documents shall be filed by mailing or delivering them to the New

1 Hampshire Banking Department, ATTN: Presiding Officer 08-212, 53 Regional
2 Drive, Concord, NH 03301. Filing by facsimile or electronic transmission
3 shall not be accepted; and

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

8 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
9 telephoning Abigail Shaine at (603)-271-3561, but all other communications with
10 the Presiding Officer and with the Department shall be in writing and shall be
11 filed as provided above. *Ex parte* communications are forbidden by statute; and

12 IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
13 mailed to all named Respondents at their addresses of record and that a copy
14 shall also be delivered to James Shepard, Hearing Counsel, and to the
15 Presiding Officer at the New Hampshire Banking Department.

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18 **SO ORDERED,**

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21 /S RAF for/
Peter C. Hildreth
Commissioner
22 State of New Hampshire
Banking Department
23

6/5/08
Date