

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 08-327
)
 4 State of New Hampshire Banking)
)
 5 Department,) Notice of Hearing - Order to Show
) Cause
 6 Petitioner,)
)
 7 and)
)
 8 Arista Lending Solutions Inc, David G.)
)
 9 Robison, and Heather A. Stanley,)
)
 10 Respondents)
)

11 NOTICE OF HEARING

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

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

20 Pursuant to RSA 397-A:21, every person who directly or indirectly
21 controls a person liable under this section, every partner, principal
22 executive officer or director of such person, every person occupying a similar
23 status or performing a similar function, every employee of such person who
24 materially aids in the act constituting the violation, and every licensee or
25 person acting as a common law agent who materially aids in the acts

1 constituting the violation, either knowingly or negligently, may, upon notice
2 and opportunity for hearing, and in addition to any other penalty provided for
3 by law, be subject to suspension, revocation, or denial of any registration or
4 license, including the forfeiture of any application fee, or the imposition of
5 an administrative fine not to exceed \$2,500, or both.

6 On April 28, 2009, the Department issued an Order to Show Cause to
7 Arista Lending Solutions Inc, et al. All Respondents filed a timely request
8 for a hearing. RSA 397-A:18 requires a hearing to be held not later than 10
9 days after the request is received by the commissioner. All Respondents
10 waived the ten day scheduling requirement.

11 The Department alleges the following:

- 12 **Issue 1: Employ Any Device, Scheme, or Artifice to Defraud (RSA 397-**
13 **A:2,VI(a));**
- 14 **Issue 2: Make Any Untrue Statement of a Material Fact Appear Not**
15 **Misleading (RSA 397-A:2,VI(b));**
- 16 **Issue 3: Engage in Any Act, Practice or Course of Business Which Operates**
17 **or Would Operate as a Fraud or Deceit Upon Any Person (RSA 397-**
18 **A:2,VI(c));**
- 19 **Issue 4: Failure to Supervise (RSA 397-A:6,I);**
- 20 **Issue 5: Failure to Pay Examination Fee (RSA 397-A:12,V);**
- 21 **Issue 6: Failure of Officer and Owner to Respond to Department Inquiries**
22 **(RSA 397-A:13,VI)**
- 23 **Issue 7: Failure to Supervise (RSA 397-A:17,I(g));**
- 24 **Issue 8: Dishonest or Unethical Practices (RSA 397-A:17,I(k));**

1 Accordingly, an adjudicative proceeding shall be commenced pursuant to
2 RSA 541-A:31 ("Availability of Adjudicative Proceeding; Contested Cases;
3 Notice, Hearing and Record") and Chapter 800 of the Department of Justice's
4 rules (NH Code of Administrative Rules JUS 800) for the purpose of
5 permitting the Respondents to show compliance with RSA Chapter 397-A and the
6 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 each party may represent itself. Each
9 party has the right to have the Department provide a certified shorthand
10 court reporter at the requesting party's expense. Any such request must be
11 submitted in writing to the Department at least 5 days prior to a scheduled
12 hearing date.

13 THEREFORE, IT IS ORDERED, that the above named Respondents appear
14 before the New Hampshire Banking Department on **Tuesday, July 14, 2009 at**
15 **10:00 am at the New Hampshire Banking Department, 53 Regional Drive, Suite**
16 **200, Concord, NH 03301**, for the purpose of participating in an adjudicative
17 proceeding, at which time each Respondent will have the opportunity to show
18 cause as to why relief sought in the Order to Show Cause should not become
19 permanent; and

20 IT IS FURTHER ORDERED, that Maryam Torben Desfosses, Hearings
21 Examiner, New Hampshire Banking Department, is designated as Hearings
22 Examiner in this matter with authority to represent the public interest
23 within the scope of the Department's authority. Hearing Examiner shall have
24 the status of a party to this proceeding;

1 IT IS FURTHER ORDERED, Presiding Officer Ingrid White shall issue a
2 RECOMMENDED DECISION in this matter which shall be reviewed and approved,
3 disapproved or modified by the Banking Commissioner; and

4 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
5 for identification only, and filed with the Department and provided to the
6 opposing party **on or before Wednesday, July 8, 2009**. Hearings Examiner
7 shall pre-mark the Department's exhibits with Arabic numbers. **Respondents**
8 **shall pre-mark exhibits with capital letters.** An index/list of exhibits
9 providing a brief description of each exhibit with its corresponding pre-
10 marked number or letter shall be filed by both parties simultaneous with the
11 filing of exhibits; and

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

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

21 IT IS FURTHER ORDERED, that the Banking Department shall have the
22 burden of setting forth a *prima facie* case. Each Respondent shall have the
23 burden of showing compliance with applicable law by a preponderance of the
24 evidence; and

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1 IT IS FURTHER ORDERED, that Respondents failure to appear at the time,
2 date, and place specified may result in the hearing being held *in absentia*
3 and/or default ruling in favor of the Complainant, without further notice or
4 opportunity to be heard; and

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

11 IT IS FURTHER ORDERED, that all documents shall be filed with the
12 Presiding Officer in the form of an original and one (1) copy and shall bear
13 a certification that a copy is being delivered to any other parties to this
14 matter in accordance with New Hampshire Code of Administrative Rules BAN
15 204.08 ("Filing Requirements"). All documents shall be filed by mailing or
16 delivering them to the New Hampshire Banking Department, ATTN: Ingrid White,
17 Presiding Officer, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing
18 by facsimile or electronic transmission shall not be accepted; and

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

23 IT IS FURTHER ORDERED, that routine procedural inquiries may be made
24 by telephoning Ingrid White, Presiding Officer at (603)271-3561, but all
25 other communications with the Presiding Officer and with the Department

1 shall be in writing and shall be filed as provided above. *Ex parte*
2 communications are forbidden by statute; and

3 IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
4 mailed to all Respondents of record and to Presiding Officer Ingrid White.

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7 **SO ORDERED,**

8 _____
9 /s/
10 Peter C. Hildreth
11 Commissioner
12 State of New Hampshire
13 Banking Department

06/29/09
Date

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