

State of New Hampshire
Banking Department

In re:)	Case No. 13-109
)	
New Hampshire Banking Department,)	Motion to Stay Hearing Order
)	
Petitioner,)	
)	
and)	
)	
The Mortgage Specialists, Inc. and Michael)	
)	
Gill,)	
)	
Respondents)	
)	
)	
)	

MOTION TO STAY

The Petitioner, the New Hampshire Banking Department, moves that the Commissioner stay his order for a hearing on May 15, 2013, in the above captioned case, stating in support the following:

1. The Mortgage Specialists, Inc. (“TMS”) and Michael Gill, Owner of TMS (“Gill”) (collectively, “Respondents”), hold New Hampshire mortgage banking licenses nos. 8964-MB, 8969-MB-BCH, 11115-MB-BCH, and 8968-MB-BCH.
2. On April 11, 2013, the Commissioner issued an Order to Show Cause and Produce Records (“Order”). The Commissioner ordered, among other things, for the presiding officer to schedule a hearing on May 15, 2013 concerning violations of RSA 397-A:11, I-II; and RSA 397-A:12, VII.

3. On May 2, 2013, the presiding officer of record, Stephen J. Judge, issued an order recusing himself from this matter. See Recusal Order, In re: New Hampshire Banking Department and The Mortgage Specialists, Inc, and Michael Gill, Case No. 13-109 (May 2, 2013) (Stephen J. Judge, Presiding Officer). At this time, there is no presiding officer in reserve, and the Department must go through the process of arranging for a replacement.
4. Thus, in the interest of obtaining an impartial adjudicator, see Petition of Sprague, 132 N.H. 250, 266 (1989), the Department moves the Commissioner to stay the portion of the Order ordering a hearing on May 15, 2013.
5. In sum, the recusal and lack of an immediate substitute demonstrates the good cause necessary to postpone this hearing. See N.H. Admin. R. Jus 810.01.
6. Since the later date and time of the hearing are not known, the Department further moves that the Commissioner order the new presiding officer, once appointed, to issue a “written scheduling order stating the time, date and place of the postponed hearing as soon as practicable.” Id. at (c).

Accordingly, the Petitioner respectfully requests the Commissioner to issue the following Order:

RECOMMENDED by:

5/3/13
Date

/s/
J. Spencer Culp
Hearings Examiner
State of New Hampshire Banking Department

ORDER

To allow sufficient time to provide the Respondents with a fair and impartial adjudicator, I hereby order the following:

1. My April 11, 2013, Order, is stayed solely to the extent it orders the presiding officer to hold a hearing on May 15, 2013.
2. The thirty (30) day default period for such hearing is likewise stayed.
3. The new presiding officer, once appointed, shall issue a “written scheduling order stating the time, date and place of the postponed hearing as soon as practicable.”

ORDERED by:

Date 5/3/13

/s/
Glenn A. Perlow
Bank Commissioner

CERTIFICATE OF SERVICE

I, J. Spencer Culp, hereby certify that on May 6, 2013, a copy of this Motion and Order to Stay was sent to the Respondents’ attorney of record, Michael Parousis, Esq., at 9 Andrews Road, Somersworth, NH 03878, via U.S. Certified Mail First Class.

/s/
J. Spencer Culp
Hearings Examiner
New Hampshire Banking Department