

1 397-A:21 and RSA 383:10-d.

2 4. The Department's alleged violations against the above named Respondents
3 in the Order to Show Cause are as follows:

4 a. Respondent SunnyMTG.com 866-768-CASH, LLC:

5 Violation #1: Failure to facilitate the exam (RSA 397-A:12,VII) - 1
6 Count

7 Violation #2: Failure to comply with RESPA (RSA 397-A:2,III via Real
8 Estate Settlement Procedures Act, Regulation X, 24 C.F.R. Section
9 3500.14) - 1 Count

10 b. Respondent Sumit Gaddh:

11 Violation #1: As a control person, failure to facilitate the exam (RSA
12 397-A:12,V) - 1 Count

13 Violation #2: Failure of officer and owner to respond to Department
14 inquiries (RSA 397-A:13,VI) - 1 Count

15 Violation #3: As a control person, failure to comply with RESPA (RSA
16 397-A:2,III via Real Estate Settlement Procedures Act, Regulation X,
17 24 C.F.R. Section 3500.14) - 1 Count.

18 5. The Department's alleged violations against Respondents also include a
19 statutory fine of \$7,250.00 for failing to provide examination materials as
20 requested by the Department.

21 6. The facts as alleged in the Order to Show Cause are herein incorporated
22 by reference.

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

1 8. Each party has the right to have an attorney present to represent the
2 party at the party's expense, or may represent itself or himself. If the
3 Respondents elect to be represented by Counsel, said Counsel shall file a
4 notice of appearance at the earliest possible date.

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

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

12 11. Any proposed exhibits shall be pre-marked, for identification only, and
13 filed with the Department and provided to the opposing party by Tuesday,
14 June 21, 2011. The Hearings Examiner shall pre-mark the Department's
15 exhibits with Arabic numbers. The Respondents shall pre-mark exhibits with
16 capital letters. An index/list of exhibits providing a brief description of
17 each exhibit with its corresponding pre-marked number or letter shall be
18 filed by both parties simultaneous with the filing of exhibits.

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

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

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

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

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

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

17 18. All documents shall be filed with the Presiding Officer in the form of an
18 original and one (1) copy and shall bear a certification that a copy is being
19 delivered to Hearings Examiner and any other parties to this matter in
20 accordance with applicable laws. All documents shall be filed by mailing or
21 delivering them to the New Hampshire Banking Department, ATTN: Presiding
22 Officer 09-093, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by
23 facsimile or electronic transmission shall not be accepted.

24 19. The parties may submit Proposed Orders, which shall include findings of
25 fact and conclusions of law, separately stated, no later than ten (10) days

1 following conclusion of the hearing(s) in this matter.

2 20. Routine procedural inquiries may be made by telephoning Maryam Torben
3 Desfosses, Hearings Examiner at (603)271-3561, but all other communications
4 with the Presiding Officer and with the Department shall be in writing and
5 shall be filed as provided above. *Ex parte* communications are forbidden by
6 statute.

7 21. A copy of this Notice of Hearing shall be mailed to all named
8 Respondents by delivery to their Counsel, Attorney David A. Strauss and that
9 a copy shall also be delivered to Maryam Torben Desfosses, Hearings
10 Examiner, and to the Presiding Officer at the New Hampshire Banking
11 Department.

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14 **SO ORDERED,**

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_____/s/
Robert A. Fleury
Deputy Bank Commissioner

May 3, 2011
Date