

1 State of New Hampshire Banking Department

2 In re the Matter of:)Case No.: 09-119
)
 3 State of New Hampshire Banking)
)
 4 Department,)
)
 5 Petitioner,)Notice of Hearing - Order to Show
)Cause
)
 6 and)
)
 7 Capitol Mortgage Company Inc (d/b/a)
)
 8 CMCI), and Richard D. Northrop,)
)
 9 Respondents)
)

10 NOTICE OF ORDER TO SHOW CAUSE HEARING

11 1. The Department issued to the above named Respondents an Order to Show
 12 Cause on January 28, 2010. RSA Chapter 541-A and RSA Chapter 397-A require
 13 the Department to schedule a hearing on such matter within ten (10) calendar
 14 days of a written request for hearing unless otherwise waived by the
 15 Respondents. Respondents filed a timely request for hearing and waived
 16 their right to a ten (10) day hearing on February 28, 2010.

17 IT IS HEREBY ORDERED that:

18 2. Respondents appear before the New Hampshire Banking Department on
 19 Tuesday, March 8, 2011 at 10:00 am, at the New Hampshire Banking Department
 20 located at 53 Regional Drive, Suite 200, Concord, New Hampshire 03301, for
 21 the purpose of participating in an adjudicative proceeding, at which time
 22 the Respondents will have the opportunity to demonstrate why the relief
 23 sought in the Order to Show Cause should not become permanent.

24 3. Pursuant to RSA 541-A:31,III(b), the legal authorities under which the
 25 hearing is to be held are: RSA 541-A:30,III, RSA 397-A:17, RSA 397-A:18, RSA

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 Capitol Mortgage Company Inc (d/b/a CMCI):

5 Violation #1: Failure to pay examination fee (RSA 397-A:12,V) - 1
6 Count

7 Violation #2: Record Keeping: Failure to provide requested files in a
8 timely manner (RSA 397-A:11,II) - 1 Count

9 Violation #3: Failure to pay late penalty owed for late filing of
10 annual report (RSA 397-A:13,IV) - 1 Count

11 b. Respondent Richard D. Northrop:

12 Violation #1: Failure to pay examination fee (RSA 397-A:12,V) - 1
13 Count

14 Violation #2: Record Keeping: Failure to provide requested files in a
15 timely manner (RSA 397-A:11,II) - 1 Count

16 Violation #3: Failure to pay late penalty owed for late filing of
17 annual report (RSA 397-A:13,IV) - 1 Count

18 5. The facts as alleged in the Order to Show Cause are herein incorporated
19 by reference.

20 6. An adjudicative proceeding shall be commenced pursuant to RSA 541-A:31
21 for the purpose of permitting the above named Respondents to show compliance
22 with the stated violations.

23 7. Each party has the right to have an attorney present to represent the
24 party at the party's expense, or may represent itself or himself. If the
25 Respondents elect to be represented by Counsel, said Counsel shall file a

1 notice of appearance at the earliest possible date.

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

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

9 10. Any proposed exhibits shall be pre-marked, for identification only, and
10 filed with the Department and provided to the opposing party by Wednesday,
11 March 2, 2011. The Hearings Examiner shall pre-mark the Department's
12 exhibits with Arabic numbers. The Respondents shall pre-mark exhibits with
13 capital letters. An index/list of exhibits providing a brief description of
14 each exhibit with its corresponding pre-marked number or letter shall be
15 filed by both parties simultaneous with the filing of exhibits.

16 11. The parties shall exchange a list of all exhibits and witnesses to be
17 called at the hearing with a brief summary at the hearing, and shall at the
18 same time file a copy of their respective lists with the Presiding Officer.

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

23 13. The Department shall have the burden of setting forth a *prima facie*
24 case, then the Respondents shall have the burden of showing compliance with
25 applicable law by a preponderance of the evidence.

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

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

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

14 17. All documents shall be filed with the Presiding Officer in the form of an
15 original and one (1) copy and shall bear a certification that a copy is being
16 delivered to Hearings Examiner and any other parties to this matter in
17 accordance with applicable laws. All documents shall be filed by mailing or
18 delivering them to the New Hampshire Banking Department, ATTN: Presiding
19 Officer 09-119, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by
20 facsimile or electronic transmission shall not be accepted.

21 18. The parties may submit Proposed Orders, which shall include findings of
22 fact and conclusions of law, separately stated, no later than ten (10) days
23 following conclusion of the hearing(s) in this matter.

24 19. Routine procedural inquiries may be made by telephoning Maryam Torben
25 Desfosses, Hearings Examiner at (603)271-3561, but all other communications

