

1 State of New Hampshire Banking Department

2 Case No.: 10-004

3 In re the Matter of:

4 State of New Hampshire Banking Department

5 and

6 Dargon Law Firm P.L.L.C. (a/k/a www.dargonlaw.com) and
7 Daniel Paul Dargon, Esquire

8 **NOTICE OF ORDER TO SHOW CAUSE HEARING**

9 Pursuant to RSA 397-A:17, the Banking Department of the State of New
10 Hampshire (hereinafter the "Department") has the authority to issue an order
11 to show cause why license revocation and penalties for violations of New
12 Hampshire Banking laws should not be imposed. The Commissioner has the
13 further authority to issue a cease and desist order.

14 Pursuant to RSA 397-A:21, the Commissioner has the authority to
15 suspend, revoke or deny any license and to impose administrative penalties
16 of up to \$2,500.00 for each violation of New Hampshire banking laws and
17 rules. Pursuant to RSA 397-A:17,IX, the Commissioner has the authority to
18 impose penalties against a mortgage loan originator in an amount not to
19 exceed \$25,000.00 if the Commissioner finds that such mortgage loan
20 originator has violated or failed to comply with any requirement of the
21 S.A.F.E. Mortgage Licensing Act of 2008, Public Law 110-289, Title V or any
22 regulation or order issued thereunder. Each of the acts specified shall
23 constitute a separate violation.

24 The Department issued to the above named Respondents an Order to Show
25 Cause and Cease and Desist Order on April 1, 2010. RSA Chapter 541-A
requires the Department to hold a hearing on such summary action within ten

1 (10) working days unless otherwise waived by the
2 Respondents. All Respondents filed timely requests for a hearing. All
3 Respondents waived their right to a hearing in ten (10) days on WHAT DATE???
4 The Department alleges the following:

5 **1) Dargon Law Firm P.L.L.C.**

6 **As control person:**

- 7
- 8 **a) 108 violations of collection of advance fees for loan modifications (RSA 397-A:14,**
 - 9 **IV(m));**
 - 10 **b) 108 violations of entering into “best efforts” contract (RSA 397-A:14, IV(b));**
 - 11 **c) 108 violations of unlicensed loan originations (397-A:3);**
 - 12 **d) 29 Violations of unlicensed debt settlement services (RSA 399-D:24, V).**

13 **2) Daniel Paul Dargon, Esq.**

- 14
- 15 **a) 108 violations of collection of advance fees for loan modifications (RSA 397-A:14,**
 - 16 **IV(m));**
 - 17 **b) 108 violations of entering into “best efforts” contract (RSA 397-A:14, IV(b));**
 - 18 **c) 108 violations of unlicensed loan originations, as principle (RSA 397-A:3; 397-**
 - 19 **A:21, V);**
 - 20 **d) EITHER**
 - 21 **i) 8 violations of unlicensed loan originations (Actual work on loan modification**
 - 22 **cases), AND 1 violation of violating a rule of this state (RSA 397-A:2, III) (lack**
 - 23 **of candor to the court);**
 - 24 **OR, ALTERNATIVELY,**
 - 25 **ii) 8 violations of misleading communications (by stating he was assigned the**
 - case) (RSA 397-14, IV(n));**
 - e) 1 violation of operating as an unlicensed mortgage broker (RSA 397-A:3);**

- 1 **f) 2 violations of failure to facilitate bank examination (RSA 397-A:12, VII)**
2 **i) February 17, 2010**
3 **ii) May 6, 2010;**
4 **g) 3 violations of the Graham-Leach-Bliley Act (RSA 397-A:2, III)**
5 **i) Failure to safeguard client paper files**
6 **ii) Failure to safeguard client computer files**
7 **iii) Failure to safeguard partially abandoned office with client files present;**
8 **h) 3 violations of engaging in any act, practice or course of business which would**
9 **operate as a fraud or deceit upon any person (RSA 397-A, VI(c));**
10 **i) Representing that a “forensic audit” of mortgage documents would be completed**
11 **(RSA 397-14, IV(b));**
12 **j) Representing Peter Larkowich as a licensed attorney (RSA 397-14, IV(n));**
13 **k) Representing telemarketers as loan specialists (RSA 397-14, IV(n));**
14 **l) 29 Violations of unlicensed debt settlement services (RSA 399-D:24, V).**

15 Accordingly, an adjudicative proceeding shall be commenced pursuant to
16 RSA 541-A:31 for the purpose of permitting the Respondents to show
17 compliance with the above stated violations.

18 Each party has the right to have an attorney present to represent the
19 party at the party’s expense, or may represent itself or himself.

20 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
21 Hampshire Banking Department on **Thursday, December 2, 2010 10:00 am**, at the
22 Department’s offices at 53 Regional Drive, Suite 200, Concord, New Hampshire
23 03301, for the purpose of participating in an adjudicative proceeding, at
24 which time the Respondents will have the opportunity to demonstrate why the
25 relief sought in the Order to Show Cause and Cease and Desist Order should
not become permanent; and

1 IT IS FURTHER ORDERED, that if the Respondents elect to be represented
2 by Counsel, said Counsel shall file a notice of appearance at the earliest
3 possible date; and

4 IT IS FURTHER ORDERED, Robert A. Fleury, Deputy Banking Commissioner,
5 will appoint a Hearings Examiner in this matter with authority to represent
6 the public interest within the scope of the Department's authority. The
7 Hearings Examiner shall have the status of a party to this proceeding; and

8 IT IS FURTHER ORDERED, Robert A. Fleury, Deputy Banking Commissioner,
9 will appoint a Presiding Officer in this matter who will issue a RECOMMENDED
10 DECISION in this matter which shall be reviewed and approved, disapproved or
11 modified by the Banking Commissioner; and

12 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
13 for identification only, and filed with the Department and provided to the
14 opposing party **by November 22, 2010**. The Hearings Examiner shall pre-mark
15 the Department's exhibits with Arabic numbers. The Respondents shall pre-
16 mark exhibits with capital letters. An index/list of exhibits providing a
17 brief description of each exhibit with its corresponding pre-marked number
18 or letter shall be filed by both parties simultaneous with the filing of
19 exhibits; and

20 IT IS FURTHER ORDERED, that by November 22, 2010, the parties shall
21 exchange a list of all exhibits and witnesses to be called at the hearing
22 with a brief summary at the hearing, and shall at the same time file a copy
23 of their respective lists with the Presiding Officer; and

24 IT IS FURTHER ORDERED, that all periods referenced in this notice
25 shall be calendar days. If the last day of the period so computed falls on

1 a Saturday, Sunday, or legal holiday, then the time period shall be extended
2 to include the first business day that is not a Saturday, Sunday, or legal
3 holiday; and

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

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

12 IT IS FURTHER ORDERED, that the entirety of all verbal proceedings
13 shall be recorded verbatim by the Department. Upon request of any party, or
14 upon the Presiding Officer's own initiative, such record shall be
15 transcribed by a certified court reporter designated by the Presiding
16 Officer, and that all costs shall be borne solely by the requesting party.
17 Any such request shall be submitted in writing to the Presiding Officer
18 prior to the hearing; and

19 IT IS FURTHER ORDERED, that all documents shall be filed with the
20 Presiding Officer in the form of an original and one (1) copy and shall bear
21 a certification that a copy is being delivered to Hearings Examiner and any
22 other parties to this matter in accordance with applicable laws. All
23 documents shall be filed by mailing or delivering them to the New Hampshire
24 Banking Department, ATTN: Presiding Officer 10-001, 53 Regional Drive, Suite
25 200, Concord, NH 03301. Filing by facsimile or electronic transmission shall
not be accepted; and

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

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

IT IS FURTHER ORDERED, that a copy of this Notice of Hearing shall be mailed to all named Respondents at their addresses of record and that a copy shall also be delivered to Celia Leonard, General Counsel and to the Presiding Officer at the New Hampshire Banking Department.

SO ORDERED,

/s/ Robert A. Fleury
Peter C. Hildreth
Commissioner
By Robert A. Fleury
Deputy Bank Commissioner
State of New Hampshire
Banking Department

October 21, 2010
Date