

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 10-163  
3 State of New Hampshire Banking )  
4 Department, )  
5 Petitioner, ) Notice of Hearing - Order to Cease &  
6 and ) Desist And Complaint and Order to  
7 Mortgage Resource Solutions, LLC; & ) Show Cause  
8 James Khoury, )  
9 Respondents )

10 NOTICE OF ORDER TO CEASE & DESIST AND COMPLAINT AND ORDER TO SHOW CAUSE

11 HEARING

12 1. The Department issued to the above named Respondents an Order to Cease &  
13 Desist and Complaint and Order to Show Cause on February 22, 2011. RSA  
14 Chapter 541-A and RSA Chapter 397-A require the Department to schedule a  
15 hearing on such matter within ten (10) calendar days of a written request  
16 for hearing unless otherwise waived by the Respondents. Respondents filed a  
17 timely request for hearing and waived their right to a ten (10) day hearing  
18 on March 23, 2011.

19 IT IS HEREBY ORDERED that:

20 2. Respondents shall appear before the New Hampshire Banking Department on  
21 Tuesday, November 15, 2011 at 10:00 am, at the New Hampshire Banking  
22 Department located 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 Cease and Desist and Complaint and Order to

1 Show Cause should not become permanent.

2 3. Pursuant to RSA 541-A:31,III(b), the legal authorities under which the  
3 hearing is to be held are: RSA 541-A:30,III, RSA 397-A:17, RSA  
4 361-A:18 and RSA 397-A:21.

5 4. The Department's alleged violations against the above named Respondents  
6 in the Order to Cease and Desist and Complaint and Order to  
7 Show Cause are as follows

8 a. Respondent Mortgage Resource Solutions, LLC:  
9 Violation #1: Unlicensed Mortgage Broker Activity (RSA 397-  
10 A:3,I) - 1 Count;  
11 Violation #2: Failure to Produce Requested Documents Relevant to  
12 an Investigation (RSA 397-A:12,I)- 2 Counts;  
13 Violation #3: Retaining, Employing, or otherwise Engaging an  
14 Unlicensed Loan Originator (RSA 397-A:17,IX)- 1 Count;

15 b. Respondent James Khoury:  
16 Violation #1: Violation of the S.A.F.E. Act for unlicensed loan  
17 origination (RSA 397-A:17,IX) - 1 Count;  
18 Violation #2: As a control person, unlicensed activity as a Loan  
19 Originator (RSA 397-A:3,II)- 1 Count;  
20 Violation #3: Failure to produce requested documents relevant to  
21 an investigation (RSA 397-A:12,I)- 2 Counts;

22 5. The Department's alleged violations against Respondents also include:

23 a. An order to show cause why the investigation cost of \$2,250.00  
24 should not be imposed against Respondents; and

25 b. An order to show cause commissions for services rendered should

1 not be disgorged.

2 6. The facts as alleged in the Cease and Desist and Complaint and Order to  
3 Show Cause are herein incorporated by reference.

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

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

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

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

18 11. Any proposed exhibits shall be pre-marked, for identification only, and  
19 filed with the Department and provided to the opposing party by Tuesday,  
20 November 8, 2011. The Hearings Examiner shall pre-mark the Department's  
21 exhibits with Arabic numbers. The Respondents shall pre-mark exhibits with  
22 capital letters. An index/list of exhibits providing a brief description of  
23 each exhibit with its corresponding pre-marked number or letter shall be  
24 filed by both parties simultaneous with the filing of exhibits.

25 12. The parties shall exchange a list of all exhibits and witnesses to be  
called at the hearing with a brief summary at the hearing, and shall at the

1 same time file a copy of their respective lists with the Presiding Officer.

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

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

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

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

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

22 18. All documents shall be filed with the Presiding Officer in the form of an  
23 original and one (1) copy and shall bear a certification that a copy is being  
24 delivered to Hearings Examiner and any other parties to this matter in  
25 accordance with applicable laws. All documents shall be filed by mailing or  
delivering them to the New Hampshire Banking Department, ATTN: Presiding

1 Officer 10-163, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by  
2 facsimile or electronic transmission shall not be accepted.

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

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

11 21. A copy of this Notice of Hearing shall be mailed to all named  
12 Respondents by delivery to their Counsel, Attorney Paul M. Russell of  
13 Russell & Bernard, LLP and that a copy shall also be delivered to Maryam  
14 Torben Desfosses, Hearings Examiner, and to the Presiding Officer at the New  
15 Hampshire Banking Department.

16  
17  
18 **SO ORDERED,**

19 \_\_\_\_\_  
20 /s/  
21 Ronald A. Wilbur  
22 Bank Commissioner

\_\_\_\_\_  
23 *October 7, 2011*  
24 Date