

1 State of New Hampshire Banking Department

2 In re the Matter of:)Case No.: 10-189
3 State of New Hampshire Banking)
4 Department,)
5 Petitioner,)Notice of Hearing Regarding only-
6 and)Matthew T. Desrochers, P.C., and
7 The Modify Guy.com (d/b/a)Matthew Thomas Desrochers, Esquire
8 themodifyguy.com), Mark William Cote,)Only
9 Law Offices of Matthew T. Desrochers,)
10 P.C., and Matthew Thomas Desrochers,)
11 Esquire,
12 Respondents

13 NOTICE OF HEARING- Desrochers

14 1. The Department issued to the above named Respondents an Order to Cease &
15 Desist and Complaint and Order to Show Cause on April 26, 2012. RSA Chapter
16 541-A and RSA Chapter 397-A require the Department to schedule a hearing on
17 such matter within ten (10) calendar days of a written request for hearing
18 unless otherwise waived by the Respondents. On May 14, 2012, Respondents
19 Matthew T. Desrochers, P.C. and Matthew Thomas Desrochers, Esquire
20 (Collectively Desrochers) filed a timely request for hearing. The request
21 does not contain a waiver of the ten (10) day rule. The remaining
22 Respondents have not filed a response as of the date of this Notice.

23 IT IS HEREBY ORDERED that:

24 2. Desrochers shall appear on Tuesday, May 22, 2012 at 10:00 am, at the New
25 Hampshire Banking Department located at 53 Regional Drive, Suite 200,
Concord, New Hampshire 03301, for the purpose of participating in an

1 adjudicative proceeding, at which time Petitioner will have the burden to
2 prove by preponderance of the evidence why the relief sought in the Order to
3 Cease and Desist and Complaint and Order to Show Cause should become
4 permanent.

5 3. Pursuant to RSA 541-A:31,III(b), the legal authorities under which the
6 hearing is to be held are: RSA 541-A:30,III, RSA 397-A:12, RSA 397-A:14, RSA
7 397-A:17, RSA 361-A:18 and RSA 397-A:21.

8 4. The Department's alleged violations against Desrochers
9 in the Order to cease and Desist and Complaint and Order to
10 Show Cause are as follows

11 a. Law Offices of Matthew T. Desrochers, P.C.:

12 #1: Solicitation of mortgage loan modification without a
13 mortgage broker license (RSA 397-A:14,IV(c)) - 1 Count;

14 #2: Failure to provide documents (RSA 397-A:12,I) - 1
15 Count;

16 b. Matthew Thomas Desrochers, Esquire (as Control
17 Person, Direct Owner, and Principal):

18 #1: Solicitation of mortgage loan modification without a
19 mortgage broker license (RSA 397-A:14,IV(c)) - 1 Count;

20 #2: Failure to provide documents (RSA 397-A:12,I) - 1
21 Count.

22 5. The facts as alleged in the Cease and Desist and Complaint and Order to
23 Show Cause are herein incorporated by reference.

24 6. An adjudicative proceeding shall be commenced pursuant to RSA 541-A:31
25 for the purpose of permitting the above Petitioner to prove that Desrochers
committed the stated violations.

1 7. 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
3 Desrochers elect to be represented by Counsel, said Counsel shall file a
4 notice of appearance at the earliest possible date.

5 8. Maryam Torben Desfosses, 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 9. Stephen J. Judge, Esq. has been delegated to preside over this matter
11 pursuant to RSA 383:7-a and see also RSA 541-A:1,XV.

12 10. Any proposed exhibits shall be pre-marked, for identification only, and
13 filed with the Presiding Officer and provided to the opposing party by
14 Monday May 21, 2012. The Hearings Examiner shall pre-mark the Department's
15 exhibits with Arabic numbers. Desrochers 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 11. The parties shall also exchange a list of all witnesses to be called at
20 the hearing with a brief summary of the anticipated testimony on May 21,
21 2012, and shall at the same time file a copy of their respective lists with
22 the Presiding Officer.

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

1 13. The Department shall have the burden of setting forth a *prima facie* case
2 by a preponderance of the evidence.

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

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

12 16. Each party has the right to have the Department provide a certified
13 shorthand court reporter at the requesting party's expense. Any such request
14 shall be submitted in writing to the Presiding Officer immediately upon
15 receipt of the Notice.

16 17. All documents shall be filed with the Presiding Officer in the form of an
17 original and one (1) copy and shall bear a certification that a copy is being
18 delivered to Hearings Examiner and any other parties to this matter in
19 accordance with applicable laws. All documents shall be filed by mailing or
20 delivering them to the New Hampshire Banking Department, ATTN: Presiding
21 Officer 10-189, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by
22 electronic transmission shall be accepted. The Presiding Officer can be
23 reached at gail.bartlett@banking.state.nh.us.

24 18. 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
following conclusion of the hearing in this matter.

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

6 21. A copy of this Notice of Hearing shall be mailed and/or emailed to all
7 named Respondents, and a copy shall also be delivered to Maryam Torben
8 Desfosses, Hearings Examiner.

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SO ORDERED,

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Stephen J. Judge, Esquire
Presiding Officer

Date