

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 07-012  
 )  
 4 State of New Hampshire Banking ) Notice of Hearing - Cease and Desist  
 ) Order, Order to Show Cause with  
 5 Department, ) Immediate Suspension  
 )  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 Coastal Mortgage Group, Hajmil Carr, )  
 )  
 9 and Eric Gundberg, )  
 )  
 10 Respondent

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11  
12 NOTICE OF HEARING

13 Pursuant to RSA 397-A:18 II, the Banking Department of the State of New  
14 Hampshire (hereinafter the "Department") has the authority to issue and cause  
15 to be served an order requiring any person engaged in any act or practice  
16 constituting a violation of RSA 397-A or any rule or order thereunder, to  
17 cease and desist from violations of RSA 397-A.

18 Pursuant to RSA 397-A:21, the Commissioner has the authority to  
19 suspend, revoke or deny any license and to impose administrative penalties of  
20 up to \$2,500.00 for each violation of New Hampshire banking law and rules.  
21 Upon a finding of irreparable harm if revocation of the license is delayed  
22 the Commissioner may summarily suspend any license pending final  
23 determination of the Order to Show Cause.

24 Pursuant to the New Hampshire Banking laws, RSA 397-A:12 requires any  
25 person not exempt under RSA 397-A:4 that, in its own name or on behalf of  
other persons, engages in the business of making or brokering first mortgage

1 loans secured by real property located in this state shall be required submit  
2 to examinations to discover violations of Chapter 397-A.

3 The Department issued to the Respondents a Cease and Desist Order and  
4 an immediate suspension of the license of Respondent Coastal Mortgage Group  
5 on January 22, 2007. RSA 541-A requires the Department to hold a hearing on  
6 such summary action within ten working days.

7 The Department alleges the following:

8 **Issue 1:** Failure to facilitate an examination

9 Accordingly, an adjudicative proceeding shall be commenced pursuant to  
10 541-A:31 and Chapter 200 of the Department's rules (NH Code of Administrative  
11 Rules BAN 200) for the purpose of permitting the Respondent to show  
12 compliance with RSA 397-A:12.

13 Each party has the right to have an attorney present to represent the  
14 party at the party's expense, or may represent itself. Each party has the  
15 right to have the Department provide a certified shorthand court reporter at  
16 the requesting party's expense. Any such request must be submitted in  
17 writing to the Department at least 5 days prior to a scheduled hearing date.

18 THEREFORE, IT IS ORDERED, that the Respondent appear before the New  
19 Hampshire Banking Department on January, 31, 2007 at 10:00am, at the  
20 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the  
21 purpose of participating in an adjudicative proceeding, at which time the  
22 Respondent will have the opportunity to demonstrate why the cease and desist  
23 order should not become permanent; and

24 IT IS FURTHER ORDERED, that if the Respondent elects to be represented  
25 by Counsel, said Counsel shall file notice of appearance at the earliest  
possible date; and

IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New  
Hampshire Banking Department is designated as Hearing Counsel in this matter

1 with authority to represent the public interest within the scope of the  
2 Department's authority. Hearing Counsel shall have the status of a party to  
3 this proceeding; and

4 IT IS FURTHER ORDERED, that Robin Boman shall serve as the Presiding  
5 Officer in this proceeding who shall issue a RECOMMENDED DECISION in this  
6 matter which shall be reviewed and approved, disapproved or modified by the  
7 Bank Commissioner; and

8 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,  
9 for identification only, and filed with the Department and provided to the  
10 opposing party as soon as possible. Hearing Counsel shall pre-mark the  
11 Department's exhibits with Arabic numbers. The Respondents shall pre-mark  
12 exhibits with capital letters. An index/list of exhibits providing a brief  
13 description of each exhibit with its corresponding pre-marked number or  
14 letter shall be filed by both parties simultaneous with the filing of  
15 exhibits; and

16 IT IS FURTHER ORDERED, that the parties shall exchange a list of all  
17 exhibits and witnesses to be called at the hearing with a brief summary prior  
18 to January, 30, 2006, and shall at the same time file a copy of their  
19 respective witness lists with the Presiding Officer; and

20 IT IS FURTHER ORDERED, that all periods referenced in this notice shall  
21 be calendar days. If the last day of the period so computed falls on a  
22 Saturday, Sunday, or legal holiday, then the time period shall be extended to  
23 include the first business day that is not a Saturday, Sunday, or legal  
24 holiday; and

25 IT IS FURTHER ORDERED, that the Department shall have the burden of  
26 setting forth a *prima facie* case, then the Respondent shall have the burden of  
27 showing compliance with applicable law by a preponderance of the evidence;

IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,  
date, and place specified may result in the hearing being held *in absentia*

1 and/or default ruling in favor of the Department, without further notice or  
2 opportunity to be heard; and

3 IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall be  
4 recorded verbatim by the Banking Department. Upon request of any party, or  
5 upon the Presiding Officer's own initiative, such record shall be transcribed  
6 by a certified court reporter designated by the Presiding Officer, and that all  
7 costs shall be borne solely by the requesting party. Any such request shall be  
8 submitted in writing to the Presiding Officer prior to hearing.

9 IT IS FURTHER ORDERED, that all documents shall be filed with the  
10 Presiding Officer in the form of an original and one (1) copy and shall bear a  
11 certification that a copy is being delivered to Hearing Counsel and any other  
12 parties to this matter in accordance with NH Code of Administrative Rules Ban  
13 204.08. All documents shall be filed by mailing or delivering them to the New  
14 Hampshire Banking Department, ATTN: Presiding Officer, 64-B Old Suncook Road,  
15 Concord, NH 03301. Filing by facsimile or electronic transmission shall not be  
16 accepted; and

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

21 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by  
22 telephoning Maryam Torben-Desfosses at (603)-271-3561, but all other  
23 communications with the Presiding Officer and with the Department shall be in  
24 writing and shall be filed as provided above. *Ex parte* communications are  
25 forbidden by statute; and

IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be  
served to the licensee, mailed to Rick Burn, Counsel for Respondents, and  
that a copy shall also be delivered to James Shepard, Hearing Counsel, and to  
the Presiding Officer, at the New Hampshire Banking Department.

