

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-093
)
 4 State of New Hampshire Banking) Notice of Hearing - Order to Show
) Cause
 5 Department,)
)
 6 Petitioner,)
)
 7 and)
)
 8 Mortgages Unlimited Corporation,)
)
 9 Respondent)
)

10
11 NOTICE OF HEARING

12 Pursuant to RSA 397-A:17, the Banking Department of the State of New
13 Hampshire (hereinafter the "Department") has the authority to issue an order
14 to show cause why license revocation penalties for violations of New
15 Hampshire Banking laws should not be imposed.

16 Pursuant to RSA 397-A:21, the Commissioner has the authority to
17 suspend, revoke or deny any license and to impose administrative penalties of
18 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

19 The Department issued to the Respondent an Order to Show Cause and an
20 Immediate Suspension of the license on March 26, 2007. The Immediate
21 Suspension was lifted pursuant to an Order of the Commissioner on March 27,
22 2007. The Respondents requested a hearing on the Order to Show Cause on June
23 14, 2007.

24 This Staff Petition has raised the following allegations:

25 **Issue 1:** Failure to post a continuous surety bond in violation of RSA 397-
A:5.

1 **Issue 2:** Failure to respond to Department inquiries relating to the surety
2 bond in violation of RSA 397-A:13.

3 **Issue 3:** Failure to file financial statements that satisfied RSA 397-A:13.

4 **Issue 4:** Failure to respond to Department inquiries relating to the
5 financial statements in violation of RSA 397-A:13.

6 Accordingly, an adjudicative proceeding shall be commenced pursuant to
7 541-A:31 and Chapter 200 of the Department's rules (NH Code of Administrative
8 Rules BAN 200) for the purpose of permitting the Respondent to show
9 compliance with RSA 397-A:5 and RSA 397-A:13.

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

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

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

23 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
24 Hampshire Banking Department is designated as Hearing Counsel in this matter
25 with authority to represent the public interest within the scope of the
Department's authority. Hearing Counsel shall have the status of a party to
this proceeding; and

1 IT IS FURTHER ORDERED, that Maryam Torben-Desfosses shall serve as the
2 Presiding Officer in this proceeding and shall issue a RECOMMENDED DECISION
3 in this matter which shall be reviewed and approved, disapproved or modified
4 by the Bank Commissioner; and

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

13 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
14 exhibits and witnesses to be called at the hearing with a brief summary prior
15 to June 20, 2007, and shall at the same time file a copy of their respective
16 witness lists with the Presiding Officer; and

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

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

25 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*
and/or default ruling in favor of the Department, without further notice or
opportunity to be heard; and

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

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

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

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

25 IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
mailed to Mortgage Unlimited Corporation, 68 Stiles Road, Salem, NH 03079,
and that a copy shall also be delivered to James Shepard, Hearing Counsel,
and to the Presiding Officer, at the New Hampshire Banking Department.

