

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 08-067
)
 4 State of New Hampshire Banking) Notice of Hearing - Order to Show
) Cause
 5 Department,)
)
 6 Petitioner,)
)
 7 and)
)
 8 Option One Mortgage 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 Hampshire
15 Banking laws should not be imposed.

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

19 The Department issued the Respondent an Order to Show Cause on April 1,
20 2008. Respondent filed a timely request for hearing.

21 The Department alleges the following:

22 **Issue 1: Failure to respond to a consumer complaint (RSA 397-A:15-a).**

23 Accordingly, an adjudicative proceeding shall be commenced pursuant to
24 541-A:31 and Chapter 200 of the Department's rules (NH Code of Administrative
25 Rules BAN 200) and Chapter 800 of the Department of Justice's rules (NH Code
of Administrative Rules JUS 800) as applicable for the purpose of permitting

1 the Respondent to show compliance with RSA 397-A and the Rules adopted
2 thereunder.

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

8 THEREFORE, IT IS ORDERED, that the Respondent appears before the New
9 Hampshire Banking Department on **June 10, 2008 at 10:00 am**, at the **New**
10 **Hampshire Bar Association, 2 Pillsbury Street, Concord, New Hampshire**, for the
11 purpose of participating in an adjudicative proceeding, at which time the
12 Respondent will have the opportunity to demonstrate why the relief sought in
13 the show cause order should not become permanent; and

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

19 IT IS FURTHER ORDERED, that the Commissioner designates Maryam Torben
20 Desfosses to serve as the Presiding Officer in this proceeding who shall issue
21 a RECOMMENDED DECISION in this matter which shall be reviewed and approved,
22 disapproved or modified by the Bank Commissioner; and

23 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
24 for identification only, and filed with the Department and provided to the
25 opposing party **on or before June 5, 2008**. Hearing Counsel shall pre-mark the
Department's exhibits with Arabic numbers. **The Respondents shall pre-mark**
exhibits with capital letters. An index/list of exhibits providing a brief
description of each exhibit with its corresponding pre-marked number or letter
shall be filed by both parties simultaneous with the filing of exhibits; and

1 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
2 exhibits and witnesses to be called at the hearing with a brief summary at the
3 hearing, and shall at the same time file a copy of their respective lists with
4 the Presiding Officer; and

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

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

13 IT IS FURTHER ORDERED, that Respondent's failure to appear at the time,
14 date, and place specified may result in the hearing being held *in absentia*
15 and/or default ruling in favor of the Department, without further notice or
16 opportunity to be heard; and

17 IT IS FURTHER ORDERED, that all documents shall be filed with the
18 Presiding Officer in the form of an original and one (1) copy and shall bear a
19 certification that a copy is being delivered to Hearing Counsel and any other
20 parties to this matter in accordance with NH Code of Administrative Rules Ban
21 204.08. All documents shall be filed by mailing or delivering them to the New
22 Hampshire Banking Department, ATTN: Presiding Officer 08-067, 64B Old Suncook
23 Road, Concord, NH 03301. Filing by facsimile or electronic transmission shall
24 not be accepted; and

25 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

1 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
2 telephoning Abigail Shaine 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; and

6 IT IS FURTHER ORDERED, that a copy of this Notice of Hearing shall be
7 mailed to Counsel for the Respondent, David M. Rosen, Esq., Harmon Law Offices
8 PC, 150 California Street, Newton, MA 02458 and that a copy shall also be
9 delivered to James Shepard, Hearing Counsel, and to the Presiding Officer at
10 the New Hampshire Banking Department.

11
12 **SO ORDERED,**

13
14 _____ /s/
15 Peter C. Hildreth
16 Commissioner
17 State of New Hampshire
18 Banking Department

19 4/17/08
20 Date