

1 State of New Hampshire Banking Department

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3 In re the Matter of:)Case No.: 08-379
)
 4 State of New Hampshire Banking)
)
 5 Department,)Notice of Hearing -
)Order to Show Cause with Immediate
 6 Petitioner,)Suspension And Cease and Desist Order
)
 7 and)
)
 8 Carteret Mortgage Corporation, Eric E.)
)
 9 Weinstein, Albert L. Elder, Jessica)
)
 10 Harrington, and Stephen Bianco,)
)
 11 Respondents)
)

12
13 NOTICE OF HEARING

14 Pursuant to RSA 397-A:17, the Banking Department of the State of New
15 Hampshire (hereinafter the "Department") has the authority to issue an
16 order to show cause why license revocation penalties for violations of New
17 Hampshire Banking laws should not be imposed. The Commissioner has the
18 further authority to impose an immediate suspension. Upon a finding of
19 irreparable harm if revocation of the license is delayed, the Commissioner
20 may summarily suspend any license pending final determination of the Order
to Show Cause.

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

1 The Department issued to the above named Respondents an Order to Show
2 Cause with an Immediate Suspension and Cease and Desist Order of the
3 license on September 25, 2008. RSA 541-A requires the Department to hold a
4 hearing on such summary action within ten (10) working days.

5 The Department alleges the following:

6 **Issue 1: Failure to comply with other state law (RSA 392-A:14.05 via RSA**
7 **397-A:2, III);**

8 **Issue 2: Failure to supervise (RSA 397-A:6, I);**

9 **Issue 3: Failure to inform Bank Commissioner of office closure (RSA 397-**
10 **A:10, III);**

11 **Issue 4: Failure to update information on file with Bank Commissioner (RSA**
12 **397-A:10, IV);**

13 **Issue 5: Failure to properly surrender license (RSA 397-A:10-a, I);**

14 **Issue 6: Failure to facilitate examination (RSA 397-A:12, III);**

15 **Issue 7: Failure to facilitate examination (RSA 397-A:12, VII);**

16 **Issue 8: Failure to correct reported deficiencies (RSA 397-A:12, VIII); and**

17 **Issue 9: Failure to supervise (RSA 397-A:17, I(g));**

18 Accordingly, an adjudicative proceeding shall be commenced pursuant
19 to 541-A:31 and Chapter 200 of the Department's rules (NH Code of
20 Administrative Rules BAN 200 and JUS 800 as applicable) for the purpose of
21 permitting the Respondents to show compliance with the above state
22 violations in Issues 1 through 9.

23 Each party has the right to have an attorney present to represent the
24 party at the party's expense, or may represent itself.

25 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
Hampshire Banking Department on **October 9, 2008 at 10:00 am**, at the
Department's offices at 53 Regional Drive, Suite 200, Concord, New
Hampshire 03301, for the purpose of participating in an adjudicative

1 proceeding, at which time the Respondents will have the opportunity to
2 demonstrate why the relief sought in the show cause order with immediate
3 suspension should not become permanent; and

4 IT IS FURTHER ORDERED, that if the Respondents elect to be
5 represented by Counsel, said Counsel shall file notice of appearance at the
6 earliest possible date; and

7 IT IS FURTHER ORDERED, that Maryam Torben Desfosses, Staff Attorney,
8 New Hampshire Banking Department is designated as Hearing Counsel in this
9 matter with authority to represent the public interest within the scope of
10 the Department's authority. Hearing Counsel shall have the status of a
11 party to this proceeding; and

12 IT IS FURTHER ORDERED, that the Commissioner will designate the
13 individual to serve as the Presiding Officer in this proceeding who shall
14 issue a RECOMMENDED DECISION in this matter which shall be reviewed and
15 approved, disapproved or modified by the Bank Commissioner; and

16 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-
17 marked, for identification only, and filed with the Department and provided
18 to the opposing party **as soon as possible**. Hearing Counsel shall pre-mark
19 the Department's exhibits with Arabic numbers. The Respondents shall pre-
20 mark exhibits with capital letters. An index/list of exhibits providing a
21 brief description of each exhibit with its corresponding pre-marked number
22 or letter shall be filed by both parties simultaneous with the filing of
23 exhibits; and

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

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

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

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

14 IT IS FURTHER ORDERED, that a record of the proceeding shall be made
15 by a certified shorthand court reporter provided by the Department.

16 IT IS FURTHER ORDERED, that all documents shall be filed with the
17 Presiding Officer in the form of an original and one (1) copy and shall
18 bear a certification that a copy is being delivered to Hearing Counsel and
19 any other parties to this matter in accordance with NH Code of
20 Administrative Rules Ban 204.08. All documents shall be filed by mailing
21 or delivering them to the New Hampshire Banking Department, ATTN: Presiding
22 Officer 08-377, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by
23 facsimile or electronic transmission shall not be accepted; and

24 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,
25 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

