

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-053
))
3 State of New Hampshire Banking) Notice of Hearing
))
4 Department,))
))
5 and))
))
6 Consumer A and Consumer B,))
))
7 Complainants,))
))
8 and))
))
9 Countrywide Home Loans Inc,))
))
10 Respondent))
))

11
12 NOTICE OF CONFIDENTIAL HEARING

13 Pursuant to RSA 383:10-d ("Consumer Complaints and Restitution"), the
14 New Hampshire Bank Commissioner (hereinafter, "Commissioner") shall have
15 exclusive authority and jurisdiction to investigate conduct that is or may be
16 an unfair or deceptive act or practice under RSA 358-A ("Regulation of
17 Business Practices for Consumer Protection") and exempt under RSA 358-A:3,I
18 ("Exempt Transactions; ect.") or that may violate any of the provisions of
19 Title XXXV ("Banks and Banking; Loan Associations; Credit Unions") and
20 administrative rules adopted thereunder. The Commissioner may hold hearings
21 relative to such conduct and may order restitution for a person or persons
22 adversely affected by such conduct.

23 On March 24, 2008 the New Hampshire Banking Department (hereinafter
24 "Department") received a complaint from Consumer A and Consumer B (a married
25 couple) (hereinafter, "Complainants") regarding Countrywide Home Loans Inc

1 (hereinafter, "Respondent"). Respondent was an RSA 397-A licensee of the
2 Department at all times relevant to the complaint. Pursuant to RSA 397-A:2
3 and 383:9, the New Hampshire Bank Commissioner has supervision of state
4 licensed mortgage bankers and brokers.

5 To initiate the license surrender process, the Department received
6 Respondent's paper license on April 7, 2009. The surrender is effective
7 upon thirty (30) days after receipt of the paper license, unless a
8 proceeding to impose conditions on such surrender is instituted within those
9 thirty (30) days pursuant to RSA 397-A:10-a,I(b).

10 By letter dated March 30, 2009, Complainants requested a hearing on
11 the merits of the matter pursuant to RSA 383:10-d. On review, the
12 Commissioner has determined that the complaint alleged sufficient facts
13 that, if true, may constitute an unfair and deceptive act or practice.
14 Accordingly, an adjudicative hearing is deemed necessary and appropriate.

15 The adjudicative proceeding shall be commenced pursuant to RSA 541-
16 A:31 ("Availability of Adjudicative Proceeding; Contested Cases; Notice,
17 Hearing and Record") and New Hampshire Model Rules of Practice and Procedure
18 JUS 800.

19 The issues presented are as follows:

20 **Issue 1:** Whether the Respondent violated any applicable New Hampshire or
21 federal laws, regulations or orders, or committed an unfair or deceptive
22 trade practice.

23 **Issue 2:** What restitution may be due to the Complainants for Respondent's
24 violations, if a violation is established.

25

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

7 IT IS HEREBY ORDERED, that this is a proceeding to impose conditions
8 on the surrender of Respondent's RSA 397-A license since it concerns an
9 alleged unfair and deceptive trade practice.

10 THEREFORE, IT IS ORDERED, that the Respondent appear before the New
11 Hampshire Banking Department on **Monday, July 6, 2009 at 10:00 am** at the New
12 Hampshire Banking Department located at 53 Regional Drive, Suite 200,
13 Concord NH, 03301, for the purpose of participating in an adjudicative
14 proceeding, at which time the Respondent will have the opportunity to
15 demonstrate that no violation of applicable law occurred and why restitution
16 should not be imposed;

17 IT IS FURTHER ORDERED, that if Respondent or Complainants elect to be
18 represented by Counsel, said Counsel shall file Notice of Appearance at the
19 earliest possible date;

20 IT IS FURTHER ORDERED, that Bank Commissioner, Peter C. Hildreth or
21 his designee, shall serve as the Presiding Officer in this proceeding;

22 IT IS FURTHER ORDERED, that Respondent shall file an answer to each of
23 the issues set forth in this Notice of Hearing, and any amendments hereto,
24 no later than 15 days from receipt. Such answer shall first admit or deny
25 the allegation and then set forth any and all explanations or defenses to

1 the allegation;

2 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
3 for identification only, and filed with the Department and provided to the
4 opposing party not later than Tuesday, June 30, 2009. Complainants shall
5 pre-mark their exhibits with Arabic numbers. Respondent shall pre-mark
6 exhibits with capital letters. An index/list of exhibits providing a brief
7 description of each exhibit with its corresponding pre-marked number or
8 letter shall be filed by both parties simultaneous with the filing of
9 exhibits;

10 IT IS FURTHER ORDERED, that all periods referenced in this notice
11 shall be calendar days. If the last day of the period so computed falls on
12 a Saturday, Sunday, or legal holiday, then the time period shall be extended
13 to include the first business day that is not a Saturday, Sunday, or legal
14 holiday;

15 IT IS FURTHER ORDERED, that parties shall file answer/objections to
16 pleadings within ten (10) calendar days of the date the pleading is deemed
17 "filed"; and

18 IT IS FURTHER ORDERED, that the Complainants shall have the burden of
19 setting forth a *prima facie* case. The Respondent shall have the burden of
20 showing compliance with applicable law by a preponderance of the evidence;

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

25 IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall

1 be recorded verbatim by the Department. Upon request of any party, or
2 upon the Presiding Officer's own initiative, such record shall be transcribed
3 by a certified court reporter designated by the Presiding Officer, and that
4 all costs shall be borne solely by the requesting party. Any such request
5 shall be submitted in writing to the Presiding Officer.

6 IT IS FURTHER ORDERED, that all documents shall be filed with the
7 Presiding Officer in the form of an original and one (1) copy and shall bear
8 a certification that a copy is being delivered to any other parties to this
9 matter. All documents shall be filed by mailing or delivering them to the
10 New Hampshire Banking Department, ATTN: Peter C. Hildreth, Presiding Officer,
11 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by facsimile or
12 electronic transmission shall not be accepted;

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

17 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
18 telephoning Hearings Examiner Ingrid White at (603)271-3561, but all other
19 communications with the Presiding Officer and with the Department shall be in
20 writing and shall be filed as provided above. *Ex parte* communications are
21 forbidden by statute; and

22 IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
23 mailed to Complainants by service on their Attorney of record, and to
24 Respondent by service on its Attorney of record, and to Presiding Officer,
25 at the New Hampshire Banking Department.

