

1 State of New Hampshire Banking Department

2
3 In re the Matter of:) Case No. 09-133
4 Rachel E. Nicholson,)
5 v.) Order Re: Parties' Motions for
6 Countrywide Home Loans Inc, et al.,) Rehearing
7)

8 This matter came to the New Hampshire Banking Department
9 ("Department") pursuant to RSA 383:10-d which vests the Banking Commissioner
10 ("Commissioner") with authority to "investigate conduct that is or may be an
11 unfair or deceptive act or practice under RSA 358-A and exempt under RSA
12 358-A:3,I or that may violate any of the provisions of Titles XXXV and XXXVI
13 and administrative rules adopted thereunder." It further grants the
14 Commissioner the authority to "order restitution for a person...adversely
15 affected by such conduct."

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17 After a full hearing, the Commissioner issued a Decision and Order in
18 this matter on June 4, 2010 which required *inter alia* restitution be awarded
19 to the Petitioner (the "Original Order"). On July 1, 2010, the Respondent
20 timely filed a Motion for Rehearing pursuant to RSA 541:4 and Administrative
21 Rule Jus 813.04. On July 2, 2010, the Petitioner timely filed a Motion for
22 Rehearing pursuant to RSA 541:3 and RSA 541:4.

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24 RSA 384:1-a states that the procedure for rehearings and appeals with
25 respect to any order of the Commissioner "shall be that prescribed by RSA
541 except as otherwise provided in this title." RSA 383:10-d does not

1 provide for an alternative; accordingly, requests for rehearing pursuant to
2 RSA 541 are proper. (See also RSA 541:2)

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4 By Order dated July 15, 2010 and pursuant to RSA 541:5, the Original
5 Order was suspended pending further consideration of the Parties'
6 outstanding motions.

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8 RSA 541:3 states that "the commission may grant such hearing if in its
9 opinion good reason for hearing is stated in the motion." Further,
10 Administrative Rule Jus 813.4 states "[a] motion for rehearing in a case
11 subject to appeal under RSA 541 shall be granted if it demonstrates that the
12 agency's decision is unlawful, unjust or unreasonable."

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14 WHEREAS, upon review of the record in this matter, including testimony
15 and exhibits, I find the Original Order fair and reasonable and issued in
16 accordance with the law; and

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18 WHEREAS I find the Parties' Motions for Rehearing do not state good
19 reason for rehearing and do not provide sufficient argument and evidence
20 stating the Original Order is unlawful, unjust or unreasonable;

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22 It is therefore ORDERED that the Parties' Motions for Rehearing are
23 HEREBY DENIED. Accordingly, the Commissioner's Original Order is HEREBY
24 REINSTATED and is now in full force and effect.

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SO ORDERED,

Date: 11/22/10

_____/s/
Peter C. Hildreth
Bank Commissioner
New Hampshire Banking Department
By Robert A. Fleury
Deputy Bank Commissioner