

Judge allows Dargon to work during fight

Mortgage license case:

Concord attorneys, fighting \$66 million in proposed penalties, allowed to proceed in 98 percent of its work while it contests regulators' allegations.

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MANCHESTER — Merrimack County Superior Court Judge Larry M. Smukler yesterday partly blocked the state Banking Department from enforcing a cease-and-desist order against Dargon Law Firm PLLC.

The order will allow Concord-based Dargon to continue 98 percent of its loan modification services while Dargon contests 750 allegations of engaging in mortgage banking/brokering without a license and proposed penalties of \$66.39 million.

“We are required to hand over some of our client records, under seal of the court,” Daniel Paul Dargon said in a telephone interview.

Dargon asked the banking department to schedule a hearing in 45 to 60 days. State banking regulators issued a cease-and-desist order April 1, alleging the license violations and other violations of RSA Chapter 397-A.

As an attorney, Dargon claims exemption from the licensing requirement under RSA 397-A, which regulates licensing of first mortgage bankers and brokers, and RSA 479-B, which regulates preforeclosure and foreclosure consultants.

The banking department disputes Dargon's claim to the exemption but concedes that to the extent Dargon's loan modification work is ancillary, or incidental, to an attorney's representation of a client in foreclosure, in those cases the attorney is exempt from the licensing requirement.

“Until we see the actual documentation, that's the question,” state Banking Commissioner Peter C. Hildreth said.

“If all you're doing is loan modification, you need a license,” he said. “The cease-and-desist order is in effect for those loans we said we have jurisdiction over,” he said.

Smukler let stand the cease-and-desist order with regard to “all other compensated mortgage negotiation or renegotiation services.”

In his limited injunction against the Banking Department yesterday, Smukler cited RSA 479:B:11. He ordered Dargon to provide the banking department a list of “RSA 479-B pre-

foreclosure and foreclosure clients” as well as a list of other loan modification clients.

While noting the court lacked firm evidence of the law firm’s activities, Smukler accepted Dargon’s representation that 75 percent of its loan modification clients are in foreclosure, 23 percent have missed payments on the mortgage and expect to go into foreclosure, and 2 percent have not yet missed a payment but expect to do so.

That means Dargon can continue 98 percent of its loan modification work, while the remaining 2 percent is blocked.

Dargon also has an office in Salem.