

**LURIE & KRUPP, LLP**

ONE MCKINLEY SQUARE  
BOSTON, MA 02109

PETER B. KRUPP  
THOMAS E. LENT  
DAVID E. LURIE

TEL: (617) 367-1970  
FAX: (617) 367-1971

KAREN E. FRIEDMAN  
SARA A. LAROCHE  
E. PAGE WILKINS

E-MAIL: pkrupp@luriekrupp.com

November 2, 2010

RECEIVED

NOV 08 2010

NEW HAMPSHIRE  
TO BE FILED

Joanne Ruel  
Executive Assistant  
New Hampshire Executive Council  
State House, Room 207  
107 N. Main Street  
Concord, NH 03301

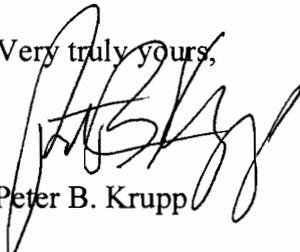
Re: In re: Peter Hildreth, Docket No. 2010-002  
Before the Governor and the Executive Council

Dear Ms. Ruel:

Enclosed for filing in the above-referenced matter please find the original and eight copies of the Motion to Compel Production of Documents and Information by Respondent Peter C. Hildreth.

Thank you.

Very truly yours,

  
Peter B. Krupp

PBK:kas

Enclosures

cc: Donald J. Perrault (w/enc. by email and first-class mail)  
Jeffrey A. Meyers (w/enc. by email and first-class mail)  
David L. Nixon (w/enc. by email to ksimoneau@nixonraiche.com and first-class mail)  
Karen Ladd (w/enc. by email and first-class mail)

STATE OF NEW HAMPSHIRE  
THE GOVERNOR AND THE EXECUTIVE COUNCIL

DOCKET NO. 2010-002

IN RE: PETER HILDRETH

**MOTION TO COMPEL PRODUCTION OF DOCUMENTS  
AND INFORMATION BY RESPONDENT PETER C. HILDRETH**

Special Counsel to the Governor and the Executive Council hereby moves to compel production of documents and information by respondent Peter C. Hildreth (“Hildreth”). In support of this motion, Special Counsel states as follows:

Procedural History

On October 11, 2010, the Governor and the Executive Council entered an Order in this matter (“the Authorizing Order”), authorizing their counsel, Jeffrey A. Meyers and Donald J. Perrault, to enter provisional orders addressing procedural issues in this matter, and permitting any aggrieved party to seek immediate review of any such provisional order.

On October 19, 2010, pursuant to the Authorizing Order and following a meeting with counsel for the parties, Mr. Meyers and Mr. Perrault entered a Scheduling Conference Report and Order (“Scheduling Order”), setting a schedule in this case. No party sought review of the Scheduling Order.

Under the terms of the Scheduling Order, “the Model Rules of Practice and Procedure, NH Code Admin. R., Chap. 800, shall govern this proceeding.” Scheduling Order ¶ 2. The Scheduling Order also set deadlines for the parties to request, and to respond to requests for, information and documents: “Requests for information and documents shall be served by October 22, 2010. Responses to such requests shall be due no later than October 29, 2010.”

Id. ¶ 3.

Since the entry of the Scheduling Order, Special Counsel has produced thousands of pages of discovery to Hildreth. On October 14, 2010, Hildreth filed a Motion for Discovery, Etc. (“Hildreth’s Discovery Motion”). On October 22, 2010, Special Counsel responded to Hildreth’s Discovery Motion, effectively agreeing to produce all documents in his possession responsive to the requests.<sup>1</sup> Special Counsel has already produced several discs of information to Hildreth, and will produce several additional discs now that Hildreth’s counsel signed (on November 1, 2010) a confidentiality agreement governing the production of documents designated as confidential by the Banking Department.

Despite the fact that Special Counsel has responded fully to Hildreth’s Discovery Motion and produced the responsive documents in his possession, Hildreth has failed to do the same. Pursuant to paragraph 3 of the Scheduling Order and Rule 811.01 of the Model Rules of Practice and Procedure, NH Code Admin. R., on October 22, 2010, Special Counsel requested Hildreth to produce certain documents and information (“Special Counsel’s Discovery Requests”). A copy of Special Counsel’s Discovery Requests is attached as Exhibit A. Under the terms of the Scheduling Order, Hildreth’s response to Special Counsel’s Discovery Requests was due by October 29, 2010. To date, however, Hildreth has neither responded to Special Counsel’s Discovery Requests, nor produced the requested documents or information.

Special Counsel now moves to compel Hildreth to respond to, and produce the documents and information in his possession, custody or control requested in, Special Counsel’s Discovery Requests.

---

<sup>1</sup> Despite receiving the letter from Special Counsel on October 22, 2010, Hildreth, by letter dated October 25, 2010 to Special Counsel, requested the identical documents that he had requested in Hildreth’s Discovery Motion. On October 27, 2010, Special Counsel responded to Hildreth’s duplicative October 25, 2010 letter request.

## ARGUMENT

### The Governor and the Executive Council Should Enter an Order Compelling Hildreth to Respond to, and Produce the Documents and Information Requested in, Special Counsel's Discovery Requests

Under the rules governing this proceeding, a party seeking documents or information from another party may move to compel in the face of another party's failure to agree to production. See Model Rules of Practice and Procedure, NH Code Admin. R., Rule 811.01(b) ("When a dispute between parties arises concerning to a request for the voluntary production of information or documents, any party may file a motion to compel the production of the requested information under Jus 811.02.") Rule 811.02 authorizes motions to compel production of information:

(a) Any party may make a motion requesting that the presiding officer order the parties to comply with information requests. The motion shall be filed at least 30 days before the date scheduled for the hearing, or as soon as possible after receiving the notice of hearing if such notice is issued less than 30 days in advance of the hearing.

(b) The moving party's motion shall:

(1) Set forth in detail those factors which it believes justify its request for information; and

(2) List with specificity the information it is seeking to discover.

(c) When a party has demonstrated that such requests for information are necessary for a full and fair presentation of the evidence at the hearing, the presiding officer shall grant the motion.

Model Rules of Practice and Procedure, NH Code Admin. R., Rule 811.02.

The documents and information that Special Counsel seeks from Hildreth, and which are sought in this motion, are necessary for a full and fair presentation of the evidence at the hearing

on this matter. The removal petition in this matter is focused on Hildreth's failure to recuse himself clearly from consideration of matters related to Financial Resources Mortgage, Inc. ("FRM"), see Petition for the Removal of Bank Commissioner Peter C. Hildreth Pursuant to RSA 4:1 and RSA 383:3 ("Removal Petition") at II.A., failure to designate a person to act for him on FRM matters, id. at II.B., continued involvement with FRM matters despite his alleged recusal, id. at II.C., and failure to review regularly whether he remained conflicted. Id. at II.D. The Removal Petition also focuses on Hildreth's organization of the Banking Department, id. at II.E., and Hildreth's actions with respect to FRM after he allegedly determined he no longer had a conflict. Id. at II.F.

Special Counsel's Discovery Requests are tailored to obtain documents and information relevant to the facts at issue in the petition. Specifically, Special Counsel seeks the following:

1. All documents, including but not limited to emails, relating to Financial Resources Mortgage, Inc., under that name or under its prior names ("FRM").
2. All documents, including but not limited to emails, relating to any involvement of any person related to Hildreth with FRM, including but not limited to any of Hildreth's siblings, in any capacity, including but not limited to as an investor, borrower, officer, director, employee, contractor or consultant.
3. All documents, including but not limited to emails, relating to Scott Farah or Donald Dodge.
4. Hildreth's personal calendars covering all or any portion of the period from January 1, 2000 to May 31, 2010.
5. All document relating to Hildreth's work at the Securities Bureau concerning FRM.
6. Any audio recordings, including but not limited to recorded voicemail messages, relating to any communications by or with any person relating to FRM.

7. All documents evidencing or memorializing Hildreth's recusal from consideration of matters relating to FRM while he was Bank Commissioner.

8. All documents evidencing or memorializing any delegation by Hildreth of any of his duties as Bank Commissioner to any other person relating to FRM or any other matter.

9. Any statements or reports of statements by any witnesses Hildreth may call as a witness during the hearing on the Removal Petition.

10. All documents Hildreth intends to introduce at the hearing on the Removal Petition.

11. Please identify each of Hildreth's brothers who invested in FRM, the date and amount of each such investment, and the date, if any, when each was repaid.

12. Please identify the date on which Hildreth recused himself from consideration of matters relating to FRM at the Banking Department.

13. Please identify the date on which Hildreth determined that he need not recuse himself any longer from consideration of matters relating to FRM at the Banking Department.

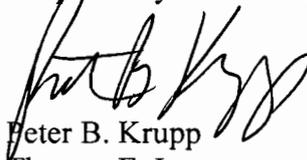
14. Please describe all information that Hildreth learned as of the date provided in response to the previous request upon which Hildreth concluded that he need not recuse himself any longer from consideration of matters relating to FRM at the Banking Department.

These document requests, and requests for information, specifically categories 1-8 and 11-14, relate directly to whether Hildreth had a conflict in dealing with FRM; what actions he took, if any, to recuse himself; what contacts or involvement he had with FRM matters at the Banking Department; and all contacts or involvement he had with principals at FRM. Items 9 and 10 relate directly to the evidence and witnesses Hildreth intends to introduce at the hearing on this matter. All of these requests seek information in Hildreth's possession. Special Counsel

must evaluate and assess this information in advance of the hearing in order assure a full and fair presentation of the evidence at the hearing in this matter, to avoid undue surprise, and to present the Governor and the Executive Council with all evidence relevant to the pending petition.

For these reasons, Special Counsel requests the Governor and the Executive Council to enter an order compelling Hildreth to produce the documents and information requested in Special Counsel's Discovery Requests.

Respectfully submitted,



Peter B. Krupp  
Thomas E. Lent  
Sara A. Laroche  
Lurie & Krupp, LLP  
One McKinley Square  
Boston, MA 02109  
Tel: 617-367-1970

Dated: November 2, 2010

Special Counsel to the Governor and  
the Executive Council

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document with exhibits was served on November 2, 2010 by email and by first-class mail to Donald J. Perrault, Jeffrey A. Meyers, David L. Nixon (email to [ksimoneau@nixonraiche.com](mailto:ksimoneau@nixonraiche.com), as requested) and Karen Ladd.



Peter B. Krupp

# EXHIBIT A

# LURIE & KRUPP, LLP

ONE MCKINLEY SQUARE  
BOSTON, MA 02109

PETER B. KRUPP  
THOMAS E. LENT  
DAVID E. LURIE

TEL: (617) 367-1970  
FAX: (617) 367-1971

KAREN E. FRIEDMAN  
SARA A. LAROCHE  
E. PAGE WILKINS

E-MAIL: pkrupp@luriekrupp.com

October 22, 2010

By fax to #603-669-7080  
and by First-Class Mail

David L. Nixon  
Nixon, Raiche, Vogelmann, Barry & Slawsky, P.A.  
77 Central Street  
Manchester, NH 03101

Re: In re: Peter Hildreth, Docket No. 2010-002  
Before the Governor and the Executive Council

Dear Mr. Nixon:

Pursuant to paragraph 3 of the Scheduling Conference Report and Order (Oct. 19, 2010), and the Model Rules of Practice and Procedure, NH Code Admin. R., Chap. 800, Rule 811.01, as Special Counsel for the Governor and the Executive Council, I request the following information and documents in the possession, custody or control of Peter C. Hildreth ("Hildreth"):

1. All documents, including but not limited to emails, relating to Financial Resources Mortgage, Inc., under that name or under its prior names ("FRM").
2. All documents, including but not limited to emails, relating to any involvement of any person related to Hildreth with FRM, including but not limited to any of Hildreth's siblings, in any capacity, including but not limited to as an investor, borrower, officer, director, employee, contractor or consultant.
3. All documents, including but not limited to emails, relating to Scott Farah or Donald Dodge.
4. Hildreth's personal calendars covering all or any portion of the period from January 1, 2000 to May 31, 2010.
5. All document relating to Hildreth's work at the Securities Bureau concerning FRM.
6. Any audio recordings, including but not limited to recorded voicemail messages, relating to any communications by or with any person relating to FRM.

**LURIE & KRUPP, LLP**

David L. Nixon  
Nixon, Raiche, Vogelman, Barry & Slawsky, P.A.  
October 22, 2010  
Page 2

7. All documents evidencing or memorializing Hildreth's recusal from consideration of matters relating to FRM while he was Bank Commissioner.

8. All documents evidencing or memorializing any delegation by Hildreth of any of his duties as Bank Commissioner to any other person relating to FRM or any other matter.

9. Any statements or reports of statements by any witnesses Hildreth may call as a witness during the hearing on the Removal Petition.

10. All documents Hildreth intends to introduce at the hearing on the Removal Petition.

11. Please identify each of Hildreth's brothers who invested in FRM, the date and amount of each such investment, and the date, if any, when each was repaid.

12. Please identify the date on which Hildreth recused himself from consideration of matters relating to FRM at the Banking Department.

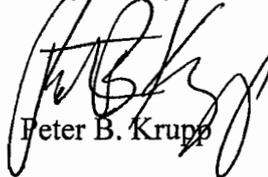
13. Please identify the date on which Hildreth determined that he need not recuse himself any longer from consideration of matters relating to FRM at the Banking Department.

14. Please describe all information that Hildreth learned as of the date provided in response to the previous request upon which Hildreth concluded that he need not recuse himself any longer from consideration of matters relating to FRM at the Banking Department.

Pursuant to paragraph 3 of the Scheduling Conference Report and Order, please provide the information responsive to these requests by October 29, 2010.

Thank you.

Very truly yours,



Peter B. Krupp

PBK:kas

cc: Donald J. Perrault, Counsel to the Executive Council  
Jeffrey A. Meyers, Counsel to the Governor  
Kirk C. Simoneau (by email)