# 1 State of New Hampshire Banking Department In re the Matter of: 2 ) Case No.: 07-146 State of New Hampshire Banking ) Order to Show Cause 3 4 Department, with Immediate Suspension 5 Petitioner, 6 and 7 Freedom Funding Group, Inc., 8 Respondent 9 10 NOTICE OF ORDER This Order commences an adjudicative proceeding under the provisions of 11 RSA 397-A:17, RSA 541-A and BAN 200. 12 LEGAL AUTHORITY AND JURISDICTION 13 Pursuant to RSA 397-A:17, the Banking Department of the State of New 14

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed. The Department further may take action for immediate suspension.

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

#### NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondents are entitled to a hearing within 10 business days pursuant to RSA 541-A, as well as the right to be represented by counsel at the Respondent's own expense. All hearings shall comply with RSA 541-A. If the Respondent fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be

determined against the Respondent upon consideration of the Order to Show Cause, the allegations of which may be deemed to be true.

### STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

The <u>Staff Petition</u> dated November 13, 2007 (a copy of which is attached hereto) is incorporated by reference hereto.

#### ORDER

WHEREAS, finding it necessary and appropriate and in the public interest, and consistent with the intent and purposes of the New Hampshire banking laws, and

WHEREAS, finding that the allegations contained in the Staff Petition, if proved true and correct, form the legal basis of the relief requested,

It is hereby ORDERED, that Respondent Freedom Funding Group, Inc. shall show cause why:

- Administrative penalties of \$5,000.00 should not be imposed;
   and
- 2. Statutory penalties of \$2,500.00 should not be imposed; and
- 3. Respondent's license should not be revoked; and

  It is hereby further ORDERED, that Respondent Sarah B. Kirinsky shall show cause why:
  - 4. Administrative penalties of \$5,000.00 should not be imposed; and

FINDING a substantial likelihood that delay will cause harm to the public health, safety or welfare, it is hereby further ORDERED:

- 5. Respondent Freedom's license is immediately suspended; and
- 6. A hearing on the immediate suspension will be scheduled immediately to occur in the next ten days pursuant to RSA 541-A:30, III.

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3	Dated: <u>11/13/07</u>	/SRAF/
		PETER C. HILDRETH BANK COMMISSIONER
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## 1 State of New Hampshire Banking Department In re the Matter of: 2 ) Case No.: 07-146 3 State of New Hampshire Banking Staff Petition ) 4 Department, 5 Petitioner, ) November 13, 2007 6 and 7 Freedom Funding Group, Inc. and Sarah ) 8 B. Kirinsky, Respondents 9 10 11 STATEMENT OF ALLEGATIONS 12 The Staff of the Banking Department, State of New Hampshire 13 (hereinafter referred to as the "Department) alleges the following facts: 14 1. Freedom Funding Group, Inc. (hereinafter "Respondent Freedom") is 15 16 licensed as a Mortgage Broker and at all times relevant to this 17 action held a Department license since at least 2006. 18 2. Sarah B. Kirinsky (hereinafter "Respondent Kirinsky") is the 19 president and sole stockholder of Respondent Freedom. 20 3. Respondent Kirinsky and Respondent Freedom are jointly referred to 2.1 as Respondents herein. 22 COUNT I - Failure to facilitate an examination 23 4. On or about May 29, 2007 the Department was scheduled to begin an 24 examination of Respondent Freedom. 25 5. The Department sent a notice of an upcoming examination to the

Respondents via US Certified Mail on April 27, 2007 (mail piece

- number: 7006 3450 0000 0611 5567). The mail piece was received and signed for on or about May 3, 2007.
- 6. On July 24, 2007 the Department sent a second letter to the

  Respondents via US Certified Mail (mail piece number: 7006 3450 0000

  0609 7474) referencing the first letter and requesting the materials again. The mail piece was received and signed for on or about

  August 2, 2007.
- 7. To date, the Respondents have failed to provide any exam materials to the Department.

### COUNT II - Failure to file financial statement

- Respondent Freedom's fiscal year end was December 31, 2006 and the financial statement was due on or before April 2, 2007.
- 9. On April 4, 2007 the Department sent the Respondents a letter advising them that the financial statement had not been received and they had begun to accrue a \$25.00 per day fine for late submission of materials.
- 10. On April 25, 2007 the Department sent the Respondents a second reminder letter regarding the accruing fine.
- 11. On June 21, 2007 this petitioner sent a final reminder and proposed resolution of the matter to Respondents via certified mail. The mail piece was received and signed for on June 28, 2007.
- 12. To date, the Respondents have failed to submit its financial statement.

### ISSUES OF LAW

II. The staff of the Department, alleges the following issues of law:

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- The Department realleges the above stated facts in paragraphs 1 through 9.
- The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage broker activities pursuant to NH RSA 397-A:3.
- 3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the Department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this Chapter and the rules adopted pursuant to it and with the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.). In determining compliance, the Department may examine the books, accounts, records, files, and other documents or matters of any licensee or person. 397-A:12 further requires every person being examined, and all of the officers, directors, employees, agents, and representatives of such person shall make freely available to the commissioner or his examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination. The Respondent violated this provision by failing to provide the examination materials as required in the First Day Letter.
- 4. RSA 397-A:13 II provides that a licensee shall file its financial statement within 90 days from the date of its fiscal year end. The Respondent violated this provision by failing to submit its financial statement.

5. RSA 397-A:13 IV provides that any mortgage banker which fails to file its financial statement within the time prescribed may be required to pay to the department a penalty of \$25.00 for each calendar day the statement is overdue up to a maximum penalty of

\$2,500.00.

- 6. RSA 397-A:17 II allows the Department to immediately suspend a license for 30 days pending the investigation of that licensee.
- 7. RSA 397-A:21 IV provides that any person who, either knowingly or negligently, violates any provision of RSA 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire banking laws. Respondents are subject to revocation and/or administrative fines for violations of RSA 397-A.

### RELIEF REQUESTED

- III. The staff of the Department requests the Commissioner take the following Action:
  - Find as fact the allegations contained in section I of this petition;
  - 2. Make conclusions of law relative to the allegations contained in section II of the this petition;

1	3. Immediately suspend the license of the Respondent and Order	
2	them to Show Cause why it should not be revoked;	
3	4. Order the Respondent to immediately supply the requested	
4	examination materials;	
5	5. Assess fines and administrative penalties in accordance with	
6	RSA 397-A:21, for violations of Chapter 397-A, in the number	
7	and amount equal to the violations set forth in section II of	
8	this petition; and	
9	6. Take such other administrative and legal actions as necessary	
LO	for enforcement of the New Hampshire Banking Laws, the	
11	protection of New Hampshire citizens, and to provide other	
L2	equitable relief.	
13	RIGHT TO AMEND	
L4	IV. The Department reserves the right to amend this Staff Petition and	
15	to request that the Commissioner take additional administrative	
16	action. Nothing herein shall preclude the Department from bringing	
L7	additional enforcement action under RSA 397-A or the regulations	
18	thereunder.	
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20	Respectfully submitted by:	
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22	/S/ James Shepard  11/13/07 Date	
23	Staff Attorney	
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