

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 06-084  
) )  
3 State of New Hampshire Banking ) Order to Show Cause  
) )  
4 Department, )  
) )  
5 Petitioner, )  
) )  
6 and )  
) )  
7 ARC Financial, Inc., )  
) )  
8 Respondent )  
) )

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9  
10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions of  
12 RSA 397-A, RSA 383:10-d, RSA 541-A and BAN 200, et seq.

13 LEGAL AUTHORITY AND JURISDICTION

14 Pursuant to RSA 397-A:17, the Banking Department of the State of New  
15 Hampshire (hereinafter the "Department") has the authority to issue an order  
16 to show cause why license revocation penalties for violations of New  
17 Hampshire Banking laws should not be imposed.

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

21 Pursuant to RSA 383:10-d the Commissioner shall investigate conduct that  
22 is or may be an unfair or deceptive act or practice under RSA 358-A and exempt  
23 under RSA 358-A:3, I or that may violate any of the provisions of Titles XXXV  
24 and XXXVI and administrative rules adopted thereunder. The commissioner may  
25 hold hearings relative to such conduct and may order restitution for a person  
or persons adversely affected by such conduct. The Commissioner may utilize  
all remedies available under the Act.

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2 **NOTICE OF RIGHT TO REQUEST A HEARING**

3 The above named respondent has the right to request a hearing on this  
4 Order to Show Cause, as well as the right to be represented by counsel at the  
5 Respondent's own expense. All hearings shall comply with RSA 541-A. Any such  
6 request for a hearing shall be in writing, and signed by the respondent or  
7 the duly authorized agent of the above named respondent, and shall be  
8 delivered either by hand or certified mail, return receipt requested, to the  
9 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH  
10 03301. Such hearings will be scheduled within 10 days of the request. If the  
11 Respondent fails to appear at the hearing after being duly notified, such  
12 person shall be deemed in default, and the proceeding may be determined against  
13 the Respondent upon consideration of the Order to Show Cause, the allegations  
14 of which may be deemed to be true. Respondents are entitled to reasonable  
15 notice regarding the hearing date.

16 If the Respondent fails to request a hearing within 30 calendar days of  
17 receipt of such order or reach formal settlement with the Department within  
18 that time frame, then such person shall likewise be deemed in default, and the  
19 orders shall, on the thirty-first day, become permanent, and shall remain in  
20 full force and effect until and unless later modified or vacated by the  
21 commissioner, for good cause shown.

22 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

23 The Staff Petition dated January 31, 2007 (a copy of which is attached  
24 hereto) is incorporated by reference hereto.

25 **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





1 5. On June 20, 2006, via certified mail, the Department sent ARC  
2 FINANCIAL, INC. a Notification of Fine in the amount of \$1,500.00 for  
3 violating RSA 397-A:17 (k). ARC FINANCIAL, INC. signed for the  
4 Notification on June 20, 2006.

5 6. On November 1, 2006, via certified mail, the Department sent a second  
6 Notification of Fine and advised the company any pending license  
7 renewals or applications would be suspended until this issue could be  
8 resolved.

9 7. ARC FINANCIAL, INC. has failed to respond to the subsequent letters sent  
10 by the Department or pay the assessed fine.

11 II. The staff of the Banking Department, State of New Hampshire alleges the  
12 following issues of law:

13 1. The Banking Department ("Department"), has jurisdiction over the  
14 licensing and regulation of persons engaged in first mortgage banker /  
15 broker activities pursuant to NH RSA 397-A:3.

16 2. Pursuant to the New Hampshire Banking laws, 397-A:17 (k), the  
17 Commissioner may assess penalties and deny, suspend, or revoke a  
18 license if the respondent has engaged in dishonest or unethical  
19 practices.

20 3. RSA 397-A:21 IV provides that any person who, either knowingly or  
21 negligently, violates any provision of RSA 397-A, may upon hearing, and  
22 in addition to any other penalty provided for by law, be subject to  
23 suspension, revocation, or denial of any registration or license, or an  
24 administrative fine not to exceed \$2,500, or both. Each of the acts  
25 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

1 banking laws. Respondent is subject to revocation and/or  
2 administrative fines for violations of RSA 397-A:13.

3 **RELIEF REQUESTED**

4 The staff of the Banking Department requests the Commissioner take the  
5 following action:

- 6 1. Find as fact the allegations contained in section I of the Statement of  
7 Allegations of this petition.
- 8 2. Make conclusions of law relative to the allegations contained in section  
9 II of the Statement of Allegations of this petition.
- 10 3. Assess fines and administrative penalties in accordance RSA 397-A:21, for  
11 violations of the New Hampshire Banking Laws, RSA 397-15-a, in the number  
12 and amount equal to the violations set forth in section II of the  
13 Statement of Allegations of this petition. Respondent is subject to an  
14 administrative penalty of \$2,500 for violating RSA 397-A:17 (k) for its  
15 admitted dishonest and unethical practices in regard to this complaint.
- 16 4. Order ARC FINANCIAL, INC. to show cause why their license should not be  
17 revoked for failure to respond to department inquiries.
- 18 5. Order restitution to the consumer pursuant to RSA 383:10-d.
- 19 6. Take such other administrative and legal actions as are necessary for  
20 enforcement of the New Hampshire Banking laws, the protection of New  
21 Hampshire citizens, and to provide other equitable relief.

22 **RIGHT TO AMEND**

23 The Department reserves the right to amend this Petition for Relief and  
24 to request that the Banking Department Commissioner take additional  
25 administrative action. Nothing herein shall preclude the Department from  
bringing additional enforcement action under RSA 397-A or the regulations  
thereunder.

