

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-146
)
 4 State of New Hampshire Banking) Order to Show Cause
)
 5 Department,) With Immediate Suspension
)
 6 and)
)
 7 Freedom Funding Group, Inc.,)
)
 8 Respondent)
)
 9)
)
 10)
)
 11)

12 NOTICE OF HEARING

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

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

1 Pursuant to RSA 397-A:21 the Commissioner has the authority to suspend,
2 revoke or deny any license and to impose administrative penalties of up to
3 \$2,500.00 for each violation of New Hampshire banking law and rules.

4 The Department issued the Respondents an Order to Show Cause and Cease
5 and Desist Order on November 13, 2007. Since the Orders were issued with an
6 immediate suspension the Department must schedule a hearing to be held within
7 ten working days of said order.

8 The Department alleges the following:

9 **Issue 1: Failure to Facilitate Examination (RSA 397-A:12).**

10 **Issue 2: Failure to file Financial Statement (RSA 397-A:13).**

11
12 Accordingly, an adjudicative proceeding shall be commenced pursuant to
13 541-A:31 and Chapter 200 of the Department's rules (NH Code of
14 Administrative Rules BAN 200) for the purpose of permitting the Respondents
15 to show compliance with RSA 397-A and the Rules adopted thereunder.

16 Each party has the right to have an attorney present to represent the
17 party at the party's expense, or may represent itself.

18 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
19 Hampshire Banking Department on **November 28, 2007 at 10:00 am**, at the
20 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the
21 purpose of participating in an adjudicative proceeding, at which time the
22 Respondents will have the opportunity to demonstrate why the relief sought in
23 the show cause order should not become permanent; and

24 IT IS FURTHER ORDERED, that if the Respondents elect to be represented
25 by Counsel, said Counsel shall file notice of appearance at the earliest
possible date; and

IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
Hampshire Banking Department is designated as Hearing Counsel in this matter

1 with authority to represent the public interest within the scope of the
2 Department's authority. Hearing Counsel shall have the status of a party to
3 this proceeding; and

4 IT IS FURTHER ORDERED, that the Commissioner designates Maryam Torben-
5 Desfosses to serve as the Presiding Officer in this proceeding who shall
6 issue a RECOMMENDED DECISION in this matter which shall be reviewed and
7 approved, disapproved or modified by the Bank Commissioner; and

8 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
9 for identification only, and filed with the Department and provided to the
10 opposing party **as soon as possible**. Hearing Counsel shall pre-mark the
11 Department's exhibits with Arabic numbers. The Respondents shall pre-mark
12 exhibits with capital letters. An index/list of exhibits providing a brief
13 description of each exhibit with its corresponding pre-marked number or
14 letter shall be filed by both parties simultaneous with the filing of
15 exhibits; and

16 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
17 exhibits and witnesses to be called at the hearing with a brief summary at
18 the hearing, and shall at the same time file a copy of their respective lists
19 with the Presiding Officer; and

20 IT IS FURTHER ORDERED, that all periods referenced in this notice shall
21 be calendar days. If the last day of the period so computed falls on a
22 Saturday, Sunday, or legal holiday, then the time period shall be extended to
23 include the first business day that is not a Saturday, Sunday, or legal
24 holiday; and

25 IT IS FURTHER ORDERED, that the Department shall have the burden of
26 setting forth a *prima facie* case, then the Respondents shall have the burden
27 of showing compliance with applicable law by a preponderance of the evidence;

IT IS FURTHER ORDERED, that Respondent's failure to appear at the time,
date, and place specified may result in the hearing being held *in absentia*

1 and/or default ruling in favor of the Department, without further notice or
2 opportunity to be heard; and

3 IT IS FURTHER ORDERED, that a record of the proceeding shall be made by
4 a certified shorthand court reporter provided by the Department.

5 IT IS FURTHER ORDERED, that all documents shall be filed with the
6 Presiding Officer in the form of an original and one (1) copy and shall bear a
7 certification that a copy is being delivered to Hearing Counsel and any other
8 parties to this matter in accordance with NH Code of Administrative Rules Ban
9 204.08. All documents shall be filed by mailing or delivering them to the New
10 Hampshire Banking Department, ATTN: Presiding Officer 07-146, 64B Old Suncook
11 Road, Concord, NH 03301. Filing by facsimile or electronic transmission shall
12 not be accepted; and

13 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,
14 which shall include findings of fact and conclusions of law, separately
15 stated, no later than ten (10) days following conclusion of the hearing(s) in
16 this matter; and

17 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
18 telephoning Abigail Shaine at (603)-271-3561, but all other communications with
19 the Presiding Officer and with the Department shall be in writing and shall be
20 filed as provided above. *Ex parte* communications are forbidden by statute; and

21 IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
22 mailed to all named Respondents at their addresses of record and that a copy
23 shall also be delivered to James Shepard, Hearing Counsel, and to the
24 Presiding Officer at the New Hampshire Banking Department.

25 **SO ORDERED,**

/SRAF/
Peter C. Hildreth
Commissioner
State of New Hampshire
Banking Department

11/13/07
Date