

1 State of New Hampshire Banking Department

2	In re the Matter of:) Case No.: 08-063
)
3	State of New Hampshire Banking)
4	Department,) Order to Show Cause
)
5	Petitioner,)
)
6	and)
)
7	Loans for Residential Homes Mortgage)
)
8	Corp, and Karim Menebhi,)
)
9	Respondents)

10 NOTICE OF ORDER

11 This Order commences an adjudicative proceeding under the provisions
12 of RSA 397-A and RSA 541-A.

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 and penalties for violations of New
17 Hampshire Banking laws should not be imposed.

18 Pursuant to RSA 397-A:18, the Department has the authority to issue a
19 complaint setting forth charges whenever the Department is of the opinion
20 that the licensee or person over whom the Department has jurisdiction is
21 violating or has violated any provision of RSA Chapter 397-A, or any rule or
22 order thereunder.

23 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or
24 rescind such orders as are reasonably necessary to comply with the
25 provisions of the Chapter.

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

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
6 that is or may be an unfair or deceptive act or practice under RSA 358-A and
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
9 Commissioner may hold hearings relative to such conduct and may order
10 restitution for a person or persons adversely affected by such conduct.

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

12 The above named Respondents have the right to request a hearing on
13 this Order to Show Cause, as well as the right to be represented by counsel
14 at each Respondent's own expense. All hearings shall comply with RSA 541-A.
15 Any such request for a hearing shall be in writing, and signed by the
16 Respondent or the duly authorized agent of the above named Respondent, and
17 shall be delivered either by hand or certified mail, return receipt
18 requested, to the Banking Department, State of New Hampshire, 53 Regional
19 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
20 10 days of the Department's receipt of the request. If the Respondent fails
21 to appear at the hearing after being duly notified, such person shall be
22 deemed in default, and the proceeding may be determined against the Respondent
23 upon consideration of the Order to Show Cause, the allegations of which may be
24 deemed to be true.

25 If any of the above named Respondents fails to request a hearing within

1 30 calendar days of receipt of such order or reach a formal written and
2 executed settlement with the Department within that time frame, then such
3 person shall likewise be deemed in default, and the orders shall, on the
4 thirty-first day, become permanent, and shall remain in full force and effect
5 until and unless later modified or vacated by the Commissioner, for good cause
6 shown.

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

8 The Staff Petition dated June 8, 2009 (a copy of which is attached
9 hereto) is incorporated by reference hereto.

10 **ORDER**

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

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

16 It is hereby ORDERED, that:

- 17 1. Respondent Loans for Residential Homes Mortgage Corp
18 ("Respondent Loans for Residential Homes Mortgage") shall
19 show cause why penalties in the amount of \$5,000.00 should
20 not be imposed against it;
- 21 2. Respondent Karim Menebhi ("Respondent Menebhi") shall show
22 cause why penalties in the amount of \$5,000.00 should not be
23 imposed against him;
- 24 3. The above named Respondents shall show cause why, in addition
25 to the penalties listed in Paragraphs 1 through 2 above, the

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-063
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 3 State of New Hampshire Banking)
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 4 Department,) Staff Petition
)
 5 Petitioner,) June 8, 2009
)
 6 and)
)
 7 Loans for Residential Homes Mortgage)
)
 8 Corp, and Karim Menebhi,)
)
 9 Respondents)

10 I. STATEMENT OF ALLEGATIONS

11 The Staff of the Banking Department, State of New Hampshire (hereinafter
12 "Department") alleges the following facts:

13 Facts Common on All Counts:

- 14 1. Respondent Loans for Residential Homes Mortgage Corp
 15 (hereinafter "Respondent Loans for Residential Homes Mortgage")
 16 was licensed as a Mortgage Banker from at least December 31,
 17 2007 until its license expired on January 1, 2008.
- 18 2. Respondent Karim Menebhi (hereinafter "Respondent Menebhi") was
 19 the 100% owner, Director and President of Respondent Loans for
 20 Residential Homes Mortgage, when licensed by the Department.

21 Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested

22 Files in a Timely Manner (1 Count):

23 Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

- 24 3. Paragraphs 1 through 2 are hereby realleged as fully set forth
 25 herein.

- 1 4. The Department conducted an examination of Respondent Loans for
2 Residential Homes Mortgage on August 20, 2007, while Respondent
3 Loans for Residential Homes Mortgage was still licensed with the
4 Department.
- 5 5. On July 25, 2007, the Department mailed a notice of examination to
6 Respondent Loans for Residential Homes Mortgage, via U.S.
7 Certified Mail Return Receipt requested, which Respondents
8 received on July 30, 2007.
- 9 6. The loan list was due on August 6, 2007, which is 7 days after the
10 July 30, 2007 receipt of the July 25, 2007 notice of examination.
- 11 7. The Department received the loan list 8 days later on August 7,
12 2007.
- 13 8. The Department then requested loan files from Respondent Loans for
14 Residential Homes Mortgage. The Respondents received this
15 request on September 21, 2007.
- 16 9. Since the Respondents took 8 days to return the loan list, they
17 now only had 13 days (October 4, 2007) to return the loan files
18 (the total 21 day requirement per statute.
- 19 10. The Department received the examination materials on October 11,
20 2007, which was 7 days late.
- 21 11. Respondent Loans for Residential Homes Mortgage's late submittal
22 of examination materials should have generated a fine of \$350.00
23 (\$50.00 per day x 7 days); however, the Department only charged
24 Respondent Loans for Residential Homes Mortgage for 6 days or
25 \$300.00.

1 12. On February 12, 2008, the Department mailed the report of
2 examination and invoice for \$1,635.00 to Respondent Loans for
3 Residential Homes Mortgage, via U.S. Certified Mail Return
4 Receipt requested, which the post office returned to the
5 Department on February 22, 2008 as "moved, left no address".

6 13. On February 25, 2008, the Department mailed the report of
7 examination and invoice for \$1,635.00 to Respondent Loans for
8 Residential Homes Mortgage, via UPS, which was returned to the
9 Department on February 29, 2008 as "receiver moved".

10 14. To date, the above named Respondents still owe the \$1,635.00
11 examination fee for the 3.27 day examination.

12 **II. ISSUES OF LAW**

13 The staff of the Department alleges the following issues of law:

14 1. The Department realleges the above stated facts in Paragraphs 1
15 through 14 as fully set forth herein.

16 2. The Department has jurisdiction over the licensing and regulation
17 of persons engaged in mortgage banker or broker activities
18 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

19 3. RSA 397-A:11,II provides that requested files and business records
20 must be received by the Department within 21 calendar days of
21 request. The licensee will be subject to a \$50.00 a day fine
22 every day after the 21-day period the records are not produced.
23 Respondents currently owe \$300.00. Each of the above named
24 Respondents violated this statute on at least one occasion as
25 alleged above.

1 4. RSA 397-A:12,V provides that the expense of such examination shall
2 be chargeable to and paid by the licensee. Each of the above
3 named Respondents violated this provision on at least one
4 occasion as alleged above. To date, the above named Respondents
5 have failed to pay the \$1,635.00 examination invoice.

6 5. RSA 397-A:17,I provides in part that the Commissioner may by
7 order, upon due notice and opportunity for hearing, assess
8 penalties or deny, suspend, or revoke a license or application if
9 it is in the public interest and the applicant, respondent, or
10 licensee, any partner, officer, member, or director, any person
11 occupying a similar status or performing similar functions, or
12 any person directly or indirectly controlling the applicant,
13 respondent, or licensee: (a) has violated any provision of RSA
14 Chapter 397-A or rules thereunder, or (b) has not met the
15 standards established in RSA Chapter 397-A.

16 6. RSA 397-A:18,I provides that the Department may issue a complaint
17 setting forth charges whenever the Department is of the opinion
18 that the licensee or person over whom the Department has
19 jurisdiction, has violated any provision of RSA 397-A or orders
20 thereunder.

21 7. RSA 397-A:21,IV provides that any person who, either knowingly or
22 negligently, violates any provision of Chapter 397-A, may upon
23 hearing, and in addition to any other penalty provided for by
24 law, be subject to an administrative fine not to exceed
25 \$2,500.00, or both. Each of the acts specified shall constitute

1 a separate violation, and such administrative action or fine may
2 be imposed in addition to any criminal penalties or civil
3 liabilities imposed by New Hampshire Banking laws.

4 8. RSA 397-A:21,V provides that every person who directly or
5 indirectly controls a person liable under this section, every
6 partner, principal executive officer or director of such person,
7 every person occupying a similar status or performing a similar
8 function, every employee of such person who materially aids in the
9 act constituting the violation, and every licensee or person acting
10 as a common law agent who materially aids in the acts constituting
11 the violation, either knowingly or negligently, may, upon notice
12 and opportunity for hearing, and in addition to any other penalty
13 provided for by law, be subject to suspension, revocation, or
14 denial of any registration or license, including the forfeiture of
15 any application fee, or the imposition of an administrative fine
16 not to exceed \$2,500, or both. Each of the acts specified shall
17 constitute a separate violation, and such administrative action or
18 fine may be imposed in addition to any criminal or civil penalties
19 imposed.

20 **III. RELIEF REQUESTED**

21 The staff of the Department requests the Commissioner take the following
22 action:

- 23 1. Find as fact the allegations contained in section I of this Staff
24 Petition;
- 25 2. Make conclusions of law relative to the allegations contained in

