

1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-320  
 )  
 3 State of New Hampshire Banking )  
 )  
 4 Department, ) Order to Show Cause  
 )  
 5 Petitioner, )  
 )  
 6 and )  
 )  
 7 Residential Mortgage Fund, Inc. (d/b/a )  
 )  
 8 RMF Mortgage Fund of California), Scott )  
 )  
 9 Keegan, Michael J. Knieberg, and Jeff F. )  
 )  
 10 Sipos, )  
 )  
 11 Respondents )

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12 NOTICE OF ORDER

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

15 LEGAL AUTHORITY AND JURISDICTION

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

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

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

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

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

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

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

1 upon consideration of the Order to Show Cause, the allegations of which may be  
2 deemed to be true.

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

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

11 The Staff Petition dated June 5, 2009 (a copy of which is attached  
12 hereto) is incorporated by reference hereto.

13 **ORDER**

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

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

19 It is hereby ORDERED, that:

- 20 1. Respondent Residential Mortgage Fund, Inc. (d/b/a RMF  
21 Mortgage Fund of California) ("Respondent Residential  
22 Mortgage Fund") shall show cause why penalties in the amount  
23 of \$2,500.00 should not be imposed against it;
- 24 2. Respondent Scott Keegan ("Respondent Keegan") shall show  
25 cause why penalties in the amount of \$10,000.00 should not be

1 imposed against him;

2 3. Respondent Michael J. Knieberg ("Respondent Knieberg") shall  
3 show cause why penalties in the amount of \$10,000.00 should  
4 not be imposed against him;

5 4. Respondent Jeff F. Sipos ("Respondent Sipos") shall show  
6 cause why penalties in the amount of \$10,000.00 should not be  
7 imposed against him;

8 5. The above named Respondents shall show cause why, in addition  
9 to the penalties listed in Paragraphs 1 through 4 above, the  
10 \$500.00 examination fee should not be paid to the Department;

11 6. The above named Respondents shall be jointly and severally  
12 liable for the above amounts alleged in Paragraphs 1 through  
13 5 above;

14 7. The above named Respondents shall show cause why, in addition  
15 to the penalties listed in Paragraphs 1 through 6 above,  
16 Respondent Residential Mortgage Fund's license should not be  
17 revoked.

18 It is hereby further ORDERED that:

19 8. Along with the administrative penalties listed for the above  
20 named Respondents, the outstanding sum of \$500.00 shall be  
21 immediately paid; and

22  
23  
24 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]  
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1 State of New Hampshire Banking Department

2 In re the Matter of: ) Case No.: 08-320  
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5 Petitioner, ) June 5, 2009  
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6 and )  
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7 Residential Mortgage Fund, Inc. (d/b/a )  
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8 RMF Mortgage Fund of California), Scott )  
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9 Keegan, Michael J. Knieberg, and Jeff )  
) )  
10 F. Sipos, )  
) )  
11 Respondents )

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12 I. STATEMENT OF ALLEGATIONS

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

15 Facts Common on All Counts:

- 16 1. Respondent Residential Mortgage Fund, Inc. (d/b/a RMF Mortgage  
17 Fund of California) (hereinafter "Respondent Residential  
18 Mortgage Fund") was licensed as a Mortgage Broker from at least  
19 January 9, 2007 (with an amended license date of May 18, 2007)  
20 until it surrendered its license effective December 6, 2007.
- 21 2. Respondent Scott Keegan (hereinafter "Respondent Keegan") was a  
22 50% owner of Respondent Residential Mortgage Fund, when licensed  
23 by the Department.
- 24 3. Respondent Michael J. Knieberg (hereinafter "Respondent  
25 Knieberg") was a 50% owner and President of Respondent

1 Residential Mortgage Fund, when licensed by the Department.

2 4. Respondent Jeff F. Sipos (hereinafter "Respondent Sipos") was  
3 the Vice President of Respondent Residential Mortgage Fund, when  
4 licensed by the Department.

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

6 **Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to**

7 **Department Inquiries (3 Counts):**

8 5. Paragraphs 1 through 4 are hereby realleged as fully set forth  
9 herein.

10 6. The Department conducted an examination of Respondent Residential  
11 Mortgage Fund on January 14, 2008.

12 7. On March 28, 2008, the Department mailed the report of examination  
13 and invoice for \$500.00 to Respondent Residential Mortgage Fund,  
14 which was returned as "refused" on April 11, 2008.

15 8. The same March 28, 2008 correspondence was then submitted via UPS  
16 on April 14, 2008, received by Respondent Residential Mortgage  
17 Fund on April 16, 2008.

18 9. With no response, a second notice was submitted to Respondent  
19 Residential Mortgage Fund on April 29, 2008.

20 10. Again with no response, a third notice was submitted to the  
21 Respondents on June 24, 2008.

22 11. To date, the above named Respondents have failed to pay the  
23 \$500.00 examination fee for the one day exam.

24

25

1 **II. ISSUES OF LAW**

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

- 3 1. The Department realleges the above stated facts in Paragraphs 1  
4 through 11 as fully set forth herein.
- 5 2. The Department has jurisdiction over the licensing and regulation  
6 of persons engaged in mortgage banker or broker activities  
7 pursuant to NH RSA 397-A:2 and RSA 397-A:3.
- 8 3. RSA 397-A:12,V provides that the expense of such examination shall  
9 be chargeable to and paid by the licensee. Each of the above  
10 named Respondents violated this provision on at least one  
11 occasion as alleged above. To date, the above named Respondents  
12 have failed to pay the \$500.00 examination invoice.
- 13 4. RSA 397-A:13,VI provides that any officer, owner, manager or agent  
14 of any licensee shall reply promptly in writing, or other  
15 designated form, to any written inquiry from the Department.  
16 Respondent Keegan, Respondent Knieberg and Respondent Sipos  
17 violated this provision on at least three occasions each as  
18 alleged above.
- 19 5. RSA 397-A:18,I provides that the Department may issue a complaint  
20 setting forth charges whenever the Department is of the opinion  
21 that the licensee or person over whom the Department has  
22 jurisdiction, has violated any provision of RSA 397-A or orders  
23 thereunder.
- 24 6. RSA 397-A:21,IV provides that any person who, either knowingly or  
25 negligently, violates any provision of Chapter 397-A, may upon

1 hearing, and in addition to any other penalty provided for by  
2 law, be subject to an administrative fine not to exceed  
3 \$2,500.00, or both. Each of the acts specified shall constitute  
4 a separate violation, and such administrative action or fine may  
5 be imposed in addition to any criminal penalties or civil  
6 liabilities imposed by New Hampshire Banking laws.

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

1 **III. RELIEF REQUESTED**

2 The staff of the Department requests the Commissioner take the following  
3 action:

- 4 1. Find as fact the allegations contained in section I of this Staff  
5 Petition;
- 6 2. Make conclusions of law relative to the allegations contained in  
7 section II of this Staff Petition;
- 8 3. Pursuant to RSA 397-A:17, order each of the above named  
9 Respondents to show cause why their license should not be revoked;
- 10 4. Assess fines and administrative penalties in accordance with RSA  
11 397-A:21, for violations of Chapter 397-A, in the number and amount  
12 equal to the violations set forth in section II of this Staff  
13 Petition; and
- 14 5. Take such other administrative and legal actions as necessary for  
15 enforcement of the New Hampshire Banking Laws, the protection of  
16 New Hampshire citizens, and to provide other equitable relief.

17 **IV. RIGHT TO AMEND**

18 The Department reserves the right to amend this Staff Petition and to  
19 request that the Commissioner take additional administrative action.  
20 Nothing herein shall preclude the Department from bringing additional  
21 enforcement action under RSA 397-A or the regulations thereunder.

22 Respectfully submitted by:

23  
24                   /s/                    
Maryam Torben Desfosses  
25 Hearings Examiner

  06/05/09    
Date