

1 State of New Hampshire Banking Department

2	In re the Matter of:)Case No.: 08-385
)
3	State of New Hampshire Banking)
)Order to Show Cause
4	Department,)
)And
5	Petitioner,)
)Cease and Desist Order
6	and)
)
7	Fortes Financial, Inc., Vision Global)
)
8	Solutions, Inc., Peter J. Levasseur,)
)
9	Michael H. McTeigue, Laird Q. Cagan,)
)
10	and Janice M. Ibey,)
)
11	Respondents)

12 NOTICE OF ORDER

13 This Order commences an adjudicative proceeding under the provisions
14 of RSA 397-A and RSA 541-A and RSA 383.

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
24 or order thereunder.

1 Pursuant to RSA 397-A:18,II, the Department has the authority to issue
2 and cause to be served an order requiring any person engaged in any act or
3 practice constituting a violation of RSA Chapter 397-A or any rule or order
4 thereunder, to cease and desist from violations of RSA Chapter 397-A.

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

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

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

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

20 The above named Respondents have the right to request a hearing on
21 this Order to Show Cause, as well as the right to be represented by counsel
22 at each Respondent's own expense. All hearings shall comply with RSA 541-A.
23 Any such request for a hearing shall be in writing, and signed by the
24 Respondent or the duly authorized agent of the above named Respondent, and
25 shall be delivered either by hand or certified mail, return receipt

1 requested, to the Banking Department, State of New Hampshire, 53 Regional
2 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
3 10 days of the Department's receipt of the request. If the Respondent fails
4 to appear at the hearing after being duly notified, such person shall be
5 deemed in default, and the proceeding may be determined against the Respondent
6 upon consideration of the Order to Show Cause, the allegations of which may be
7 deemed to be true.

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

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

15 The Staff Petition dated December 1, 2008 (a copy of which is attached
16 hereto) is incorporated by reference hereto.

17 **ORDER**

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

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

23 It is hereby ORDERED, that:

- 24 1. The above named Respondents are hereby ordered to immediately
25 cease and desist from violations of New Hampshire law;

1 2. The above named Respondents are hereby ordered to cease
2 taking applications for mortgage loans until such time as
3 this Order is rescinded;

4 3. Respondent Fortes Financial, Inc. ("Respondent Fortes
5 Financial") shall show cause why penalties in the amount of
6 \$7,500.00 should not be imposed against it;

7 4. Respondent Vision Global Solutions, Inc. ("Respondent Vision
8 Global") shall show cause why penalties in the amount of
9 \$7,500.00 should not be imposed against it;

10 5. Respondent Peter J. Levasseur ("Respondent Levasseur") shall
11 show cause why penalties in the amount of \$7,500.00 should
12 not be imposed against him;

13 6. Respondent Michael H. McTeigue ("Respondent McTeigue") shall
14 show cause why penalties in the amount of \$7,500.00 should
15 not be imposed against him;

16 7. Respondent Laird Q. Cagan ("Respondent Cagan") shall show
17 cause penalties in the amount of \$7,500.00 should not be
18 imposed against him;

19 8. Respondent Janice M. Ibey ("Respondent Ibey") shall show
20 cause why penalties in the amount of \$7,500.00 should not be
21 imposed against her;

22 9. The above named Respondents shall be jointly and severally
23 liable for the above amounts alleged in Paragraphs 3 through
24 8 above;

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 08-385
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 3 State of New Hampshire Banking)
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 4 Department,) Staff Petition
)
 5 Petitioner,) December 1, 2008
)
 6 and)
)
 7 Fortes Financial, Inc., Vision Global)
)
 8 Solutions, Inc., Peter J. Levasseur,)
)
 9 Michael H. McTeigue, Laird Q. Cagan,)
)
 10 and Janice M. Ibey,)
)
 11 Respondents)

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 Fortes Financial, Inc. (hereinafter "Respondent
17 Fortes Financial") has been licensed as a Mortgage Banker from
18 at least September 3, 2008.
- 19 2. Respondent Vision Global Solutions, Inc. (hereinafter
20 "Respondent Vision Global") is the 100% owner of Respondent
21 Fortes Financial.
- 22 3. Respondent Peter J. Levasseur (hereinafter "Respondent
23 Levasseur") is the President and CEO of Respondent Fortes
24 Financial.
- 25 4. Respondent Michael H. McTeigue (hereinafter "Respondent

1 McTeigue") is a Director of Respondent Fortes Financial.

2 5. Respondent Laird Q. Cagan (hereinafter "Respondent Cagan") is a
3 Director of Respondent Fortes Financial.

4 6. Respondent Janice M. Ibey (hereinafter "Respondent Ibey") is the
5 Executive Vice President and Chief Operating Officer of
6 Respondent Fortes Financial.

7 Violation of RSA 397-A:10,IV Failure to Update Information on File with

8 Commissioner (1 Count):

9 Violation of RSA 397-A:10,III Failure to Provide Notification of Closing in

10 a Timely Manner (1 Count):

11 Violation of RSA 397-A:14-b Failure to Fund Mortgage Loan at Closing (1

12 Count):

13 7. Paragraphs 1 through 6 are hereby realleged as fully set forth
14 herein.

15 8. On or about November 24, 2008, the Department received information
16 from a New Hampshire active mortgage broker licensee that a loan
17 closed by it on Friday, November 21, 2008 with Respondent Fortes
18 Financial did not fund.

19 9. The active mortgage broker licensee also informed the Department
20 that it received notification on or about Monday, November 24,
21 2008 that Respondent Fortes Financial had gone out of business
22 and that the loan funded on November 21, 2008 will not fund.

23 10. Respondent Fortes Financial does currently have a notice (dated
24 November 24, 2008) on its website indicating it will not accept
25 new loan applications or fund any loans currently in the existing

1 pipeline.

2 11. Respondent Fortes Financial failed to inform the Department that
3 it would not fund loans currently in its pipeline.

4 12. Based on the Department's research, Respondent Fortes Financial
5 surrendered its license on the Nationwide Mortgage Licensing
6 System after 5:00 p.m. on or about Monday, November 24, 2008.

7 13. On November 25, 2008, Respondent Fortes Financial informed the
8 Department it received a cash infusion and desired to continue
9 its business operations.

10 14. As of Tuesday, November 25, 2008, the active New Hampshire
11 mortgage broker licensee had no further correspondence from
12 Respondent Fortes Financial and as a result, have applied
13 Consumer A's mortgage loan with another investor but did not know
14 the current status of the loan just yet.

15 15. On November 25, 2008, the Department then contacted Christine
16 Summers, the licensing contact for Respondent Fortes Financial,
17 regarding the failure to fund Consumer A's mortgage loan.

18 16. After researching the status of Consumer A's mortgage loan,
19 Respondent Fortes Financial informed the Department the loan did
20 not fund because Respondent Fortes Financial "has temporarily
21 halted lending until [it] develops a go forward plan once [it]
22 completes the recapitalization."

23 17. To date, the Consumer A mortgage loan is expected to fund with
24 another lender for a lesser amount than if it had funded with
25 Respondent Fortes Financial.

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 17 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:10,III provides that licensees shall provide written
9 notice to the Department of any proposed closing of any licensed
10 office no later than ten (10) business days prior to the
11 effective date of such change. Each of the above named
12 Respondents violated this provision on at least one occasion as
13 alleged above.
- 14 4. RSA 397-A:10,IV provides that persons licensed under RSA Chapter
15 397-A are under a continuing obligation to update information on
16 file with the Commissioner. Each of the above named Respondents
17 failed to update the Commissioner on at least one occasion as
18 alleged above.
- 19 5. RSA 397-A:14-b provides that a licensee shall comply with the
20 provisions of RSA 477:52 relative to the requirements for the
21 funding of loans at real estate closings. At a minimum, a
22 closing requires the delivery of a deed if the transaction is a
23 conveyance, the signing of a note, and the disbursement of the
24 mortgage loan funds. Each of the above named Respondents
25

1 violated this provision on at least one occasion as alleged
2 above.

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

8 7. RSA 397-A:21,IV provides that any person who, either knowingly or
9 negligently, violates any provision of Chapter 397-A, may upon
10 hearing, and in addition to any other penalty provided for by
11 law, be subject to an administrative fine not to exceed
12 \$2,500.00, or both. Each of the acts specified shall constitute
13 a separate violation, and such administrative action or fine may
14 be imposed in addition to any criminal penalties or civil
15 liabilities imposed by New Hampshire Banking laws.

16 8. RSA 397-A:21,V provides that every person who directly or
17 indirectly controls a person liable under this section, every
18 partner, principal executive officer or director of such person,
19 every person occupying a similar status or performing a similar
20 function, every employee of such person who materially aids in the
21 act constituting the violation, and every licensee or person acting
22 as a common law agent who materially aids in the acts constituting
23 the violation, either knowingly or negligently, may, upon notice
24 and opportunity for hearing, and in addition to any other penalty
25 provided for by law, be subject to suspension, revocation, or

1 denial of any registration or license, including the forfeiture of
2 any application fee, or the imposition of an administrative fine
3 not to exceed \$2,500, or both. Each of the acts specified shall
4 constitute a separate violation, and such administrative action or
5 fine may be imposed in addition to any criminal or civil penalties
6 imposed.

7 **III. RELIEF REQUESTED**

8 The staff of the Department requests the Commissioner take the following
9 action:

- 10 1. Find as fact the allegations contained in section I of this Staff
11 Petition;
- 12 2. Make conclusions of law relative to the allegations contained in
13 section II of this Staff Petition;
- 14 3. Pursuant to RSA 397-A:17, order each of the above named
15 Respondents to show cause why their license should not be revoked;
- 16 4. In accordance with RSA 397-A:18, order the Respondents to cease and
17 desist from violations of New Hampshire law;
- 18 5. In accordance with RSA 397-A:20, order the Respondents to
19 immediately cease taking mortgage applications;
- 20 6. Assess fines and administrative penalties in accordance with RSA
21 397-A:21, for violations of Chapter 397-A, in the number and amount
22 equal to the violations set forth in section II of this Staff
23 Petition; and
- 24 7. Take such other administrative and legal actions as necessary for
25 enforcement of the New Hampshire Banking Laws, the protection of

