

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 07-296
)
 3 State of New Hampshire Banking)
)
 4 Department,) Order to Show Cause
)
 5 Petitioner,)
)
 6 and)
)
 7 First Financial Equities Inc (d/b/a)
)
 8 Sadek Equities), FFEI Holding, Inc.,)
)
 9 David Sadek, Elly Krieger, and Glenn)
)
 10 Bromley,)
)
 11 Respondents)

12 NOTICE OF ORDER

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

25 Pursuant to RSA 397-A:20,IV, the Commissioner may issue, amend, or

1 rescind such orders as are reasonably necessary to comply with the
2 provisions of the Chapter.

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

7 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
8 that is or may be an unfair or deceptive act or practice under RSA Chapter
9 358-A and exempt under RSA 358-A:3,I or that may violate any of the
10 provisions of Titles XXXV and XXXVI and administrative rules adopted
11 thereunder. The Commissioner may hold hearings relative to such conduct and
12 may order restitution for a person or persons adversely affected by such
13 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 Chapter
18 541-A. 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 July 15, 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 First Financial Equities Inc (d/b/a Sadek
21 Equities) ("Respondent Sadek Equities") shall show cause why
22 penalties in the amount of \$15,000.00 should not be imposed
23 against it;
- 24 2. Respondent FFEI Holdings, Inc. ("Respondent FFEI Holdings")
25 shall show cause why penalties in the amount of \$25,000.00

1 should not be imposed against it;

2 3. Respondent David Sadek ("Respondent Sadek") shall show cause
3 why penalties in the amount of \$25,000.00 should not be
4 imposed against him;

5 4. Respondent Elly Krieger ("Respondent Krieger") shall show
6 cause why penalties in the amount of \$25,000.00 should not be
7 imposed against her;

8 5. Respondent Glenn Bromley ("Respondent Bromley") shall show
9 cause why penalties in the amount of \$25,000.00 should not be
10 imposed against him;

11 6. The above named Respondents shall show cause why, in addition
12 to the penalties listed in Paragraphs 1 through 5 above, the
13 \$500.00 examination fee should not be paid to the Department;

14 7. The above named Respondents shall show cause why, in addition
15 to the penalties listed in Paragraphs 1 through 6 above, the
16 fine for \$2,500.00 for the failure to file the 2006 financial
17 statement should not be paid to the Department;

18 8. The above named Respondents shall show cause why, in addition
19 to the penalties listed in Paragraphs 1 through 7 above, the
20 accrued fine of \$42,350.00 for the failure to file
21 examination materials should not be paid to the Department;

22 9. The above named Respondents shall show cause why, in addition
23 to the penalties listed in Paragraphs 1 through 8 above, the
24 fine for \$900.00 for the late filing of the 2006 annual
25 report should not be paid to the Department;

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8 Sadek Equities), FFEI Holding, Inc.,)
9 David Sadek, Elly Krieger, and Glenn)
10 Bromley,)
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 First Financial Equities Inc (d/b/a Sadek Equities)
17 (hereinafter "Respondent Sadek Equities") was licensed as a
18 Mortgage Banker from at least March 10, 2006 (with an amended
19 license date of May 18, 2006) until its license expired on
20 December 31, 2007.
- 21 2. Respondent FFEI Holdings, Inc. (hereinafter "Respondent FFEI
22 Holdings") was the 100% owner of Respondent Sadek Equities, when
23 licensed by the Department.
- 24 3. Respondent David Sadek (hereinafter "Respondent Sadek") was the
25 Chief Executive Officer of Respondent Sadek Equities, when

1 licensed by the Department.

2 4. Respondent Elly Krieger (hereinafter "Respondent Krieger") was
3 the President of Respondent Sadek Equities, when licensed by the
4 Department.

5 5. Respondent Glenn Bromley (hereinafter "Respondent Bromley") was
6 the Chief Financial Officer of Respondent Sadek Equities, when
7 licensed by the Department.

8 **Violation of RSA 397-A:13,II Failure to File Financial Statement (1 Count):**

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

10 **Department Inquiries (1 Count):**

11 6. Paragraphs 1 through 5 are hereby realleged as fully set forth
12 herein.

13 7. The Respondents' fiscal year end was December 31, 2006 and the
14 financial statement was due on or before April 2, 2007.

15 8. Respondent Sadek Equities was licensed on the date the financial
16 statement filing was due the Department.

17 9. The Department sent Respondent Sadek Equities a reminder letter on
18 January 14, 2007, via U.S. mail, notifying the Respondents of the
19 upcoming filing requirement and giving instructions if financial
20 statements were not available from the licensee's accountants and
21 a \$25.00 per day fine would accrue for failure to file the
22 financial statement.

23 10. On April 4, 2007, the Department sent another reminder letter to
24 all licensees whose financial statements had not yet been
25 received by the Department, advising such licensees the fine had

1 begun to accrue and reiterated the financial instructions.
2 Respondent Sadek Equities was among these licensees.

3 11. On April 25, 2007, the Department sent yet another reminder letter
4 to all licensees whose financial statements had not yet been
5 received by the Department.

6 12. On June 21, 2007, via U.S. Certified Mail Return Receipt
7 requested, the Legal Division of the Department sent Respondent
8 Sadek Equities a final notice advising the company that the
9 financial statement had not been received by the Department along
10 with a Consent Agreement. The above named Respondents received
11 the letter on June 25, 2007.

12 13. The above named Respondents neither responded to the reminder
13 letters nor signed the Consent Agreement nor submitted the 2006
14 financial statement.

15 14. To date, the accrued penalty for failure to file a financial
16 statement has reached the maximum cap of \$2,500.00 (\$25.00 a day,
17 maximum \$2,500.00).

18 **Violation of RSA 397-A:12,VII Failure to Facilitate Exam (1 Count):**

19 **Violation of RSA 397-A:12,III Examinations: Failure to Provide Requested**
20 **Files (1 Count):**

21 **Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested**
22 **Files (1 Count):**

23 **Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to**
24 **Department Inquiries (2 Counts):**

25 15. Paragraphs 1 through 14 are hereby realleged as fully set forth

1 herein.

2 16. The Department conducted an examination of Respondent Sadek
3 Equities on March 26, 2007, while Respondent Sadek Equities was
4 still licensed with the Department.

5 17. On February 23, 2007, the Department sent the notice of
6 examination to Respondent Sadek Equities via U.S. Certified Mail
7 Return Receipt requested, which Respondents received on February
8 28, 2007.

9 18. The examination materials were due 21 days after Respondents'
10 receipt of the notice of examination, which would have been March
11 21, 2007.

12 19. The above named Respondents failed to respond to the February 23,
13 2007 Department correspondence.

14 20. On April 2, 2007, the Department again sent the notice of
15 examination to Respondent Sadek Equities via U.S. Certified Mail
16 Return Receipt requested, which Respondents received on April 5,
17 2007.

18 21. The above named Respondents failed to respond to the April 2, 2007
19 Department correspondence.

20 22. On July 20, 2007, via U.S. mail, the Department sent a third
21 notice of examination.

22 23. To date, the above named Respondents have failed to respond to the
23 three Department notices of examination and failed to provide the
24 requested examination materials.

25 24. To date, fines have accrued for failing to provide the requested

1 files. The current fine to date is \$42,350.00 (\$50.00 a day x
2 847 days) and is still accruing.

3 **Violation of RSA 397-A:13,IV Failure to Pay Late Penalty Owed for Late**

4 **Filing of Annual Report (1 Count):**

5 25. Paragraphs 1 through 24 are hereby realleged as fully set forth
6 herein.

7 26. Respondent Sadek Equities was licensed in 2006 and therefore,
8 subject to the filing of the 2006 annual report of business.

9 27. Respondent Sadek Equities' 2006 annual report was due on or before
10 February 1, 2007.

11 28. Respondent Sadek Equities filed its 2006 annual report on March 9,
12 2007 (36 days late), generating a fine of \$900.00 (\$25.00 a day x
13 36 days).

14 29. The Department sent the above named Respondents invoices via U.S.
15 mail in March, May and finally in June.

16 30. To date, Respondent Zadek Equities has failed to respond or pay
17 the \$900.00 late filing of the 2006 annual report fee.

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

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

20 **Department Inquiries (1 Count):**

21 31. Paragraphs 1 through 30 are hereby realleged as fully set forth
22 herein.

23 32. The Department conducted an examination of Respondent Sadek
24 Equities on March 26, 2007, while Respondent Sadek Equities was
25 still licensed with the Department.

1 33. On July 17, 2008, the Department mailed the report of examination
2 and invoice for \$500.00 to Respondent Sadek Equities, via U.S.
3 Certified Mail Return Receipt requested, which Respondents
4 received on July 21, 2008.

5 34. The above named Respondents failed to respond to the July 17, 2008
6 correspondence from the Department.

7 35. The Department, via U.S. mail, mailed a second notice on August
8 20, 2008 and a third notice on September 23, 2008.

9 36. The above named Respondents did not respond to any of the three
10 notices for payment of the \$500.00 invoice.

11 37. To date, the above named Respondents still owe the \$500.00
12 examination fee for the one day examination.

13 **II. ISSUES OF LAW**

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

15 1. The Department realleges the above stated facts in Paragraphs 1
16 through 37 as fully set forth herein.

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

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

1 \$42,350.00 to date and the fine is still accruing.

2 4. RSA 397-A:12,III requires licensees to comply with examination
3 requests with or without prior notice. All books, papers, files,
4 related material, and records of assets shall be subject to the
5 Department's examination. Each of the above named Respondents
6 violated this statute on at least one occasion as alleged above.

7 5. RSA 397-A:12,V provides that the expense of such examination shall
8 be chargeable to and paid by the licensee. Each of the above
9 named Respondents violated this provision on at least one occasion
10 as alleged above. To date, the above named Respondents have
11 failed to pay the \$500.00 examination invoice.

12 6. RSA 397-A:12,VII provides that every person being examined, and
13 all of the officers, directors, employees, agents, and
14 representatives of such person shall make freely available to the
15 Commissioner or his or her examiners, the accounts, records,
16 documents, files, information, assets, and matters in their
17 possession or control relating to the subject of the examination
18 and shall facilitate the examination. Each of the above named
19 Respondents violated this statute on at least one occasion as
20 alleged above.

21 7. RSA 397-A:13,II provides that each licensee shall file a financial
22 statement within 90 days from the date of its fiscal year end.
23 Each of the above named Respondents violated this statute on at
24 least one occasion as alleged above. The maximum fine has accrued
25 to \$2,500.00 as calculated by RSA 397-A:13,IV below.

1 8. RSA 397-A:13,IV provides that any mortgage banker or mortgage
2 broker failing to file either the annual report or the financial
3 statement required by RSA Chapter 397-A within the time prescribed
4 may be required to pay to the Department a penalty of \$25.00 for
5 each calendar day the annual report or financial statement is
6 overdue, up to a maximum penalty of \$2,500.00 per report or
7 statement. The above named Respondents violated this statute on at
8 least one occasion as alleged above. The above named Respondents
9 failed to timely file an annual report, and thus incurred a fine
10 of \$900.00.

11 9. RSA 397-A:13,VI provides that any officer, owner, manager or agent
12 of any licensee shall reply promptly in writing, or other
13 designated form, to any written inquiry from the Department.
14 Respondent Sadek, Respondent Krieger and Respondent Bromley each
15 violated this provision on at least four occasions as alleged
16 above.

17 10. RSA 397-A:17,I provides in part that the Commissioner may by
18 order, upon due notice and opportunity for hearing, assess
19 penalties or deny, suspend, or revoke a license or application if
20 it is in the public interest and the applicant, respondent, or
21 licensee, any partner, officer, member, or director, any person
22 occupying a similar status or performing similar functions, or
23 any person directly or indirectly controlling the applicant,
24 respondent, or licensee: (a) has violated any provision of RSA
25 Chapter 397-A or rules thereunder, or (b) has not met the

standards established in RSA Chapter 397-A.

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

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

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

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

6 **III. RELIEF REQUESTED**

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

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

