

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-234
)
 4 State of New Hampshire Banking) Order to Show Cause
)
 5 Department,) With Immediate Suspension
)
 6 and) Cease and Desist Order
)
 7 First Magnus Financial Corporation,)
)
 8 Gurpreet Jaggi, Thomas W. Sullivan,)
)
 9 Sr. and, Thomas W. Sullivan, Jr.,)
)
 10 Respondents)
)

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 397-A:18 the banking department may issue a cease and
19 desist order against any licensee or person who it has reasonable cause to
20 believe is in violation of the provisions of this chapter or any rule or order
21 under this chapter.

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

1 or persons adversely affected by such conduct. The Commissioner may utilize
2 all remedies available under the Act.

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

6 The Department issued the Respondents an Order to Show Cause and Cease
7 and Desist Order on August 20, 2007. Since the Orders were issued with an
8 immediate suspension the Department must schedule a hearing to be held within
9 ten working days of said order.

10 The Department alleges the following:

11 **Issue 1: Failure to have financial integrity, a positive net worth and a**
12 **net worth in excess of \$100,000.00 to post a \$20,000.00 bond (RSA 397-A:5).**

13 **Issue 2: Failure to fund loans at closing (RSA 397-A:14-b)**

14 **Issue 3: Unethical business practices (failure to honor loan commitments)**
15 **(RSA 397-A:17 I,k).**

16 Accordingly, an adjudicative proceeding shall be commenced pursuant to
17 541-A:31 and Chapter 200 of the Department's rules (NH Code of
18 Administrative Rules BAN 200) for the purpose of permitting the Respondents
19 to show compliance with RSA 397-A and the Rules adopted thereunder.

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

22 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
23 Hampshire Banking Department on **September 4, 2007 at 10:00 am**, at the
24 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the
25 purpose of participating in an adjudicative proceeding, at which time the

1 Respondents will have the opportunity to demonstrate why the relief sought in
2 the show cause order should not become permanent; and

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

6 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
7 Hampshire Banking Department is designated as Hearing Counsel in this matter
8 with authority to represent the public interest within the scope of the
9 Department's authority. Hearing Counsel shall have the status of a party to
10 this proceeding; and

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

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

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

IT IS FURTHER ORDERED, that all periods referenced in this notice shall
be calendar days. If the last day of the period so computed falls on a
Saturday, Sunday, or legal holiday, then the time period shall be extended to

1 include the first business day that is not a Saturday, Sunday, or legal
2 holiday; and

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

6 IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,
7 date, and place specified may result in the hearing being held *in absentia*
8 and/or default ruling in favor of the Department, without further notice or
9 opportunity to be heard; and

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

12 IT IS FURTHER ORDERED, that all documents shall be filed with the
13 Presiding Officer in the form of an original and one (1) copy and shall bear a
14 certification that a copy is being delivered to Hearing Counsel and any other
15 parties to this matter in accordance with NH Code of Administrative Rules Ban
16 204.08. All documents shall be filed by mailing or delivering them to the New
17 Hampshire Banking Department, ATTN: Presiding Officer 07-234, 64B Old Suncook
18 Road, Concord, NH 03301. Filing by facsimile or electronic transmission shall
19 not be accepted; and

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

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

IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
mailed to all named Respondents at their addresses of record and that a copy

