

STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

09-E-\_\_\_\_\_

PETER C. HILDRETH, BANK COMMISSIONER FOR THE STATE OF NEW HAMPSHIRE,  
AS LIQUIDATOR FOR NOBLE TRUST COMPANY AND  
AEGEAN SCOTIA HOLDINGS, LLC

V.

BALCARRES GROUP, LLC

**PETITION FOR DAMAGES AND PERMANENT INJUNCTION**

Petitioner, Peter C. Hildreth, Bank Commissioner for the State of New Hampshire, as Liquidator for the Noble Trust Company and Aegean Scotia Holdings, LLC, petitions against Balcarres Group, LLC, the Respondent, as follows:

Parties

1. Peter C. Hildreth is the Bank Commissioner for the State of New Hampshire. His business address is 53 Regional Drive, Concord, New Hampshire 03301. By Order dated March 27, 2008, in the proceeding entitled In the Matter of Liquidation of Noble Trust Company (Docket No. 08-E-0053) (the "Liquidation Proceeding"), this Court appointed Mr. Hildreth as Liquidator (the "Liquidator") for Noble Trust Company ("Noble") and Aegean Scotia Holdings, LLC ("Aegean Scotia").

2. Noble is a non-depository banking institution organized and chartered under the laws of the State of New Hampshire. At all times relevant herein, its principal office was located at 900 Elm Street, Manchester, New Hampshire 03101.

3. Balcarres Group, LLC (“Balcarres”) is a Nevada limited liability company. According to the records of the New Hampshire Secretary of State, Balcarres has a mailing address of 900 Elm Street, Suite 701, Manchester, New Hampshire 03101. Its registered agent is Mr. Colin Lindsey.

4. Colin P. Lindsey is the President and Director of Noble. Upon information and belief, Mr. Lindsey is one of the founding members of Balcarres, and at all times relevant herein was a manager or person in control of Balcarres. Balcarres was an insurance producer licensed in October, 2006 by the New Hampshire Department of Insurance. Its license was revoked by the Department of Insurance on or about June 4, 2008. Colin Lindsey’s principal place of residence is 30 Hanover Street, Apartment 402, Manchester, New Hampshire 03101.

Jurisdiction and Venue

5. This Court has jurisdiction over this proceeding pursuant to RSA 498:1.

6. Venue in the Merrimack County Superior Court is proper pursuant to RSA 507:9, because the Liquidator’s principal office is located in Merrimack County and Noble’s liquidation proceeding is pending in this Court.

The Liquidation Proceeding

7. Noble was chartered on September 11, 2003 as a New Hampshire domiciled non-depository bank authorized by, licensed by, and subject to regulation by the New Hampshire Banking Department (the “Department”).

8. During the course of the Department’s 2008 examination of Noble, irregularities were discovered in Noble’s operations.

9. As a result, Commissioner Hildreth concluded that Noble was conducting its business in an unsafe and unauthorized manner and that, in the interest of public safety, Noble should cease transacting business.

10. Accordingly, on February 11, 2008, Commissioner Hildreth commenced the liquidation proceeding in this Court and seized control over all of the assets of Noble.

11. On March 30, 2008, this Court entered an Order appointing Commissioner Hildreth as Liquidator of both Noble and Aegean Scotia (the "Liquidation Order").

12. The Liquidation Order gave the Liquidator broad powers, including:

- a. All the powers of the officers and managers of Noble and Aegean Scotia;
- b. Exclusive possession, custody, and control, of all property, contacts, and rights of action of Noble and Aegean Scotia; and
- c. The right to transfer, invest, or otherwise deal with the assets of Noble and Aegean Scotia so as to effectuate their liquidation.

13. The Liquidator is in the process of marshaling the assets of Noble in order to maximize the value of its assets and its estate for the benefit of its creditors.

14. This proceeding is in furtherance of the Liquidator's efforts to marshal the assets of Noble.

15. Balcarres, in its capacity as a licensed insurance producer, participated in the application for and issuance of a number of life insurance policies held by or for the benefit of Noble's clients, many of which policies generated substantial commissions from the policies' issuers. The proceeds of those commissions were used, in significant part, to further certain of Noble's operations, to the detriment of Noble's clients and creditors.

16. Lindsey is the defendant in a certain criminal proceeding pending in the United States District Court for the District of New Hampshire entitled U.S. v Lindsey (Docket No. 09-CR-52-01-BP), arising from the manner in which Noble's business was operated. On April 21, 2009, Lindsey entered into a Plea Agreement, a copy of which is attached hereto and incorporated herein as Exhibit A.

17. Paragraph 7(L) of the Plea Agreement requires Lindsey, in his capacity as a person in control of Balcarres, to

assent and agree to a civil judgment in the Liquidation Proceeding in favor of the [Liquidator], against Balcarres, through which the ownership of all assets, property and money that are owned by Balcarres are transferred to the [Liquidator], in partial satisfaction of the Liquidator's claims against the defendant and Balcarres.

#### COUNT I

18. Petitioner incorporates by reference the preceding paragraphs.

19. Balcarres knew or should have known that its activities in connection with Noble were detrimental to the interests of Noble and its clients and creditors and would cause them to suffer monetary damages.

20. Noble and its clients and creditors have suffered monetary damages resulting therefrom, all in excess of the minimum jurisdictional limits of this Court as a result of Balcarres' unlawful actions.

#### COUNT II

21. Petitioner incorporates the preceding paragraphs.

22. This Court's equity jurisdiction permits this Court to implement the provisions of

the Plea Agreement with respect to Balcarres and its assets, money and property by enjoining Lindsey and Balcarres to turn over to the Liquidator all assets of Balcarres.

WHEREFORE, Petitioner requests that the Court:

- A. Enter judgment in favor of the Petitioner, and against Balcarres in an amount to be determined at trial;
- B. Enter an order granting a permanent injunction against Balcarres requiring it to turn over all of its assets to the Liquidator; and
- C. Grant to Petitioner such other and further relief as the Court deems proper and just.

Respectfully submitted,

PETER C. HILDRETH, BANK COMMISSIONER FOR  
THE STATE OF NEW HAMPSHIRE, AS LIQUIDATOR  
FOR NOBLE TRUST COMPANY AND  
AEGEAN SCOTIA HOLDINGS, LLC

By His Attorneys,

MICHAEL A. DELANEY,  
ATTORNEY GENERAL

Dated: November 10, 2009

  
for: Peter C.L. Roth (NH Bar No. 14395)  
Senior Assistant Attorney General  
33 Capitol Street  
Concord, N.H. 03301-6397  
(603) 271-3679

-and-

SHEEHAN PHINNEY BASS + GREEN, P.A.

Dated: November 10, 2009

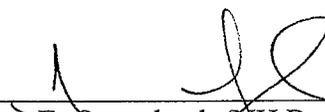
By:   
James F. Ogorchock (NH Bar No. 9360)  
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Manchester, NH 03105-3701  
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EXHIBIT A

STATE OF NEW HAMPSHIRE

MERRIMACK COUNTY

SUPERIOR COURT

No. 09-E-\_\_\_\_\_

Peter C. Hildreth, Bank Commissioner for the State of New Hampshire, as Liquidator for Noble Trust Company and Aegean Scotia Holdings, LLC,

v.

Balcarres Group LLC

**CONSENT JUDGMENT**

Respondent Balcarres Group LLC (“Balcarres”), by and through its undersigned counsel, pursuant to paragraph 7(L) of the April 21, 2009, Plea Agreement entered in the proceeding entitled United States of America v. Colin P. Lindsey pending in the United States District Court for the District of New Hampshire (Docket No. 09-CR-52-01-PB), consents, stipulates and agrees to the entry of Judgment in favor of the Petitioner Peter C. Hildreth, Bank Commissioner for the State of New Hampshire, as the duly appointed Liquidator for Noble Trust Company and Aegean Scotia Holdings, LLC (the “Liquidator”) as follows:

- (1) Balcarres is liable to the Liquidator on the count(s) alleged in the Petition for Damages and Permanent Injunction filed against Balcarres on November 12, 2009 in the Merrimack County Superior Court (the “Petition”) in an amount exceeding the value of all of Balcarres’ assets and property;
- (2) All right title and interest in all of Balcarres’ assets and property shall be turned over and transferred to the Liquidator, in partial satisfaction of the Liquidator’s claims as alleged in the Petition;
- (3) There is no just reason to delay entry or enforcement of this Consent Judgment;

- (4) Neither the entry of this Consent Judgment nor the enforcement thereof shall have any preclusive effect on any claims that the Liquidator has or may have against the Respondent, whether or not such claims have been brought in the Petition, in a separate Petition or might be brought in an as-yet unfiled Petition; and
- (5) Balcarres waives all appeal rights with respect to this Consent Judgment;

And, for those reasons and for other good cause shown,

IT IS HEREBY ORDERED that Judgment is hereby entered in favor of the Liquidator and against Balcarres on all claims alleged against Balcarres in the Petition.

IT IS FURTHER ORDERED that in partial satisfaction of this Judgment, all right, title and interest to assets and property owned or held by Balcarres is hereby ordered and declared to be the property of the Liquidation Proceeding estate administered by the Liquidator, without the need for any further act or deed by the Liquidator, and shall upon delivery be immediately available for use, liquidation and distribution in the Liquidation Proceeding as the Liquidator so determines.

IT IS FURTHER ORDERED that this Order shall be effective immediately upon entry, there being no just reason to delay enforcement of this Order. To the extent necessary or convenient, and at the Liquidator's request, Writs of Execution shall be issued in aid of this Judgment forthwith. Balcarres shall take all reasonable steps requested by the Liquidator to deliver and transfer right to Balcarres' property to the Liquidator pursuant to this Order.

IT IS FURTHER ORDERED that this Judgment and the enforcement thereof are and shall be without prejudice to all rights and claims that the Liquidator has or may have against

Balcarres, whether such claims are joint or several, and whether asserted or unasserted in this proceeding or any other proceeding.

SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2009.

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Presiding Judge

**CONSENTED TO:**

PETER C. HILDRETH, BANK  
COMMISSIONER FOR THE STATE OF  
NEW HAMPSHIRE, AS LIQUIDATOR  
FOR NOBLE TRUST COMPANY AND  
AEGEAN SCOTIA HOLDINGS, LLC

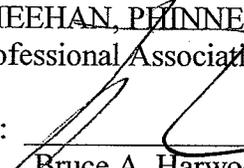
By his attorneys,

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ATTORNEY GENERAL

By: 

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SHEEHAN, PHINNEY, BASS + GREEN,  
Professional Association

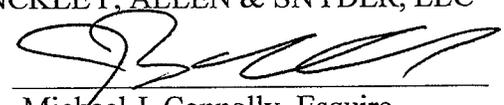
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