

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: No. 07-078
)
 4 New Hampshire Banking Department,) Order for Default Judgment
)
 5 Petitioner,)
)
 6 and)
)
 7 Southstar Funding LLC, Southstar)
)
 8 Partners LLC, Peter R. Norden, [REDACTED])
)
 9 [REDACTED], Timbuktu Inc., Kirk Smith,)
)
 10 and Toni Ward,
)
 11 Respondent

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13 Default Judgment

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15 **PROCEDURAL CASE HISTORY**

16 The Bank Commissioner issued a Notice of Hearing - Order to Show Cause,
 17 Cease and Desist Order ("Notice of Hearing") against all Respondents on April
 18 4, 2007. The Notice of Hearing derived from the Order to Show Cause With
 19 Immediate Suspension and Cease and Desist Order ("Order to Show Cause")
 20 issued by the Bank Commissioner against all Respondents on April 3, 2007. The
 21 Order to Show Cause incorporates the April 2, 2007 Staff Petition issued by
 New Hampshire Banking Department Staff Attorney James Shepard.

22 The adjudicative hearing was originally to be held on Friday, April 13,
 23 2007 at 10:00 a.m. at the New Hampshire Banking Department, located at 64B
 24 Old Suncook Road, Concord, New Hampshire 03301. Respondents, having filed a
 25 Motion for Continuance of Hearing in this matter (with New Hampshire Banking
 Department consent), were granted a continuance of the hearing on April 11,

1 2007. The new hearing date was Friday, May 11, 2007 at 10:00 a.m. at the New
2 Hampshire Banking Department.

3 Respondents Southstar Partners LLC, Peter R. Norden, [REDACTED],
4 Timbuktu Inc. and Toni Ward (collectively, "the Defaulting Respondents")
5 failed to appear in person or by representative at the adjudicative
6 proceeding. Further, the Defaulting Respondents failed to actively engage in
7 settlement negotiations with the Petitioner, the New Hampshire Banking
8 Department. Thus, on Friday, May 11, 2007, a default judgment was ordered
9 against these particular Respondents.

10 As to Respondents Southstar Funding LLC and Kirk Smith, the Presiding
11 Officer recessed the hearing until Friday, May 18, 2007 at 10:00 a.m. Due to
12 unavailability of the Presiding Officer on May 18, 2007, the hearing was
13 again recessed until Friday, May 25, 2007 at 10:00 a.m.

14 Staff Attorney James Shepard indicated Respondent Kirk Smith had signed
15 a Consent Agreement with the New Hampshire Banking Department. However,
16 Southstar Funding LLC failed to appear at the adjudicative proceeding.

17 **APPLICABLE RULE OF ADJUDICATORY PROCEEDINGS**

18 Failure of a licensee to appear in person or by representative at the
19 adjudicative proceeding shall constitute a default. *New Hampshire
20 Administrative Rule BAN 204.14(a).*

21 Further, *New Hampshire Administrative Rule BAN 204.14 (b)* provides:

- 22 (b) A default for failure to appear shall constitute:
- 23 (1) A waiver of the licensee's right to an adjudicative
24 proceeding;
 - 25 (2) Admission of the facts alleged; and
 - (3) Consent to the department's determination on the
matter.

