

		) Case No.: 09-132
1	In re the Matter of:	)
		)
2	State of New Hampshire Banking	)
		)
3	Department,	)
		) Order Re: Respondents' faxed letter
4	Petitioner,	) dated October 17, 2011
		)
5	and	)
		)
6	LHF Inc (d/b/a Pelham Auto Finance),	)
		)
7	and James Kemos,	)
		)
8	Respondents	)
		)
9		)

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I. PROCEDURAL BACKGROUND

LHF Inc. (d/b/a Pelham Auto Finance) ("LHF") and James Kemos ("Kemos") (Collectively "Respondents") were the subject of a Notice of Order ("Notice") and a Statement of Allegations ("Statement")<sup>1</sup> dated respectively, December 29 and December 30, 2009. Attorney Gregory Holmes acknowledged receipt of the Notice and the Statement by letter dated January 25, 2010. On behalf of the Respondents, Attorney Holmes requested a hearing but waived the 10-day requirement.

By letter dated June 3, 2010, Attorney Holmes advised the New Hampshire Banking Department ("Department") that he no longer represented the Respondents. Nevertheless, the Department sent a Notice of Hearing including a Notice of Order to Show Cause and Cease and Desist Hearing

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<sup>1</sup> The Presiding Officer notes that the Statement contains a number of allegations regarding correspondence with "Respondents' Counsel." Counsel is not identified and, in any event, the Department has not named the unidentified counsel as a party, assuming *arguendo* that the Department had jurisdiction over counsel.

1 ("Hearing Notice") to the Respondents and Attorney Holmes on October 7,  
2 2011.<sup>2</sup>

3 Attorney Holmes responded by letter dated October 14, 2011 repeating  
4 the statement in his June 3, 2010 letter. Also, on October 14, 2011, the  
5 Department sent a letter to the Respondents and Attorney Holmes alerting  
6 them that the Department had Witness and Exhibit Lists ("Lists") which could  
7 be produced prior to the hearing by signing a non-disclosure agreement or  
8 scheduling a time to view the documents at the Department.

9 **II. ATTORNEY HOLMES**

10 Attorney Holmes has effectively withdrawn from this matter and did so  
11 with a cc to Mr. Kemos and over a year before any hearing was scheduled. To  
12 the extent that Attorney Holmes June 3, 2010 constitutes a motion to  
13 withdraw, it is GRANTED. Attorney Holmes shall be removed from the service  
14 list.

15 **III. OCTOBER 17, 2011 FAX LETTER**

16 By facsimile, dated October 17, 2011 ("Fax"), Kemos made several  
17 assertions to the Presiding Officer regarding the hearing scheduled for  
18 October 26, 2011. Taken in the order raised in the Fax, the assertions are  
19 as follows:

- 20 1. The Respondents have not done business in New Hampshire since May,  
21 2009;
- 22 2. Some action took place to resolve some consumer complaints in the  
23 past;
- 24

25 <sup>2</sup> An Order delegating the undersigned as Presiding Officer was sent to Respondents and Attorney Holmes on October 10, 2011.

1 3. The Respondents have a file at their former law firm and have  
2 requested that it be produced. A letter to that effect, dated October  
3 14, 2011, is appended to the fax; and

4 4. Kemos is in the process of filing bankruptcy; is unemployed, and is  
5 under a 10-month home confinement in Massachusetts as a result of  
6 federal action along with five years probation and restitution.

7 The letter closes with an acknowledgment that "wrongs where (sic)  
8 done." Kemos then states that he is pleading with whoever may have  
9 discretion. Finally, he expresses concern about receiving his file from his  
10 former law firm "on time."

11 While the relief sought by the letter is not clear and the letter  
12 raises more questions than it answers,<sup>3</sup> one issue appears to be clear: a  
13 hearing is scheduled for October 26, 2011, the Respondents do not have the  
14 file from their former law firm, and may not have made arrangements to  
15 review the Lists prepared by the Department. I do not give much weight to  
16 the latter point, the Department's letter clearly spells out the options for  
17 receiving or reviewing the Lists, including, at the hearing. I am concerned,  
18 however, about timely receipt of the file allegedly located at the former  
19 law firm.<sup>4</sup> In order to alleviate any concern, I hereby continue the hearing  
20 scheduled for October 26, 2011. The Respondents are Ordered to contact the  
21 Department to elect whether and how to obtain the Lists. The Respondents are

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22  
23 <sup>3</sup> For example, has Kemos arranged with his probation officer to travel to New  
Hampshire for a hearing?

24 <sup>4</sup> NH RPC 1.13 conditions withdrawal of representation on "surrendering papers  
25 and property to which the client is entitled." Attorney Holmes and/or his  
former firm will undoubtedly comply with this rule but, in fairness to the  
Respondents, some time is necessary to effect the transfer.

