

1	In re the Matter of:	) Case No.: 10-184
		)
2	State of New Hampshire Banking	)
		)
3	Department,	)
		)
4	Petitioner,	) Order to Cease and Desist
		)
5	and	)
		)
6	Assets Recovery Center, LLC (d/b/a	)
		)
7	Assets Recovery Center of Florida),	)
		)
8	Daniel Ferdinand Coosemans, and John R.	)
		)
9	Olsen,	)
		)
10	Respondents	)

11                                    NOTICE OF ORDER TO CEASE AND DESIST ("ORDER")

12 1.     This Order commences an adjudicative proceeding under the provisions  
13 of RSA Chapter 397-B (including RSA 397-B:3,VIII and IX, and RSA 397-  
14 B:3,III) and RSA Chapter 541-A.

15 2.     The Commissioner may impose administrative penalties of up to  
16 \$2,500.00 for each violation. RSA 397-B:6,IV and V.

17                                    RESPONDENTS

18 3.     Assets Recovery Center, LLC (d/b/a Assets Recovery Center of Florida)  
19 ("Respondent ARC") is a limited liability company duly formed with the  
20 Florida Secretary of State on September 16, 2004. Respondent ARC was  
21 registered with the New Hampshire Secretary of State on October 12, 2007  
22 with a principal office location in Miami Beach, Florida. Respondent ARC is  
23 a Mortgage Servicing Company. RSA 397-B:1,III.

24 4.     Respondent ARC was registered as a Mortgage Servicer with the New  
25 Hampshire Banking Department ("Department") from January 28, 2008 to

1 December 31, 2009. Respondent ARC also filed for registration as a New  
2 Hampshire Mortgage Servicer on December 3, 2010 but withdrew its application  
3 on May 12, 2011.

4 5. Respondent ARC is registered with the Nationwide Mortgage Licensing  
5 System & Registry ("NMLS") and carries a number of licenses as follows:  
6 Alabama (approved Consumer Credit License); Arkansas (approved Mortgage  
7 Servicer License); District of Columbia (approved Mortgage Lender License);  
8 Iowa (approved Mortgage Banker License); Kansas (approved Mortgage Company  
9 License); Maryland (approved Mortgage Lender License); Massachusetts (Third  
10 {Party Loan Servicer Registration); Michigan (approved 1<sup>st</sup> Mortgage Broker  
11 /Lender/Servicer License and approved 2<sup>nd</sup> Mortgage Broker/Lender/Servicer  
12 Registrant); Minnesota (approved Residential Mortgage Servicer License);  
13 Nebraska (approved Mortgage Banker license); South Carolina (approved  
14 Mortgage Lender/Servicer License); South Dakota (approved Mortgage Lender  
15 License); and Tennessee (approved Mortgage License). The New Hampshire entry  
16 indicates it is an expired Mortgage Broker but the entry in NMLS for New  
17 Hampshire is inaccurate. See Paragraphs 3 and 4 above. Respondent ARC's  
18 Georgia Mortgage Lender License was denied with a status date of June 20,  
19 2011. Georgia had issued Orders to Cease and Desist against companies  
20 managed by Respondents Coosemans and/or Olsen.

21 6. Daniel Ferdinand Coosemans ("Respondent Coosemans") was the 50% owner  
22 and Managing Member of Respondent ARC when Respondent ARC was registered by  
23 the Department and during the application process. Respondent Coosemans is a  
24 Direct Owner (RSA 397-B:1,I-c), a Control owner (RSA 397-B:1,I-a) and a  
25 Principal (RSA 397-B:1,V).

1 7. John R. Olsen ("Respondent Olsen") was the 50% owner and Managing  
2 Member of Respondent ARC when Respondent ARC was registered by the  
3 Department and during the application process. Respondent Olsen is a Direct  
4 Owner (RSA 397-B:1,I-c), a Control owner (RSA 397-B:1,I-a) and a Principal  
5 (RSA 397-B:1,V).

6 8. The above-named Respondents are hereinafter collectively known as  
7 "Respondents."

8 **RIGHT TO REQUEST A HEARING**

9 9. Respondents have a right to request a hearing on this Order. A hearing  
10 shall be held not later than ten (10) days after the Commissioner receives  
11 the Respondent's written request for a hearing. Respondents may request a  
12 hearing and waive the ten (10) day hearing requirement. The hearing shall  
13 comply with RSA Chapter 541-A. RSA 397-B:3.

14 10. If any person fails to request a hearing within thirty (30) days of  
15 receiving this Order, then such person shall be deemed in default, and the  
16 Order shall, on the thirty-first (31<sup>st</sup>) day, become permanent, all  
17 allegations may be deemed true, and shall remain in full force and effect  
18 until modified or vacated by the Commissioner for good cause shown. RSA  
19 397-B:3.

20 11. A default may result in administrative fines as described in Paragraph  
21 2 above.

22 **STATEMENT OF ALLEGATIONS**

23 **Examination:**

24 12. On December 28, 2009, the Department's Examiners attempted to conduct  
25 an examination of Respondent ARC. On November 30, 2009, in preparation for

1 the examination, the Department mailed a Notice of Examination via U.S.  
2 Certified Mail return receipt requested to Respondents, which the  
3 Respondents received on December 3, 2009.

4 13. Respondents had 7 days (until December 10, 2009) to return a loan list  
5 to the Department, and an additional 14 days (for a total of 21 days) from  
6 thereon to submit the remaining documents and requested loan files. The loan  
7 list was not received by the Department until December 15, 2009.

8 14. On January 4, 2010, the Department submitted correspondence via U.S.  
9 Certified Mail return receipt requested to the Respondents requesting that  
10 Respondents return selected loan files and the completed Officer's  
11 Questionnaire within the remaining 9 days (total of 21 days to submit  
12 documents, of which 12 days were comprised of the late submittal of the loan  
13 list). Respondents received the request on January 27, 2010.

14 15. On February 24, 2010, the Department received a facsimile from an  
15 accounting agency that represented Respondent ARC. The correspondence  
16 indicated that Respondent ARC would be submitting information as soon as  
17 possible to respond to the Department's inquiry.

18 16. On April 2, 2010, the Department's Examiner in Charge contacted  
19 Respondents via email to require Respondents to return loan files and the  
20 completed Officer's Questionnaire to the Department and set a deadline of  
21 April 6, 2010. The Department received a telephone call from Respondent ARC  
22 indicating that the materials would be submitted to the Department by April  
23 9, 2010.

24 17. On April 9, 2010, the Department contacted Respondents via email and  
25 facsimile informing Respondents that they had until April 12, 2010 to return

1 the examination materials to the Department and that a failure to do so  
2 would result in a referral for enforcement action.

3 18. To date, Respondents have failed to produce the requested materials,  
4 in violation of RSA 397-B:9-a,VII.

5 19. To date, Respondents Coosemans and Olsen have failed to respond to the  
6 Department's written inquiries, in violation of RSA 397-B:4-b.

7 **Failure to Increase Surety Bond:**

8 20. As of July 31, 2009, New Hampshire Mortgage Servicers were required to  
9 obtain surety bonds in the amount of \$50,000.00. On June 16, 2009, the  
10 Department mailed a letter to Respondent ARC regarding the new law going  
11 into effect on July 31, 2009 pursuant to the implementation of the federal  
12 S.A.F.E. ("Secure and Fair Enforcement for Mortgage Licensing Act of 2008")  
13 Act.

14 21. On August 20, 2009, the Department submitted a reminder e-mail.

15 22. On October 1, 2009 and October 5, 2009, the Department attempted  
16 contact with Respondent Olsen, but the calls were not successful.

17 23. Respondents failed to obtain a \$50,000.00 surety bond for Respondent  
18 ARC in violation of RSA 397-B:4,V(a) as set by RSA 397-A:5,III(c).

19 **Failure to File Annual Reports:**

20 24. Respondents were required to file annual reports both in 2009 and  
21 2010. The 2008 annual report was due on March 31, 2009 and the 2009 annual  
22 report was due on March 31, 2010.

23 25. A reminder email was sent to Respondents on January 8, 2010.

24 26. To date, Respondents have failed to file the annual reports, in  
25 violation of RSA 397-B:4-a,III.

1 27. The statutory fine for failing to file an annual report is \$25.00 per  
2 day (with a maximum statutory fine of \$2,500.00). Respondents have failed to  
3 produce two annual reports and have incurred a statutory fine of \$5,000.00.

4 **Department Review of Respondents' Records post-December 3, 2010:**

5 28. During the Department's review of Respondent ARC's files pursuant to  
6 its Mortgage Servicer application filed with the Department on December 3,  
7 2010, the Department discovered the violations of failing to safeguard  
8 customer information and conducting unregistered activity. Those items are  
9 discussed below.

10 **Failure to Safeguard Customer Information:**

11 29. Respondent ARC did not provide a written information security program  
12 to the Department and acknowledged it did not have an annual privacy policy  
13 to provide borrowers and it did not have contracts in place with third party  
14 service providers. By failing to develop, implement and maintain a written  
15 information security program, Respondents violated RSA 397-B:2,II as  
16 referencing the Gramm-Leach-Bliley Act and Standards for Safeguarding  
17 Customer Information, 16 C.F.R. Section 314.3(a). By failing to issue an  
18 annual privacy policy to borrowers, Respondents violated RSA 397-B:2,II  
19 referencing the Gramm-Leach-Bliley Act - Privacy Statement.

20 **Conducting Unregistered Activity:**

21 30. As part of the pre-registration process in 2010, Respondents submitted  
22 four (4) borrower files to the Department for review. Respondent ARC was  
23 only registered with the Department as a Mortgage Servicer from January 28,  
24 2008 until December 31, 2009.

25 31. The Department observed unregistered activity in the loan servicing

1 notes for Consumer A, a New Hampshire consumer. The notes were dated from  
2 January 4, 2010 to May 5, 2011. Respondents collected a total of \$6,035.60  
3 (comprised of \$301.80 in late charges and \$5,733.80 in interest) while  
4 unregistered, which should be returned to Consumer A. Respondents conducted  
5 unregistered mortgage servicer activity on the Consumer A loan, in violation  
6 of RSA 397-B:4,I(a).

7 32. The Department observed unregistered activity in the loan servicing  
8 notes for Consumer B, a New Hampshire consumer. The notes were dated from  
9 January 7, 2010 to May 9, 2011. Respondents collected a total of \$5,681.91  
10 (comprised of \$4,155.11 in late charges and \$1,526.80 in interest) while  
11 unregistered, which should be returned to Consumer B. Respondents conducted  
12 unregistered mortgage servicer activity on the Consumer B loan, in violation  
13 of RSA 397-B:4,I(a).

14 33. The Department observed unregistered activity in the loan servicing  
15 notes for Consumer C, a New Hampshire consumer. The notes were dated from  
16 January 5, 2010 to May 6, 2011. Respondents collected a total of \$2,166.75  
17 (comprised of \$125.88 in late charges and \$2,040.87 in interest) while  
18 unregistered, which should be returned to Consumer C. Respondents conducted  
19 unregistered mortgage servicer activity on the Consumer C loan, in violation  
20 of RSA 397-B:4,I(a).

21 34. The Department observed unregistered activity in the loan servicing  
22 notes for Consumer D, a New Hampshire consumer. The notes were dated from  
23 January 7, 2010 to May 3, 2011. Respondents collected a total of \$9,166.66  
24 (comprised of \$430.74 in late charges, \$7,227.48 in interest and \$1,508.44  
25 in charges on the principal) while unregistered, which should be returned to





1 monies charged, collected and waived (if applicable). The list shall also be  
2 accompanied by all contracts, checks to and from the consumer and any other  
3 documents in the New Hampshire consumers' files;

4 c. Respondents shall immediately provide (as each loan is  
5 transferred) proof of transfer of such New Hampshire serviced mortgage loans  
6 to a third party servicer, who is registered or licensed with the New  
7 Hampshire Banking Department and has an active surety bond;

8 d. Respondents shall hereby be administratively fined a maximum of  
9 \$2,500.00 per violation (as stated in Counts below) as follows:

10 (1). Respondent ARC:

11 Violation #1: Failure to provide requested materials (RSA  
12 397-B:9-a,VII) - 1 Count;

13 Violation #2: Fail to obtain surety bond (RSA 397-B:4,V(a)  
14 as set by RSA 397-A:5,III(c)) - 1 Count;

15 Violation #3: Failure to file annual report (RSA 397-B:4-  
16 a,III) - 2 Counts;

17 Violation #4: Failure to develop, implement and maintain a  
18 written information security program (RSA 397-B:2,II as  
19 referencing the Gramm-Leach-Bliley Act and Standards for  
20 Safeguarding Customer Information, 16 C.F.R. Section  
21 314.3(a)) - 1 Count;

22 Violation #5: Failing to issue an annual privacy policy to  
23 borrowers (RSA 397-B:2,II referencing the Gramm-Leach-  
24 Bliley Act - Privacy Statement) - 1 Count;

25 Violation #6: Unregistered mortgage servicer activity (RSA

1 397-B:4,I(a)) - 4 Counts;

2 (2). Respondent Coosemans (as Direct Owner, Control owner, and  
3 Principal):

4 Violation #1: Failure to respond to Department inquiries  
5 (RSA 397-B:4-b) - 1 Count;

6 Violation #2: Failure to file annual report (RSA 397-B:4-  
7 a,III) - 2 Counts;

8 Violation #3: Failure to develop, implement and maintain a  
9 written information security program (RSA 397-B:2,II as  
10 referencing the Gramm-Leach-Bliley Act and Standards for  
11 Safeguarding Customer Information, 16 C.F.R. Section  
12 314.3(a)) - 1 Count;

13 Violation #4: Failing to issue an annual privacy policy to  
14 borrowers (RSA 397-B:2,II referencing the Gramm-Leach-  
15 Bliley Act - Privacy Statement) - 1 Count;

16 Violation #5: Unregistered mortgage servicer activity (RSA  
17 397-B:4,I(a)) - 4 Counts;

18 (3). Respondent Olsen (as Direct Owner, Control owner, and  
19 Principal):

20 Violation #1: Failure to respond to Department inquiries  
21 (RSA 397-B:4-b) - 1 Count;

22 Violation #2: Failure to file annual report (RSA 397-B:4-  
23 a,III) - 2 Counts;

24 Violation #3: Failure to develop, implement and maintain a  
25 written information security program (RSA 397-B:2,II as

1 referencing the Gramm-Leach-Bliley Act and Standards for  
2 Safeguarding Customer Information, 16 C.F.R. Section  
3 314.3(a)) - 1 Count;

4 Violation #4: Failing to issue an annual privacy policy to  
5 borrowers (RSA 397-B:2,II referencing the Gramm-Leach-  
6 Bliley Act - Privacy Statement) - 1 Count;

7 Violation #5: Unregistered mortgage servicer activity (RSA  
8 397-B:4,I(a)) - 4 Counts;

9 e. Nothing in this Order:

10 (1). shall prevent the Department from taking any further  
11 administrative and legal action as necessary under New Hampshire law; and

12 (2). shall prevent the New Hampshire Office of the Attorney  
13 General from bringing an action against the above named Respondents in any  
14 New Hampshire superior court, with or without prior administrative action by  
15 the Commissioner.

16  
17 **SO ORDERED.**

18  
19 \_\_\_\_\_ /S/  
20 RONALD A. WILBUR  
21 BANK COMMISSIONER

Dated: 02/21/2012