

1 State of New Hampshire Banking Department

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

11 Respondents

12 NOTICE OF HEARING

13 1. The Department issued to the above named Respondents a Notice of Order to
14 Cease and Desist on February 21, 2012. RSA Chapter 541-A and RSA Chapter
15 397-A require the Department to schedule a hearing on such matter within ten
16 (10) calendar days of a written request for hearing unless otherwise waived
17 by the Respondents. On March 28, 2012, Pierce Atwood, LLP filed a timely
18 request for hearing and waived the ten (10) day rule on behalf of
19 Respondents Assets Recovery Center, LLC (d/b/a Assets Recovery Center of
20 Florida), Daniel Ferdinand Coosemans, and John R. Olsen ("Respondents").

21 2. On May 15, 2012, the Respondents filed a Response and Objection to Order
22 to Cease and Desist ("Response") primarily raising procedural arguments and
23 seeking an order vacating the Order to Cease and Desist.

24 3. On May 29, 2012, the Department filed a Request for Thirty Days to
25 Respond. The Request was held for thirty (30) days to allow the Respondents

1 to file an objection. Jus 806.01(c). No objection was filed. The Request
2 was granted July 10, 2012. The Response was filed on July 16, 2012.

3 4. It is necessary to hold a hearing to rule on the pleadings. While there
4 are a number of legal arguments, there are also factual disputes. For
5 example, the Respondents allege that the Department never issued a report of
6 examination setting forth the findings under RSA 397-B:9-a, VIII. Response
7 page 2. The Department asserts that it did issue a report of examination on
8 April 19, 2010 and that Respondents received it on May 19, 2010. Objection
9 page 2.

10 IT IS HEREBY ORDERED that:

11 5. Respondents shall appear on a mutually agreeable time and date no later
12 than February 15, 2013, at the New Hampshire Banking Department located at
13 53 Regional Drive, Suite 200, Concord, New Hampshire 03301, for the purpose
14 of participating in an adjudicative proceeding, at which time Petitioner
15 will have the burden of setting forth a prima facie case by a preponderance
16 of the evidence why the relief sought in the Order to Cease and Desist and
17 Response should become permanent. To the extent that the Respondents move
18 to Vacate the Order, they shall bear the burden of proof. Jus 812.02.

19 6. The Hearing shall be conducted under the relevant provisions of RSA 541-
20 A, Title XXXV, the Jus 800 rules and all relevant Ban rules.

21 7. The Department's alleged violations against Respondents are contained in
22 the Order to Cease and Desist and the Response.

23 8. Each party has the right to have an attorney present to represent the
24 party at the party's expense, or may represent itself or himself.

25 9. Maryam Torben Desfosses, New Hampshire Banking Department has been
designated as Hearings Examiner in this matter by the Department with

1 authority to represent the public interest within the scope of the
2 Department's authority. The Hearings Examiner shall have the status of a
3 party to this proceeding.

4 10. Stephen J. Judge has been delegated to preside over this matter pursuant
5 to RSA 383:7-a and see also RSA 541-A:1,XV.

6 11. Any proposed exhibits shall be pre-marked, for identification only,
7 filed with the Presiding Officer and provided to the opposing party 10 days
8 before the Hearing. The Hearings Examiner shall pre-mark the Department's
9 exhibits with Arabic numbers. Respondents shall pre-mark exhibits with
10 capital letters. An index/list of exhibits providing a brief description of
11 each exhibit with its corresponding pre-marked number or letter shall be
12 filed by both parties simultaneous with the filing of exhibits.

13 12. The parties shall also exchange a list of all witnesses to be called at
14 the hearing with a brief summary of the anticipated testimony 10 days before
15 the Hearing and shall at the same time file a copy of their respective lists
16 with the Presiding Officer.

17 13. All periods referenced in this notice shall be calendar days. If the
18 last day of the period so computed falls on a Saturday, Sunday, or legal
19 holiday, then the time period shall be modified to include the first
20 business day that is not a Saturday, Sunday, or legal holiday.

21 14. Respondent's failure to appear at the time, date, and place specified
22 may result in the hearing being held *in absentia* and/or a default ruling in
23 favor of the Department, without further notice or opportunity to
24 be heard.

25 15. The entirety of all verbal proceedings shall be recorded verbatim by the
Department. Upon request of any party, or upon the Presiding Officer's own

1 initiative, such record shall be transcribed by a certified court reporter
2 designated by the Presiding Officer, and all costs shall be borne solely by
3 the requesting party.

4 16. Each party has the right to have the Department provide a certified
5 shorthand court reporter at the requesting party's expense. Any such request
6 shall be submitted in writing to the Presiding Officer immediately upon
7 receipt of this Notice.

8 17. All documents shall be filed with the Presiding Officer in the form of an
9 original and one (1) copy and shall bear a certification that a copy is being
10 delivered to the Hearings Examiner and any other parties to this matter in
11 accordance with applicable laws. All documents shall be filed by mailing or
12 delivering them to the New Hampshire Banking Department, ATTN: Presiding
13 Officer 10-184, 53 Regional Drive, Suite 200, Concord, NH 03301. Filing by
14 electronic transmission shall be accepted. The Presiding Officer can be
15 reached at gail.bartlett@banking.state.nh.us.

16 19. The parties may submit Proposed Orders, which shall include findings of
17 fact and conclusions of law, separately stated, no later than ten (10) days
18 following conclusion of the hearing in this matter.

19 20. Routine procedural inquiries may be made by telephoning Maryam Torben
20 Desfosses, Hearings Examiner at (603)271-3561, but all other communications
21 with the Presiding Officer and with the Department shall be in writing and
22 shall be filed as provided above. *Ex parte* communications are forbidden by
23 statute.

1 21. A copy of this Notice of Hearing shall be mailed to all named
2 Respondents, and a copy shall also be delivered to Maryam Torben Desfosses,
3 Hearings Examiner.

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SO ORDERED,



Stephen J. Judge, Esquire
Presiding Officer

12/5/12
Date