

1 State of New Hampshire Banking Department

| | | |
|----|------------------------------------|-----------------------------------|
| 2 | In re the Matter of: |)Case No.: 09-026 |
| | |) |
| 3 | State of New Hampshire Banking |) |
| | |) |
| 4 | Department, |)Order to Show Cause |
| | |) |
| 5 | Petitioner, |) |
| | |) |
| 6 | And |)Motion to Dismiss Penalties and |
| | |)Strike Default Judgment |
| 7 | Automart of New England Inc (d/b/a |)(as to Daniel J. Nickerson only) |
| | |) |
| 8 | Automart of New England and d/b/a |) |
| | |) |
| 9 | Automart of Plaistow), Jeffrey G. |) |
| | |) |
| 10 | Legendre, and Daniel J. Nickerson |) |
| | |) |
| 11 | Respondents |) |
| | |) |

12
13 MOTION TO DISMISS PENALTIES AND STRIKE DEFAULT JUDGMENT

14 Now comes Maryam Torben Desfosses, on behalf of Petitioner in the above
15 captioned case, and moves to dismiss the penalties in the Order to Show Cause
16 ("Order") and strike the Default Judgment ("Default") relating to Respondent
17 Daniel J. Nickerson ("Respondent Nickerson") in this matter and states as
18 follows:

- 19 1. The Respondent Nickerson was properly served with the Order in this
- 20 matter on or about March 30, 2009 via hand delivery and again on or
- 21 about May 7, 2009 via U.S. Certified Mail Return Receipt requested.
- 22 2. A Default Judgment was issued on June 8, 2009.
- 23 3. Since the advent of the Order and Default, the above named Respondent
- 24 Nickerson has provided the Department with additional information
- 25 including information reflecting the change in ownership and change of
- registered agent rendering Respondents Nickerson's liability in this

1 matter moot.

2 4. A Motion to Dismiss the Penalties and Strike the Default Judgment was
3 filed by Respondent Nickerson's Counsel.

4 5. Based on the above factors and as a sign of good faith and
5 administrative efficiency, the Petitioner now wishes to dismiss the
6 penalties against Respondent Nickerson within the Staff Petition that
7 initiated the Order.

8 6. Based on the above factors and as a sign of good faith and
9 administrative efficiency, the Petitioner now wishes to strike the
10 Default Judgment against Respondent Nickerson.

11 WHEREFORE, Petitioner respectfully prays

12 A. The Commissioner dismiss the penalties against Respondent Nickerson in
13 the Order to Show Cause in this case;

14 B. The Commissioner strike the Default Judgment against Respondent
15 Nickerson in this case; and

16 C. Grant such further relief as is just and in the public interest.

17 Respectfully submitted by:

18 _____
19 /s/ Maryam Torben Desfosses
20 Hearings Examiner

21 01/06/10
22 Date

23 **ORDER**

24 Finding it in the public interest, the requested relief is hereby **GRANTED**.

25 The penalties against Respondent Nickerson in the Order to Show Cause in 09-
026 are hereby **DISMISSED** and the Default Judgment against Respondent Nickerson
in 09-026 is hereby **STRICKEN** this 8th day of January, 2010.

/s/ PETER C. HILDRETH
BANK COMMISSIONER