

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 to Strike the Default Judgment  
 ) Against Respondent Toni Ward  
 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

12  
13  
14 Default Judgment

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  
 22 New Hampshire Banking Department Staff Attorney James Shepard.

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

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1 Department consent), were granted a continuance of the hearing on April 11,  
2 2007. The new hearing date was Friday, May 11, 2007 at 10:00 a.m. at the New  
3 Hampshire Banking Department.

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

11 **APPLICABLE RULE OF ADJUDICATORY PROCEEDINGS**

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

15 Further, *New Hampshire Administrative Rule BAN 204.14 (c)* provides that  
16 the presiding officer may strike a default based upon the written request of  
17 the licensee and upon good cause shown. Pursuant to *New Hampshire*  
18 *Administrative Rule BAN 204.14(e)*, should the presiding officer grant the  
19 request to strike the default judgment, the New Hampshire Banking Department  
20 shall give a notice of a re-scheduled hearing in accordance with *New*  
21 *Hampshire Administrative Rule BAN 204.04*.

22 **MOTION OF TONI WARD TO STRIKE THE DEFAULT ORDER**

23 Ms. Ward indicates that her employment (as Vice President of SouthStar  
24 Funding, LLC) was terminated on April 3, 2007. She indicates her chief  
25 duties focused on compliance but she was not the sole Vice President of  
26 SouthStar.

27 Though Ms. Ward was named as the contact person for SouthStar Funding,  
28 LLC's license with the State of New Hampshire Banking Department, she was not  
29 in a position of controlling the financial aspects of SouthStar Funding, LLC  
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1 and did not directly or indirectly have control over such finances. Pursuant  
2 to Ms. Toni Ward's statements and those made in the Kirk Smith Affidavit  
3 attached to the Motion of Toni Ward to Strike Default Order.

4 Staff Attorney James Shepard has submitted his Response to Motion to  
5 Strike Default. He has no objection to the granting of the motion to strike  
6 the default given the new facts raised in the accompanying affidavit to the  
7 motion.

8 **FINAL ORDER**

9 Based on the Motion of Toni Ward to Strike Default Order, the Affidavit  
10 of Kirk Smith and the Response by Staff Attorney James Shepard, it is  
11 ORDERED, that:

- 12 1. The New Hampshire Banking Department hereby strikes the Default  
13 Judgment entered against then Defaulting Respondent Toni Ward on May  
14 11, 2007;
- 15 2. The New Hampshire Banking Department hereby strikes any administrative  
16 fines ordered to be paid by then Defaulting Respondent Toni Ward; and
- 17 3. Pursuant to *New Hampshire Administrative Rule BAN 204.14(e)*, the New  
18 Hampshire Banking Department shall give notice of a re-scheduled  
19 hearing in accordance with *New Hampshire Administrative Rule BAN  
20 204.04*.

21 SIGNED,

22 Dated: 7/6/07

23 \_\_\_\_\_  
24 /s/  
25 PETER C. HILDRETH  
BANK COMMISSIONER