State of New Hampshire Banking Department

In re the Matter of: **State of New Hampshire Banking Department, Petitioner,** **and** **Assets Recovery Center, LLC (d/b/a Assets Recovery Center of Florida), Daniel Ferdinand Coosemans, and John R. Olsen,** **Respondents**	)	**Case No.: 10-184** **Merits Order**

ORDER

I. INTRODUCTION

The Respondent Assets Recovery Center, LLC ("ARC") was registered as a New Hampshire corporation in October, 2007. Exhibit 1b. ARC applied for registration as a New Hampshire mortgage servicer on December 18, 2007. *Id*.; Exhibit 12. It was registered as a mortgage servicer company by the Department on January 28, 2008 and the registration was renewed on January 1, 2009, effective until December 31, 2009. Exhibit 1b; Exhibit 2a; Exhibit G; RSA 397-B. The Respondents, Mr. Olsen and Mr. Coosemans, were, at all relevant times, owners and principals as those terms are defined in RSA 397-B. Exhibit 1a; Exhibit 1b; Exhibit 2b; Exhibit 4. ("Respondents" collectively Mr. Coosemans, Mr. Olsen and ARC)

A Report of Examination ("Report") was concluded by the Department on April 20, 2010. Exhibit J. The Report was sent on May 14, 2010, by certified mail to Respondents who received it on May 19, 2010. *Id.* Respondents failed to respond to the Report which was then accepted by the commissioner and filed. Objection to Motion to

Vacate, Paragraph 2; Hearing Transcript p. 21 and 22; RSA 397-B:9-a (IX). Based in part on the uncontested facts in the Report, a Cease and Desist Order was issued on February 21, 2012. This Order is based on the exhibits, the pleadings and a hearing held on February 12, 2013[1].

II. FACTS

A. Stipulation

I begin with a discussion of several concepts including the role of a presiding officer, the definition of the facts, the record and the use of stipulations.

As Presiding Officer, I am authorized, among other things, to conduct the hearing and complete the record in a fair and timely manner. Jus 803.01(g). Usually the facts in a proceeding are determined based on documentary evidence, testimony taken under oath, or official notice. RSA 541-A:33; Jus 802.03; Jus 812.04.

The record includes, as relevant here, evidence received or considered. RSA 541-A:31(VI)(c). It also includes pleadings, motions, objections and rulings. *Id*. at 541-A:31 (VI). Evidence is testimony, documents or matters officially noticed. RSA 541-A:33; Jus 812.04. The facts are determined when the record is complete by weighing the evidence guided by the burden of proof. RSA 541-A:31(VIII). In this case, the Department has the burden of proof. Where, as here, the parties file post hearing pleadings, the record is not complete until after filing and can be reopened to allow necessary evidence at any time prior to the issuance of the decision on the merits. Jus 812.07.

[1] RSA 397-A:18, II requires an order be issued within 20 days of the hearing. I thank the parties for waiving this requirement. Among other things, one of my cases was decided by the United States Supreme Court in June, 2013 and a complex commercial litigation matter that began in 2011 was not resolved until April, 2015. Moreover, I note that the Respondents post hearing pleading contains a total of 185 Requests for findings of fact and rulings of law.

There is an alternative to this process. The parties may enter into a stipulation of facts. RSA 541-A:31(V)(c) describes stipulations or admissions as to issues of fact or proof by consent of the parties. Jus 807.05 (c).

Thus, the facts are determined by the evidence contained in the record. The record includes argument, pleadings and rulings of law. It may also include a stipulation of facts.

If the parties choose to use a stipulation, it may be for less than the universe of facts. It may cover only a discreet issue of fact. Or, it may be sufficient to determine all necessary findings of fact.

B. The Stipulation in This Case

This matter was presented through a "stipulation of facts" consisting of the agreement of the parties that certain identified documents were true and accurate and marked as Exhibits A through P. This pleading was filed on January 30, 2013 and, in addition to the documents, contains two relevant facts: ARC submitted an application for mortgage servicer registration in December, 2010, para. 15, and, ARC continued to collect mortgage loan payments from four New Hampshire borrowers after the expiration of its registration. Para. 17. On January 31, 2013, the Department filed another exhibit list marked 1 through 13. All of these exhibits became full exhibits.

In an email, on February 1 at 10:55 A.M., after reviewing the exhibits filed by the Department, Respondents stated "These documents, reviewed in the aggregate, present a comprehensive set of communications by and between the Department and the Respondents and <u>should suffice, as to any necessary findings of relevant fact,</u> leaving counsel to present competing argument and Memoranda of Law on the legal issues

raised...." "Again, we remain unaware of any disputed issues of fact. Indeed, where, as here, there are no disputed issues of fact, the presentation of fact witnesses … advances no ostensible purpose." P.O. Exhibit I. (emphasis added)

At the pre-hearing conference, however, counsel for Respondents argued that no "new" evidence could be introduced "…because the parties have stipulated that the record is complete. If the record is complete, and there is a fact missing, then you must find for the Respondent[s] in our view." Pre-Hearing Conference p. 31, lines 2-6.

At the hearing, counsel for Respondents objected to the introduction of certain evidence and took the position that "…if a document isn't in the record, it doesn't represent a disputed issue of fact, it represents a fact that the Department should have raised in the stipulation." Hearing Transcript p.120, lines 12-15. The Respondents referred back to the argument that because the record was "complete," the Department was estopped from introducing additional evidence. Even if the Parties agreed, prior to the hearing, that the record was complete, it is not closed until after the hearing. Jus 812.06(a). The record was not closed during this hearing.

Because of the potential that there were missing facts, the Department introduced Exhibit 14 which I allowed over Respondents' objection. Respondents countered with Exhibit Q which was admitted without objection. I created Exhibit Roman Numeral P.O. I. to capture the pre-trial correspondence.

Based on my analysis of the legal issues, there is a fact indirectly included in the exhibits, contained in the record in a pleading and confirmed in the transcript. There is no dispute about it. It is an absence of action, and therefore it has no supporting document. The support comes from the absence of a document. It is contained in the

Department's Objection to Motion to Vacate, page 2, paragraph 2. It is implied in Exhibit 12 p.1-2 regarding the Report (lost by a person in our mailing department). It was conceded on the record. Transcript p. 21 and 22. I find that the Respondents received the Report and failed to request a closed hearing or any hearing.

There is one factual issue regarding the Gramm Leach Bliley Act ("GLBA") that I resolve in favor of the Respondents because the facts provided are not sufficient for me to make the finding that the Department requests. There is another issue in which I resolve the factual dispute in favor of the Department but I deny the legal argument.

In reaching my decision, I did not rely on Exhibit 14, Exhibit Q or my Exhibit P.O. I. I did not need to reach the issue of whether the Department can agree to close the record and thus be precluded from producing any "new" evidence. I have already discussed and dismissed the argument that the parties have the ability to determine that the record is complete. They do not. For the benefit of the Parties, I did analyze the legal effect of a party submitting a stipulation sufficient to determine all necessary facts.

"[S]tipulations are highly favored in our judicial system as a means of expediting a trial and eliminating the necessity of much tedious proof." *Chao v. Hotel Oasis, Inc*., 493 F.3d 26, 32 (1st Cir. 2007) (internal citations omitted). Furthermore, courts are hesitant to disregard or set aside the stipulations made during trial. *Id*.

Once the parties have entered into a stipulation, they may not extricate themselves unless it becomes apparent that the stipulation may inflict a manifest injustice upon one of the contracting parties. *Id*. In order to be relieved of a stipulation, "good reason must exist and . . . relief must not unfairly prejudice the opposing party or the interests of justice." *Id*. A stipulation may be set aside, for example, if it becomes evident that the

agreement was made under a clear mistake. *Id*. In *Chao v. Hotel Oasis, Inc*., the defendants failed to demonstrate any extenuating or grievous circumstances which might have justified setting their stipulation aside, and the First Circuit upheld the stipulation. *Id*. at 30. The court reiterated that, where there is no evidence of a manifest injustice, the party is bound by its actions. *Id*.

Under the doctrine of equitable estoppel, a party is barred from denying or alleging a certain fact due to that party's prior conduct, allegation or denial. *In re Appeal of Stanton,* 147 N.H. 724, 730 (2002). Such doctrine applies if the party made a representation of material facts with knowledge of those facts and the party to whom the representation was made relied upon that representation without realizing the truth of the matter. *Id*. at 729-30.

In this case, Respondents took the position that certain facts must be excluded despite their statement that all the necessary facts were contained in the stipulation. Respondents argued that if there were facts missing from the record, the Department was responsible for the omission, and the Department had therefore failed to satisfy its burden of proof. Hearing Record at 120.

As I previously stated, all necessary facts are in the record. If there were additional facts offered by the Department, absent any manifest injustice, Respondents would not be extricated from the stipulation that they entered with the Department and confirmed with me. Accordingly, Respondents would be estopped from arguing that the Department is prohibited by the stipulation from offering additional facts. That situation did not arise. The pleadings, documents and stipulations provided by the parties prior to

the hearing buttressed by the confirmation on the record are sufficient for me to make the necessary factual determinations.

C. Facts

The Respondent ARC was registered as a New Hampshire corporation in October 2007. Exhibit 1b. ARC applied for a registration as a New Hampshire mortgage servicer on December 18, 2008. *Id.*; Exhibit 12. It was registered as a mortgage servicer company by the Department on January 28, 2008 and the registration was renewed on January 1, 2009, effective until December 31, 2009. Exhibit 1b; Exhibit 2a; Exhibit G; RSA 397-B. Mr. Olsen and Mr. Coosemans were, at all relevant times, owners and principals as those terms are defined in RSA 397-B. Exhibit 1a; Exhibit 1b; Exhibit 2b; Exhibit 4.

On February 26, 2009, Respondents received an email from the Department disallowing a request to transfer to a Mortgage Broker license. Exhibit G. On December 2, 2009, Respondents emailed the Department about its registration status indicating that it believed that registration issues had been resolved as the result of an email dated June 12, 2009. *Id*. The June 12, 2009 email is not part of the record. In Exhibit G, Respondents questioned whether there were outstanding issues and offered to satisfy any deficiencies. *Id*. Respondents also admitted that ARC was not registered correctly on the NMLS. *Id*. A copy of the NMLS registration for Respondents is contained at Exhibit 3 and indicates that, as of January 1, 2010, ARC had an expired New Hampshire Mortgage Broker license.

1. <u>Surety Bond Issue</u>

Respondents received a communique from the Department dated June 16, 2009, containing a notification that Respondents had to file a $50,000 surety bond with the

Department by July 31, 2009. Exhibit 7. A reminder was sent on August 20, 2009. Exhibit 8. The Department referred the bond issue to its legal division on October 12, 2009. Exhibit 2a; Exhibit 2b. The Department notified Respondents on December 2, 2009 that they had failed to supply the surety bond and required the bond and a new application as a mortgage servicer. Exhibit G. Respondents did not secure the bond in final form and provide it to the Department until January 12, 2011. Exhibit 9.

Respondents applied for renewal of registration as a Mortgage Servicer on December 3, 2010. Exhibit 2b; Stipulation, paragraph 15. The Department identified a continued issue with the bond and expressed that issue in a letter dated December 14, 2010. Exhibit 9. In the same letter, the Department also notified Respondents of a new requirement that a mortgage servicer have a licensed loan originator as of July 1, 2011.

2. Gramm Leach Bliley

Respondents withdrew the application by May 12, 2011 because, in attempting to complete the officer questionnaire, they acknowledged that they did not have an annual privacy policy sent to customers or internal audit Reports. Exhibit 2b; Exhibit H; Exhibit L.

3. 2008-2009 Annual Report

The Department sent an email to Respondent Mr. Olsen on January 8, 2010 as Respondents' representative providing a mechanism to file the 2009 Annual Report electronically and emphasizing that the Annual Report was due by April 1, 2010. Exhibit 10. By statute, Respondents were required to file the 2009 Annual Report by March 31, 2010. *Id*.; RSA 397-B:4-a(III). The examination Report concluded that Respondents failed to file a 2008 or 2009 Annual Report. Exhibit J, p. 4.

4. 2009 Notice of Examination

The Department issued a Notice of Examination ("Notice") dated November 30, 2009 notifying Respondents that an examination was "planned." Exhibit A. The Notice required the production of documents "within seven (7) calendar days of receipt" to facilitate the exam. *Id*. The Notice was received by Respondents on December 3, 2009. Exhibit B. Respondents acknowledged receipt of the Notice on December 4, 2009 and agreed to begin providing the requested information but questioned the process for compliance. Exhibit B. The Department provided guidance on the process via email later in the day on December 4, 2009. Exhibit C. Respondents admitted that the failure to provide information in the requested manner was due to "some problem in our internal IT system," but began to provide information via email, including a loan list on December 14, 2009 and audited financial statements for 2008. Exhibit D. By December 21, 2009, Respondents emailed the Department and stated that they sent "the last requirement that was pending as part of the examination process." Exhibit E. The email had an attachment titled 2008 archive tax return. *Id*. This attachment was not made part of the record. Later the same day, the Department acknowledged receipt of the email. Exhibit F.

5. 2009 Examination Conducted

On January 4, 2010, the Department provided notice to Respondents by certified mail that the planned examination "has been scheduled and will be conducted at the Department." Exhibit H. ("Examination") The certified mail required that Respondents provide a completed officer's questionnaire ("Questionnaire") as well as other documents. Exhibit H. Through their accountants, Respondents acknowledged receipt of the January 4, 2010 certified mail in a fax dated February 24, 2010. Exhibit I.

Respondents' agents described the path of the certified letter: received at the Respondents Miami office on January 27, 2010: forwarded to the Respondents main office by February 12, 2010; person responsible out of the country; and, forwarded to the accountants "last week" when they were in Tampa. *Id*. The fax concluded that Respondents "…has this information gathered and will be submitting as soon as possible to answer your inquiry." *Id*. (emphasis added). The Respondents were notified by email dated April 2, 2010 that they had failed to provide the Questionnaire and other requested material and were given a new deadline of April 6, 2010. Exhibit 5. Additional notice was provided to Respondents dated April 9, 2010 with another new deadline of April 12, 2010. Exhibit 6. On April 9, 2010, an agent of Respondents, Caroline Bennett, apologized for the delay and stated that "we are working to submit this package by 4/12/2010." *Id.*

The Respondents failed to provide the requested materials and files prior to the Examination conducted on April 19, 2010 and approved on April 20, 2010. Exhibit J. The four issues relevant here and identified in the Report as of April 19, 2010, are:

1) Respondents: Failure to Facilitate the Exam because the loan files and completed Questionnaire were not provided. Exhibit J p. 2; RSA 397-B:9-a, VII; Order paragraph 36 (d)(1) Violation #1.
2) Coosemans and Olson: Failure to respond because the loan files and completed Questionnaire were not provided. Exhibit J p. 3; RSA 397-B:4-b; Order paragraph 36 (d)(2) and (3) Violation #1.

3.) Respondents: Failure to Meet the Surety Bond Requirements on July 31, 2009, the effective date of RSA 397-B:4,V, 397-A:5, III; Exhibit J p. 3; Order paragraph 36 (d)(1) Violation #2; and,

4.) Respondents: Failure to File Annual Reports in 2008 and 2009; Exhibit J p. 3; Order paragraph 36 (d)(1) Violation #3.

6. Failure to Request a Hearing

On May 14, 2010, the Report was sent to Respondents via certified mail with an invoice for the cost of the examination. Exhibit J. In the May 14, 2010 letter, the Department asked for a response in writing "no later than 30 days from the receipt of the Report." Exhibit J; RSA 397-B:9-a(VIII) (Thirty days to respond to the Report in writing). The Report was received by Respondents on May 19, 2010. Exhibit J. Respondents failed to respond within thirty days of receipt of the Report and failed to request a hearing. Exhibit 12; Objection paragraph 2; Transcript p. 21, line 16-20, p. 22, lines 2-4. The Department sent a second notice dated June 9, 2010. Respondents' Response and Objection to Order to Cease and Desist, Exhibit A ("Response"). Respondents paid for the examination by a check dated June 23, 2010 that was received by the Department on July 12, 2010. Exhibit K; Exhibit 11.

The Respondents filed a Response and Objection in this matter dated May 15, 2012. The initial argument alleges that "The Department never issued a Report of examination." P.3. The Department "… issued no Report of examination and offered Respondents no opportunity to be heard…." P. 5. The Response contains the examination fee paid by Respondents on June 23, 2010 at Exhibit A. The Response

demands that the Order to Cease and Desist be vacated immediately because the Respondents were deprived of their right to a closed hearing. P. 26

The Department objected on July 16, 2012 and stated that it did issue a Report received by Respondents on May 19, 2010, the Respondents paid the examination fee and never requested a closed hearing or any hearing. Paragraph 2.

I issued an order on December 5, 2012, denying the demand that the Cease and Desist Order be immediately vacated. I also observed that it was necessary to hold a hearing because there were factual disputes. The dispute I specifically identified was that Respondents claimed that the Department never issued a Report. The Department claimed that it did issue a Report that was received by Respondents and no hearing was requested.

As discussed below, the failure to request a hearing after receipt of the Report is a dispositive fact. The Respondents filed a Motion for Reconsideration ("Motion") after receiving the Department's objection and my Order. Respondents failed to correct or even acknowledge the disputed factual issue that they received a Report and did not request a hearing. Instead, Respondents asserted in the Motion that the legal issues identified in the Response "involve no questions of fact" and are outcome-dispositive. As a result, "…no hearing is required…." "These objections involve no disputed facts but only questions of law, and cover every count of the Order to Cease and Desist." Motion p. 1-2

The stipulation of facts contains the Report and the receipt establishing that Respondents received the Report. It does not directly contain the fact that Respondents failed to request a hearing. The Objection alleges that Respondents failed to request a

hearing. The Department provided Exhibit 12 in which Respondents concede that the Report was received and lost. This dispositive fact was confirmed by Respondents after I asked Respondents' counsel the direct question: did your client request a closed hearing? Transcript p. 21 lines 14-15. (Respondents did not request a hearing.)

I hold that the record supports a finding that the Respondents received the Report and failed to request a hearing. If there be any doubt about the state of the record, the Respondents are estopped from denying that no hearing was requested because of their assertion, after I highlighted the factual dispute in my order, that the Department's Objection contains "no disputed facts."

D. Respondents' Admissions

The next chronological exhibit from Respondents is dated April 13, 2011, almost a year later, an email that refers to a phone conversation with the Department on April 12, 2011. Exhibit 12.

In the email, Respondents admitted that they were unable to find the certified letter containing the Report received by the company. *Id.* Respondents concluded that "it was lost by a person in our mailing department." *Id.*

This email is quite lengthy and presents Respondents' view of many of the issues raised in this matter. Respondents' positions as of April 13, 2011 are summarized as follows:

1. Surety Bond Issue

Respondents received a letter dated June 25, 2009 describing Respondents' obligation to procure an Original Surety Bond on or before July 31, 2009. Exhibit 12. Due to "personnel rotation" and "the conditions of the mortgage market [in 2009],"

Respondents were unable to procure the bond by the deadline or after and did not perform a proper follow up. *Id.*

2. 2008-2009 Annual Reports

Respondents refers to an annual report from March 31, 2009, and then state that they researched its records and could not find any evidence that an annual report for the year 2009 was requested by the Department. Exhibit 12. Leaving aside the argument that the Department had an obligation to notify Respondents about the annual report, the request for the 2009 report was sent via email on January 8, 2010, and provided the due date of March 31, 2010, not 2009. Exhibit 10. Respondents then explained that the person who was responsible for monitoring of registrations failed to comply with the proper follow up and no longer worked for the company. [The forms for 2008 and 2009 annual reports are contained at Exhibit M of the Response along with footnote 9 indicating that the forms are available on the Department's website.] Respondents then address the annual report for 2010. There is no allegation that Respondents failed to file a 2010 Report.

3. Notice of Examination

Respondents state that there were two notices of examination by treating the January 4, 2010 certified mail regarding the conduct of the exam as a new notice of examination. There was only one Examination. Respondents admitted that they did not comply with the document requests because of "internal issues inside the company." Exhibit 12. Respondents also admitted that they did not have a record of the May 14, 2010 certified mail containing the Report because it was lost by a person in the mailing department. *Id.*

4. Failure to Provide Documents

The Department responded on April 18, 2011, restating its position that Respondents had failed to facilitate the examination for the year 2009, and requesting that the loan files, the officer questionnaire and the other material previously requested for 2009 be provided on or before April 25, 2011. Exhibit 13, p. 4.

The next substantive communication was a phone call from the Department in the morning of April 27, 2011, acknowledged by Respondents later that day. Exhibit 13, p.3. Respondents admitted that they had not provided the requested 2009 material and asked for time until April 29, 2011. Exhibit 13, p. 4. Respondents agreed that they would provide information regarding 7 NH loan accounts. It also agreed to provide an audited financial statement for 2010. In addition, it agreed to provide "a complete copy of the note evidencing [a $5,761,355] loan by Mr. Coosemans to [ARC]". Finally, Respondents agreed to provide a completed Officer Questionnaire and loan files applicable to the 2009 Examination. Exhibit 13, p. 3-4.

Respondents provided information to the Department on April 28, 2011 including information requested on the Officer Questionnaire. Exhibit L. It never provided all the requested information.

Remarkably, Mr. Coosemans wrote in Exhibit L, that the company "is expressing that there is no note for [the] loan [of $5,761,355]" (emphasis added). *Id.* He claimed that as a managing member "he disbursed funds to the company in the form of a loan that is explained in Note 4 of the 2009 Audited Financial Statements." He then asserted that, because the financial statements were audited, a certified CPA approved the explanation of the loan in Note 4. I cannot accept these statements as evidence that the note was undocumented.

The audited statements provided at Exhibit D are for 2008 not 2009. I can find Notes 1-3 but no Note 4. Even assuming that a CPA approved the missing explanation of the loan in Note 4, this approval does not satisfy the Department's request for a written record of the loan. I am troubled by Mr. Coosemans' language that the company is "expressing" that there is no note. I find it incredible that a transaction for over $5,000,000 occurred with no trail, paper or electronic. I conclude that Respondents failed to provide a copy of the loan documents.

Mr. Coosemans stated that the Department requested a copy of the subservicing agreement with SRG "through an e-mail with date April 28, 2011." *Id*. Mr. Coosemans preferred not to provide a copy of the agreement. *Id*.

In its Limited Response dated March 5, 2013, Respondents emphasize that the record does not contain an e-mail dated April 28, 2011. I agree. This does not resolve the question.

First, the statement by Mr. Coosemans that there was an e-mail requesting a subservicing agreement on April 28, 2011 is an admission. This admission resolves the matter.

If it did not resolve the matter, Respondents would be estopped from raising an argument that the record does not contain a necessary fact.

I find that there was a request for a subservicing agreement by the Department that was never provided by Respondents.

Respondents also sought to withdraw the 2010 application. Exhibit L. This action generated a request for additional information. Exhibit O.

5. Violation of Gramm Leach Bliley

In Exhibit L, Respondents admitted that they did not have an annual privacy policy that was sent to customers or internal audit Reports. Exhibit 2b; Exhibit H; Exhibit L.

III. ANALYSIS

A. Substantive Due Process

Respondents argue that the Department violated due process by issuing a Cease and Desist Order for failing to safeguard customer information and conducting unregistered activity. The argument is based on the proposition that the Department could only act against Respondents by utilizing the provisions of RSA 397-A:12. (Examination)

This argument fails to take into account the Commissioner's general authority to supervise and examine the Respondents under RSA 383:9, I. It also fails to take into account the authority provided by RSA 397-B:3. Specifically, the Commissioner has the authority to issue a cease and desist order against any person who is in violation of RSA 397-B. RSA 397-B:3(VIII).

Moreover, the Respondents received notice of these allegations and a hearing was held as required by RSA 397-B. The Respondents received all the process that was due.

Finally, the support for these allegations arose independently from the Notice of Examination. The unregistered activity was discovered during the 2010 registration application process. The failure to safeguard was based on the Respondents admitting a year after the Report was concluded that they did not send an annual privacy policy to customers or have internal audit Reports. Exhibit L

Even if there could be a violation of due process when the Department discovers an issue during an examination and provides notice and an opportunity for a hearing using the cease and desist process of RSA 397-B:3, this case does not present it.

Another due process argument was raised because the Department has a pattern and practice of seeking the maximum penalty when it issues a cease and desist order. Respondents provided 169 orders to support this statement. Based on the record, I agree that the Department seeks the maximum penalty. I do not believe this constitutes a violation of due process or the excessive fine provisions of the New Hampshire or federal constitutions. Assuming without conceding that Respondents had standing to raise issues about the 169 Respondents in Exhibit P, the subject of each and every one of the 169 orders was provided with notice and an opportunity for a hearing.

Respondents counter that the Department should use its discretion to seek a lower amount depending on the severity of the violation. I suggested at the hearing that the Department may resolve this issue if it changed its orders to seek an amount "not to exceed" the maximum amount.

I do not agree that the current language and practice constitutes a constitutional or any other violation.

B. Pre-Hearing Procedural Process

The Respondents objected to the description of counsel for the Department as "Hearings Examiner" and the statement in the Notice of Hearing that routine procedural inquiries may be made by telephoning the Hearings Examiner. Notice of Hearing, Par. 9 and 20.

Respondents concluded that the Hearing Examiner had not done anything to violate due process, Hearing Transcript p. 9-10, and couched the argument as a potential appearance of impropriety.

I hold that there was no due process violation. I take the points made by Respondents seriously. The Notice of Hearing will be changed to eliminate both the title and the offer to conduct routine inquiries in the future.

C. Res Judicata

Respondents raise a number of arguments regarding the interpretation of RSA 397-B and the issues raised in the Report. For example, Respondents argue that they had no duty to reply under RSA 397-B:4-b because that statute only requires a reply when there is a written inquiry from the commissioner[2] requesting a reply and the commissioner has not delegated the authority to make such inquiry. Another example is the argument that RSA 397-B:4, I(a) requires a mortgage servicing company servicing mortgages by real property located in New Hampshire to register with the Department by filing a registration statement on a form prescribed by the Commissioner, and that "prescribed by" requires rulemaking that has not taken place. A third example is that the Respondents have no obligation to make material available in New Hampshire. The statute merely requires that the material be available at the Respondents' home office in Florida.

These are interesting arguments, but the Respondents are barred from raising them. At the hearing, I asked Respondents' counsel whether the "…argument is that there was a Report of examination, your client didn't ask for a closed hearing, but because there was a Report of examination for which a hearing was not requested, the department is precluded from pursuing the issues that were raised in the Report of examination?" Transcript p. 25-26, lines 22-5. Counsel responded: That is not my argument. P. 26, line 6.

[2] I note that these issues involve a previous Commissioner.

The Department issued a Report of Examination which addressed compliance with the Chapter, based upon certain facts discovered during the Examination. Exhibit J. The issues addressed in the Report are within the jurisdiction of the Department. RSA 397-B.

According to the Report, and as relevant here, the Respondents violated RSA 397-B by:

1) Failure to Facilitate the Exam;

2) Failure to Respond;

3) Failure to Meet the $50,000 Surety Bond Requirement; and,

4) Failure to File Annual Reports in 2008 and 2009.

The Respondents were provided a copy of the Report by certified mail dated May 14, 2010, along with the instruction to respond within thirty days of receipt, and an invoice for the cost of the examination. Exhibit J. They failed to raise any issues regarding the Report. They paid for the examination as required by RSA 397-B:9-a, over a month after receiving the Report. Exhibit K (Respondents check dated June 23, 2010).

RSA 397-B:9-a, VIII allows a respondent to challenge a Report. The Respondents could have recommended changes to the Report. Under paragraph IX, a closed hearing may be requested and shall be held if such a request is made. If, however, no hearing is requested, the examination Report "shall be accepted by the commissioner and filed . . . ." *Id.*

I hold that the commissioner acted in a judicial capacity in accepting the uncontested Report after Respondents had an opportunity to litigate it. *Cook v. Sullivan*, 149 NH 774, 777 (2003) (res judicata applies to decision of an administrative agency rendered in a judicial capacity, resolved disputes properly before it and which the parties had an opportunity to litigate). *See also* Respondents' Response and Objection, p. 3

(acknowledging procedural safeguards and concluding that Commissioner automatically accepted Department's allegations as true and published them in the Order to Cease and Desist).

The facts and legal conclusions contained in the Report were resolved in this matter once the Respondents received the Report and failed to recommend changes or request the hearing allowed by RSA 397-B:9-a. It is too late now for Respondents to raise any arguments contrary to the determinations made in the Report and accepted by the Commissioner.

The Commissioner signed the Cease and Desist Order issued to Respondents on February 12, 2012. This order is based in part on the factual and legal conclusions in the Report. The Report was concluded on the merits after notice and an opportunity for a hearing. This matter involves the same parties, and for the purposes of this section of the order, the same issues were raised in the Report. The doctrine of res judicata bars relitigation of facts and legal conclusions already determined and bars any issue that could have been raised. *In re Town of Seabrook*, 163 NH 635, 654 (2012).

The Respondents are barred from any argument regarding the failure to provide requested documents prior to the issuance of the Report. Report, Exhibit J, p. 1-3. The Respondents are barred from raising any argument regarding the failure to respond prior to the issuance of the Report. *Id.* at 2. The Respondents are barred from raising any arguments regarding the failure to provide a surety bond. *Id.* at 3. The Respondents are barred from raising any arguments regarding the failure to file Annual Reports in 2008 and 2009. *Id.* at 4.

For the benefit of the Department and Registrants, I will briefly address one of the arguments raised by Respondents.

The $50,000 Surety Bond requirement was created by Chapter 290 of the Laws of 2009. This Chapter amended RSA 397-A:5,III(c) to require a $50,000 surety bond for mortgage brokers. It also amended RSA 397-B:4,V(a) to provide that a mortgage servicing company shall post a surety bond in the amount and terms for mortgage brokers under RSA 397-A:5,III. The Chapter became effective on July 31, 2009.

Respondents argue that the obligation to provide the bond was not triggered until renewal of a mortgage servicer registration and that, because Respondents never renewed its registration, the requirement never applied. This argument is not convincing. A Chapter applies on its effective date unless the legislature provides a different date. Respondents were required to provide a $50,000 surety bond on or before July 31, 2009.

D. Matters That Are Not Barred By Res Judicata

The Report did not resolve all the issues in this matter. The Report did not address whether Gramm Leach Bliley was violated, or whether Respondents engaged in unregistered activity. The facts in support of these claims were not available to the Department in April and May 2010, when the Report was executed and issued

E. Gramm Leach Bliley Act

As described above, in seeking a registration, Respondents admitted on April 28, 2011 that they did not have the policies requested in questions 2 and 11 of the officer's questionnaire. Exhibit L. Those questions are contained in Exhibit H:

2. Please provide a copy of the annual privacy policy sent to customers.

11. Please provide copies of internal audit Reports relative to the registration and activity (operational and compliance).

Respondents stated that it was unable to comply with the request because it "does not have the policies requested…." Exhibit L.

I hold that the Respondents violated RSA 397-B:2, II by failing to issue an annual privacy policy to borrowers as required by 15 USC 6803. This determination is squarely supported by the answer to question 2. This determination also illuminates the issues surrounding the stipulation. There is sufficient information in the record for me to reach this conclusion.

I do not find that the Respondents failed to maintain a written information security program. I cannot square this requirement with the admission that no policies complied with question 11. Again, an example of how the stipulation operated. It did not provide enough information for me to make this finding; therefore, the Department has failed to sustain its burden of proof regarding this particular fact.

Based on the failure to issue an annual privacy policy to borrowers, the Department alleged that Respondents violated the GLBA, 15 U.S.C. 6801 et seq. This allegation is based not directly on GLBA, but on RSA 397-B:2, II. This statute gives the Department jurisdiction over any violation of applicable federal laws and regulations, the laws and rules of this state, and the orders of the Commissioner.

On the face of the state statute, a violation of GLBA is a violation of RSA 397-B. The GLBA applies to financial institutions, and such term is broadly defined to include a wide range of entities that engage in activities deemed to be financial in nature. 15 U.S.C. § 6809(3); *see also* 12 U.S.C. § 1843(k) (defining activities that are financial in nature). Additionally, the GLBA applies to institutions that engage in an activity that has been determined to be closely related to banking. *Id*. at § 1843(k)(4)(F). Such activities include extending credit and servicing loans and any activities related thereto, leasing property or acting as agent, broker, or adviser in leasing property. 12 C.F.R. § 225.28. By definition, a mortgage servicing company is an entity which "holds the servicing rights or records such payments on its books and records and performs such other

administrative functions as may be necessary to properly carry out the mortgage holders obligations under the mortgage agreement including, when applicable, the receipt of funds from the mortgagor to be held in escrow for payment of real estate taxes and insurance premiums and the distribution of such funds to the taxing authority and insurance company." RSA 397-B:1(III). Mortgage servicing companies engage in activities that are closely related to banking, such as servicing loans and related activities. Accordingly, the GLBA applies to such entities, and a violation of the GLBA is considered a violation of RSA 397-B. 15 USC 6803 requires that Respondents provide an annual privacy policy to borrowers. Respondents failed to meet this requirement.

Respondents argue that state enforcement of GLBA is limited to state insurance authorities, citing 15 U.S.C. 6805(a). This interpretation of GLBA is too narrow. It is accurate that GLBA specifically authorizes the enforcement of its provision by state insurance agencies. It is also accurate that the New Hampshire Insurance Department enforces the insurance provision of GLBA. RSA 400-A:15(I). Although the banking department is not expressly required to enforce the GLBA, as state insurance authorities are, nothing within the GLBA precludes the banking department from enforcing its provisions with regard to mortgage servicing companies. The Colorado Opinion letter cited by Respondents merely confirms that Colorado's Banking Department has made a policy decision not to enforce GLBA. It does not stand for the proposition that Colorado (or any state) is precluded from enforcing GLBA.

The Department raises 15 U.S.C. 6807(a) as support for its position that it may enforce GLBA. I agree. The privacy protections in the GLBA act as a floor, or minimum protection for consumer privacy. *See* Letter from Donald S. Clark, Sec'y of the Fed. Trade Comm'n, to Gary D. Preszler, Comm'r of the Dep't of Banking and Fin. Insts. of the State of North Dakota (June 28, 2001), *available at*

http://www.ftc.gov/os/2001/06/northdakotaletter.htm (North Dakota law not preempted because it allows financial institutions to comply with GLBA and is therefore consistent) Accordingly, the GLBA only preempts state law to the extent that the state law is inconsistent with the GLBA. 15 U.S.C. § 6807(a). A state law would be inconsistent with and superseded by the GLBA only if it either: (i) frustrates the purpose of the federal law; or (ii) makes it impossible to comply with both the state and federal laws. *See Crosby v. National Foreign Trade Council*, 530 U.S. 363, 372-73 (2000). Because a violation of the GLBA is treated as a violation of RSA 397-B, mortgage servicing companies are essentially required by New Hampshire law to comply with the GLBA. *See* RSA 397-B:2(II). As a result, the state requirements are exactly consistent with the federal requirements, and the GLBA does not preempt New Hampshire law.

Furthermore, if a state law provides greater protection to consumers than the GLBA, then the state law would still be applied. *Id*. at § 6807(b).[3] The "greater protection" analysis need not be reached, however, unless the state and federal laws are inconsistent. *See* Letter from Donald S. Clark, Sec'y of the Fed. Trade Comm'n, to Gary D. Preszler, Comm'r of the Dep't of Banking and Fin. Insts. of the State of North Dakota (June 28, 2001), *available at* http://www.ftc.gov/os/2001/06/northdakotaletter.htm Because there is no inconsistency between the GLBA and RSA 397-B:2, the "greater protection" analysis need not be reached.

The GLBA does not preempt state law. RSA 397-B:2 requires mortgage servicing companies to comply with the federal requirements of GLBA, and the banking

[3] If the "greater protection" issue applied in this matter, I would need to address whether I have jurisdiction to decide this issue. Section (b) of the statute provides that whether the protection of the state statute is greater than GLBA is determined by the Consumer Finance Protection Bureau ("CFPB") after consultation with the federal agency given jurisdiction under §6805(a) on its own motion or upon petition of any interested party. Fortunately, I need not reach this issue.

department is authorized to enforce such requirements. The Respondents violated RSA 397-B:2 by failing to issue an annual privacy policy to borrowers. 15 USC 6803.

F. Unregistered Activity

The parties agree that Respondents engaged in activity regulated by RSA 397-B after the expiration of its registration on December 31, 2009. The parties also agree that the unregistered activity involved four New Hampshire borrowers.

The Respondents admitted that such unregistered activity is a violation of RSA 397-B:4, I (a). Hearing Record at 175. The Department did not claim that any money is due to the four consumers. *Id*. at 176-177; Objection to Motion to Vacate, par. 27. The issue presented is whether the unregistered activity with four consumers constitutes four violations of RSA 397-B or only one violation.

RSA 397-B:6, IV provides for an administrative fine not to exceed $2,500 for any person who … violates any provision of this chapter…. It also provides that "each of the acts specified shall constitute a separate violation…." This same language is used in other provisions of RSA 397-B:6, as well as RSA 397-B:6-a.

My task is to interpret the statute as a whole giving words their usual meaning. Given the repetition of the phrase "each of the acts specified shall constitute a separate violation" in RSA 397-B, I must interpret it so that it has a consistent meaning. A straightforward reading of the statute supports the Department's interpretation. The legislature has given the Department the authority to seek a penalty for each violation of the chapter (act). I do not read this phrase as limiting the Department's authority. If the legislature wanted unregistered activity with numerous consumers to constitute a single violation, the language under discussion would not be necessary. Therefore, the Respondents each committed four violations.

G. Failure to provide subservicing agreement

I have found that the Respondents failed to file the subservicing agreement requested by the Department. In examining the Cease and Desist Order, however, this issue is addressed, if at all, by two conclusory statements to the effect that Respondents have failed to provide the requested materials or failed to respond to written inquiries, "to date," in a section titled "Examination." Paragraphs 18 and 19. This is not sufficient to put the Respondents on notice regarding the subservicing agreement.

Nevertheless, as previously described, Respondents violated the law for failure to provide requested material and to respond to Department inquiries in 2010.

IV. REQUESTS for FINDINGS and RULINGS

Based on the application of the doctrine of Res Judicata, Respondents are estopped from seeking certain findings and rulings. I have identified these requests when they occur.

A. **Respondents' Requests for Findings of Fact**

1. Granted with the addition that Respondents Olsen and Coosemans were managing members in 2009.
2. Granted
3. Denied: Estoppel
4. Denied: Estoppel
5. Granted
6. Granted
7. Granted to the extent that Respondents provided the information requested at that time.
8. Granted

9. Granted with the addition that Respondents received a Notice requesting additional information in continuation of the Examination.
10. Granted with the addition that Respondents received the Report on May 14, 2010
11. Granted with the addition that June 23, 2010 was well beyond the time limit to request a hearing and that Respondents failed to request a closed hearing or any hearing regarding the Report.
12. Denied, Respondents failed to provide the requested documents prior to the date of the Examination, later deadlines are irrelevant.
13. Granted to the extent that the Department continued to seek records from Respondents after issuing the Report of Examination.
14. Granted to the extent of #13
15. Granted to the extent that some of the requested loan files were untimely provided. Respondents through Respondent Coosemans, however, after agreeing to produce it, "expressed" that there was no note for the $5,761,355 loan from Mr. Coosemans. I find that there is documentation that contains evidence of the note, at least the CPA's Note 4, and this documentation was not provided to the Department.
16. Granted in part, Examiner Sabean described the loan files as incomplete and one file as missing. Respondents admitted making a mistake in identifying seven NH files. The material described in # 15 was not produced.
17. Granted
18. Denied: Estoppel. The claims in paragraphs 18 and 19 that material has not been provided "to date" are dismissed.
19. Denied: Estoppel
20. Granted

21. Granted with the addition that Respondents were unregistered and serviced loan accounts in 2010.
22. Granted to the extent that Vantium began to service Respondents' NH loans in 2011.
23. Granted
24. Denied. Respondents did not have an effective surety bond at the time it submitted its application in December, 2010. Compare Exhibit N (Document with Department received stamp December 3, 2010) with Exhibit 9 (December 14, 2010 letter to Respondents that bond lacked a counter signature and subsequent Document with Department received stamp January 12, 2011.)
25. Denied. After receiving three notices regarding the obligation to file a surety bond in 2009, ex. 7, 8 and G, Respondents admitted that they did not obtain the required bond because they did not perform a proper follow up, because of the conditions of the bond market and because of personnel rotation issues.

B. Respondents' Requests for Rulings of Law

26. Granted as a general rule. The *Dargon* order is subject to a motion for rehearing and is not useful authority.
27. This request contains a double negative and is confusingly circular as well as interjecting the concept of a "burden" on legal argument. In regard to facts, the Respondents assert that if the party who has the burden of proof fails to meet its burden, here the Department, the Respondents have no burden to prove that the Department failed to meet its burden of proof. Granted that if the Department failed to meet its burden, no burden would be shifted to the Respondents. This principle has no application in this case. In regard to "legal elements," I determine and interpret the law that applies. If I disagree with a party's legal

argument, no burden shifts to the other party to convince me that my analysis is correct.

28. Denied. The identified allegations did not arise during the Examination.

29. Denied. The identified allegations did not arise during the Examination.

30. Granted including footnote 1 and the Department met all the requirements.

31. Granted and the Respondents were provided notice and opportunity to take action regarding the Report.

32. Granted as a general rule if a hearing is requested.

33. Granted as a general rule.

34. Denied. A registrant must request a hearing; there is no right to be heard "as a matter of course."

35. Granted with emphasis on the condition that the Respondents must request a hearing.

36. Denied. Without a request for a hearing, the Report "shall be accepted."

37. Denied. Information regarding these two allegations was not discovered prior to the issuance of the Report. Procedural argument is Denied: Estoppel. Footnote 2 is Granted.

38. Granted, nor could these allegations have been included in the Report because they were not yet known.

39-42. Denied. Information regarding these two allegations was not discovered prior to the issuance of the Report. Procedural argument is Denied: Estoppel.

43. Granted

44-59. Denied: Estoppel including footnotes 3-6.

60-86. Denied: Estoppel including footnote 7.

87-89. Denied: Estoppel including footnote 8.

90-100 Denied: Estoppel The allegations contained in the Cease and Desist Order at paragraphs 12-19 are under the heading "Examination." The Respondents failed to provide requested information during the examination. See Finding of Fact # 12. I have dismissed the portion of paragraphs 18 and 19 that claim that material has not been received, "to date." To that limited extent, I agree with the argument in paragraph 1 of the Limited Response to the State of New Hampshire Banking Department's Post-Hearing Pleading, dated March 5, 2013. Some of the language in the preamble to this pleading, and paragraphs 17-19 brings heat but no light to the matter.

101. Granted

102. Denied

103-105. Granted

106-109. Denied. Respondents' interpretation of the words in the statute fails to give effect to all the words. RSA 397-B:4, V (a), as relevant here, states: A mortgage servicing company … shall post a surety bond. The Respondents torture the language by claiming that the surety bond is only required when a license is renewed. Paragraph 110 is replete with statutory language from other states linking the posting with renewal. Our legislature knows how to write a statute and could have written this statute consistent with Respondents' interpretation. If renewal and posting of the bond were linked in our statute, the second "shall" would be unnecessary. The statute does not state that a mortgage servicing company shall use a specific service (NMLS) to file its renewal application and post a surety bond. NMLS is unrelated to the surety bond. Section (a) contains two independent requirements: shall file a renewal using NMLS and shall post a surety bond. The requirement to post the bond is triggered on the effective date of

the statute, not at the time of renewal. The purpose of posting a bond is to enhance the protection of consumers. Under Respondents' reading, consumers would be deprived of this enhanced protection until the time of renewal, if ever. This is an illogical and absurd result.

110. Granted as examples of how different language in the statute would lead to a different result.

111. Granted

112. Denied. See Finding of Fact 25.

113. Denied. See Finding of Fact #24.

114. Denied

115-116. Granted. Three of the counts (#4), however, are dismissed against each Respondent.

117. Denied. The relevant section of the Order is titled: Failure to Safeguard Customer Information.

118-123. Granted, including footnote 9, as a general statement that has application under some circumstances but irrelevant here because it fails to address a state's ability to enforce its own laws and whether the state law is preempted by federal law.

124-126. Denied. The application of 15 U.S.C. 6807(a) is explained in the Order.

127. Granted

128. Denied

129-149. Denied: Estoppel including footnote 12. Footnote 10 is Granted.

150. Granted, conceded in the stipulation. Footnote 13 is Denied as a matter of law, see RSA 397-B:6, I. (a) and (b). [Liability for any actual damages.] Footnote 13 is granted as a matter of fact to the extent that the Order's prayer for relief requests that Respondents

provide information about the identified New Hampshire loans but it does not seek disgorgement

151-164. Denied. The Order cites RSA 397-B:3, IX which provides the authority to assess penalties. Penalties are described in RSA 397-B:6. Each act constitutes a separate violation. In other statutes, the legislature has provided a penalty for continuing offenses. Footnote 14 lists 19 statutes that contain different language than the statute at issue. The Department is not seeking nor does the statute provide for continuous offenses. RSA 397-B:6,I (a) and (b) provide for the payment of any other charges or actual damages suffered by the mortgagor as a result of such violation. The Department is not seeking damages but that does not mean that the provision can be read out of the statute. It is illogical and absurd to interpret the statute to confine violations involving numerous mortgagors to actual damages against a single mortgagor.

165-171. Denied including footnote 15 as explained below.

172. Denied as explained below.

173. Granted

174-177. Denied including footnote 16 as explained in the Order

178-182. Denied: Estoppel

183-184. Denied

185. Denied. The Respondents violated New Hampshire law as set out in this order. While the Respondents are perfectly entitled to seek dismissal of the charges, they go too far by suggesting that the charges must be dismissed or the Department will be encouraged to operate outside its statutory bounds. There is no evidence in this case that supports such a statement.

V. CONCLUSION

I conclude that the Respondents violated New Hampshire law as set out above and below. In my discretion, I have assigned maximum fines for the counts based on the Report. I have explained my determination that the Respondents are estopped from contesting the conclusions of the Report. To do anything other than impose the maximum fine would provide the Respondents with the hearing that they waived. If I was to allow a merits hearing on the issues raised in the report, I would still impose the maximum fines. Respondents were given many opportunities to comply with the Department's requests and the law's requirements. This they failed to do. I am also mindful that Respondents agreed to provide evidence for the Department to evaluate Mr. Coosemans' loan. I reject the Respondents' explanation of the effort to prevent the Department from reviewing a transaction in excess of $5,000,000.

There is no real dispute that Respondents violated GLBA by failing to provide an annual privacy policy. There are no facts to mitigate Respondents' actions.

There also is no real dispute that Respondents engaged in unregistered activity on four occasions and no facts to mitigate their actions.

Based on the foregoing, I issue the following Order.

1. The Respondents are Ordered to comply with paragraph 36 a-c.
2. Respondent ARC is Ordered to pay an administrative fine of $2,000 for the failure to provide requested materials. (Violation #1)
3. Respondent ARC is Ordered to pay an administrative fine of $2,000 for failure to obtain a surety bond as required. (Violation #2)
4. Respondent ARC is Ordered to pay an administrative fine of $4,000 for failing to file two annual Reports, 2008 and 2009. (Violation #3)
5. Violation #4 is Denied.

6. Respondent ARC is Ordered to pay an administrative fine of $2,000 as provided by RSA 397-B: 2, II for violating the GLBA by failing to issue an annual privacy policy. (Violation #5)
7. Respondent ARC is Ordered to pay an administrative fine of $2,500 for each of four counts for conducting unregistered mortgage servicer activity, a total of $10,000. (Violation #6)
8. Respondent Coosemans is Ordered to pay an administrative fine of $2,000 for the failure to provide requested materials. (Violation #1)
9. Respondent Coosemans is Ordered to pay an administrative fine of $2,000 for failure to obtain a surety bond as required. (Violation #2)
10. Respondent Coosemans is Ordered to pay an administrative fine of $4,000 for failing to file two annual Reports, 2008 and 2009. (Violation #3)
11. Violation #4 is Denied.
12. Respondent Coosemans is Ordered to pay an administrative fine of $2,000 as provided by RSA 397-B: 2, II for violating the GLBA by failing to issue an annual privacy policy. (Violation #5)
13. Respondent Coosemans is Ordered to pay an administrative fine of $2,500 for each of four counts for conducting unregistered mortgage servicer activity, a total of $10,000. (Violation #6)
14. Respondent Olsen is Ordered to pay an administrative fine of $2,000 for the failure to provide requested materials. (Violation #1)
15. Respondent Olsen is Ordered to pay an administrative fine of $2,000 for failure to obtain a surety bond as required. (Violation #2)
16. Respondent Olsen is Ordered to pay an administrative fine of $4,000 for failing to file two annual Reports, 2008 and 2009. (Violation #3)

17. Violation #4 is Denied.
18. Respondent Olsen is Ordered to pay an administrative fine of $2,000 as provided by RSA 397-B: 2, II for violating the GLBA by failing to issue an annual privacy policy. (Violation #5)
19. Respondent Olsen is Ordered to pay an administrative fine of $2,500 for each of four counts for conducting unregistered mortgage servicer activity, a total of $10,000. (Violation #6)
20. Payment of these amounts shall be by check made payable to Treasurer, State of New Hampshire.
21. All Respondents herein shall be jointly and severally liable for any and all fines.
22. **The payment of the fine is STAYED.** The appeal process begins with the filing of a Motion for Rehearing within 30 days of the order. If no motion is filed, the stay shall be automatically lifted and payment shall be due on the 31st day. The filing of a motion for rehearing will continue the stay of the payment until further order.

So Ordered:

_____/s/_____ Date: _____7/2/15_____
Stephen J. Judge, Esquire
Presiding Officer