

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.:13-413
)
 3 State of New Hampshire Banking)
) Amended Notice of Hearing -
 4 Department,)
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 5 Petitioner,)
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 6 And)
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 7 James S. Kudalis)
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 8 Respondent)
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 9)
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 10)
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11 AMENDED NOTICE OF HEARING ORDER TO SHOW CAUSE ON MARCH 9, 2015

12 1. The State of New Hampshire Banking Department ("Department") issued to
 13 James S. Kudalis ("Respondent") an Order to Show Cause ("Order") on December
 14 12, 2014. RSA Chapter 541-A and RSA Chapter 361-A require the Respondent to
 15 request a hearing within 30 calendar days of receipt of such order. Upon
 16 receipt of such request, the Department must schedule a hearing on such
 17 matter within ten (10) days unless otherwise waived by the Respondent.

18 2. Respondent failed to file a timely request for hearing and on January 21,
 19 2015, the Department issued an Entry of Default Judgment.

20 3. Subsequently, the parties entered into settlement negotiations with an
 21 anticipated resolution date of February 6, 2015. Accordingly, on January
 22 30, 2015, the Department issued an Order Removing Default Judgment.

23 4. Negotiations between the parties did not resolve by the agreed upon
 24 date; and therefore,

25 IT IS HEREBY ORDERED that:

1 5. Respondents shall appear before the Department on Monday, March 9, 2015
2 at 10 a.m., at the New Hampshire Banking Department located at 53 Regional
3 Drive, Suite 200, Concord, New Hampshire 03301, for the purpose of
4 participating in an adjudicative proceeding. The Department shall bear the
5 burden of proving the truth of the legal and factual allegations in the
6 Order by a preponderance of the evidence.

7 The Respondents will have the opportunity to demonstrate why the relief
8 sought in the Order to Show Cause should not become permanent. RSA 541-A;
9 Jus 812.02.

10 6. Pursuant to RSA 541-A, the legal authorities under which the hearing is
11 to be held are: **RSA 541-A, RSA 397-A.**

12 7. Each party has the right to have an attorney present to represent the
13 party at the party's expense, or may represent itself or himself. If the
14 Respondents elect to be represented by Counsel, said Counsel shall file a
15 notice of appearance at the earliest possible date.

16 8. The Commissioner of the Department has designated a Presiding Officer in
17 this matter with authority to represent the public interest within the scope
18 of the Department's authority. The Presiding Officer shall have the
19 authority to preside over the proceeding and exercise the powers, duties or
20 functions delineated in the delegation dated June 17, 2014. **RSA 383:7-a; RSA**
21 **541-A:1, XIV.**

22 9. The designated Presiding Officer is Stephen J. Judge, Esq. partner in the
23 firm of Wadleigh, Starr & Peters, PLLC, Manchester, NH.

24 10. Two copies of proposed exhibits shall be pre-marked, for identification
25 only, and filed with the staff of the Presiding Officer and a single copy of

1 exhibits provided to the opposing party by Thursday, March 5, 2015. The
2 Department shall pre-mark its exhibits with Arabic numbers. The Respondents
3 shall pre-mark exhibits with capital letters. An index/list of exhibits
4 providing a brief description of each exhibit with its corresponding pre-
5 marked number or letter shall be filed by both parties simultaneous with the
6 filing of exhibits.

7 11. On the date identified in paragraph 10, the parties shall also exchange
8 a list of all witnesses to be called at the hearing with a brief summary of
9 the anticipated testimony and shall at the same time file two copies of
10 their respective lists with the staff of the Presiding Officer.

11 12. Notwithstanding the provisions in paragraph 17 exhibit lists and witness
12 lists may be filed via electronic or facsimile transmission.

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

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

21 15. The entirety of all verbal proceedings shall be recorded verbatim by the
22 Department. Upon request of any party, such record shall be transcribed by a
23 certified court reporter designated by the Presiding Officer, with all costs
24 borne solely by the requesting party. The Presiding Officer has discretion
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1 to order transcription of the record and to determine how the costs shall be
2 borne.

3 16. Each party has the right to have the Department provide a certified
4 shorthand court reporter at the requesting party's expense. Any such request
5 shall be submitted in writing to the Presiding Officer at least 5 days prior
6 to the hearing.

7 17. All documents shall be filed with the staff of the Presiding Officer in
8 the form of an original and one (1) copy and shall bear a certification that
9 a copy is being delivered to Hearings Examiner and any other parties to this
10 matter in accordance with applicable laws. All documents shall be filed by
11 mailing or delivering them to the New Hampshire Banking Department, ATTN:
12 Presiding Officer Dkt # 13-413, 53 Regional Drive, Suite 200, Concord, NH
13 03301. Filing by facsimile or electronic transmission shall not be accepted.

14 18. The parties may submit Proposed Orders, which shall include findings of
15 fact and conclusions of law, separately stated, no later than ten (10) days
16 following conclusion of the hearing(s) in this matter or at a time set by the
17 Presiding Officer.

18 19. Routine procedural inquiries may be made by telephoning the
19 staff of the Presiding Officer at (603)271-3561 or emailing the staff at
20 doreen.sheppard@banking.state.nh.us. All other communications with the
21 Presiding Officer and with the Department shall be in writing and shall be
22 filed as provided above. *Ex parte* communications are forbidden by statute.

23 20. A copy of this Notice of Hearing shall be emailed and mailed to the
24 named Respondent and a copy shall also be delivered to the Department.

25 **SO ORDERED,**

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 /s/
Stephen J. Judge,
Presiding Officer

 3/2/2015
Date