

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: SUBMISSIONS PART

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THEO CHINO :
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 :
 Plaintiff-Petitioner, : **Index No.: 101880/2015**
 : **Hon. Lucy Billings**
 :
 -against- :
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 :
 THE DEPARTMENT OF FINANCIAL :
 SERVICES; ANTHONY J. ALBANESE, :
 In his Official Capacity as the Acting :
 Superintendent of the Department of Financial :
 Services. :
 :
 :
 Defendants-Respondents. :
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**NOTICE OF RESPONDENTS' CROSS-MOTION TO DISMISS
THE PETITION**

PLEASE TAKE NOTICE, that upon the annexed Affirmation of Peter Dean, Esq., sworn to April 22, 2016, the Affirmation of Anthony J. Tomari, Esq., sworn to April 22, 2016, and the Memorandum of Law in Support of Respondents' Cross-Motion to Dismiss The Article 78 & Declaratory Judgment Petition, the undersigned on behalf of respondents New York State Department of Financial Services and Anthony J. Albanese, sued in his official capacity as the Acting Superintendent of the New York State Department of Financial Services, will move this Court in Submissions Part, Room 130, at 60 Centre Street, New York, New York 10007, on the 16th day of May, 2016 at 9:30 a.m., or as soon thereafter as counsel may be heard, for a judgment pursuant to Rule 3211(a)(7) and Section 7804 of the New York Civil Practice Law and Rules dismissing this Article 78 and declaratory judgment proceeding, in its entirety for failure to state a claim upon which relief can be granted, and for any and all such other and further relief as this Court deems just and proper; and


PLEASE TAKE FURTHER NOTICE, that pursuant to stipulation by and between the parties, Petitioner will serve his opposition to this motion, if any, by electronic mail on or before May 2, 2016; and

PLEASE TAKE FURTHER NOTICE, that Respondents' Reply to the Petitioner's opposition, and if further support of their motion to submit shall be served and filed on May 16, 2016.

Dated: New York, New York
April 22, 2016

Respectfully submitted,

ERIC T. SCHNEIDERMAN
Attorney General of the
State of New York
Attorney for Respondents

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