



# State of New Hampshire Department of Revenue Administration

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John T. Beardmore  
Commissioner

Lindsey M. Stepp  
Assistant Commissioner

August 1, 2017

His Excellency, Governor Christopher T. Sununu  
And The Honorable Council  
State House  
Concord, New Hampshire 03301

### REQUESTED ACTION

In accordance with RSA 94:6, New Appointments, the Department of Revenue Administration (DRA) respectfully requests to place Attorney Peter C. L. Roth at the maximum step for the position of Revenue Counsel (9U343), unclassified salary grade FF, earning \$92,649.44 annually, effective September 22, 2017. Funding is 100% General funds.

### EXPLANATION

DRA's Revenue Counsel position requires representation of the Department in adjudicative hearings before the Department's Hearings Bureau, in probate court and bankruptcy court proceedings. Additionally, this position assists the Attorney General's Office in the preparation of complex legal documents and arguments for tax cases appealed to the Superior Court or the New Hampshire Supreme Court.

Attorney Roth possesses a bachelor's degree in Political Science and a Juris Doctorate degree from Suffolk University Law School. Attorney Roth has been employed by the Office of the Attorney General for the State of New Hampshire since 1999 and, in this role has represented the DRA in matters in bankruptcy courts and other areas for over ten (10) years. Those matters include collecting claims in bankruptcy around the country, superior court proceedings, and the Merrimack River Flood Control Compact. Additionally, Attorney Roth has significant experience on counseling the DRA on various administrative proceedings and various state agencies in matters involving taxes and regulatory matters. Attorney Roth has represented agencies in contract negotiation, dispute resolution and legislative activities. Attorney Roth has litigation experience at administrative boards, state and federal trial courts, and state and federal appellate courts. Attorney Roth is exceptionally qualified in litigation, administrative and legislative matters.

Based upon Attorney Roth's extensive qualifications and experience with the DRA, I request Attorney Roth be placed into the Revenue Counsel position, unclassified salary grade FF, at the maximum step.

Sincerely,

John T. Beardmore  
Commissioner

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.

## PETER C.L. ROTH

### Experience

#### **State of New Hampshire Office of the Attorney General**

Senior Assistant Attorney General; October 1999 to present

Counsel to state agencies and officials including commissioners in charge of labor, public utilities, revenue, banking, safety, economic development, insurance, fish & game and environmental services. Represent agencies in bankruptcy and commercial matters involving taxes, domestic support obligations, and regulatory matters.

Represent agencies in contract negotiation, dispute resolution, and legislative activities. Counsel agency and officials in environmental enforcement litigation and administrative proceedings, hazardous waste cleanup and cost recovery, solid waste permitting, liens, penalties, and remedies. Represent agencies in personnel disputes including terminations, discipline, tort, civil rights and discrimination claims. Serve as Counsel for the Public in energy facility siting proceedings. Litigation at administrative boards, state and federal trial courts, and state and federal appellate courts.

#### **Pension Benefit Guaranty Corporation, Washington, D.C.**

*Attorney - Office of the General Counsel; July 1997 to October 1999*

Represented federal agency in complex pension related corporate transactions, federal ERISA litigation, and bankruptcy proceedings. Counsel insurance and financial clients on retirement plan termination and liability of sponsors and controlled groups. Successful litigation of fiduciary embezzlement case, including pleadings, discovery and criminal referral.

#### **Hebb & Gitlin, Hartford, Connecticut**

*Associate; May 1995 to June 1997*

Wrote briefs and assisted with oral arguments in a variety of federal litigation and appellate matters, including international issues, governmental rights, preferences, secured interests, asset sales, setoff, adequate protection, ancillary powers, and removal. Represented sureties in re-negotiation of debt owed by continuing care retirement community. Co-developed and presented program on Latin American investment for US insurance company executives in Mexico City.

#### **Bingham, Dana & Gould, Boston, Massachusetts**

*Associate; September 1990 to May 1995*

Drafted documents, including Mexican security instruments, in complex corporate debt financing. Represented individuals and entities in secured lending transactions, and commercial and bankruptcy litigation. Drafted and argued pleadings on wide variety of bankruptcy issues and commercial and real property matters.

**United States Information Agency, Asuncion Paraguay**

*Academic Advisor and English Language Teacher; 1984*

Advised and taught Paraguayan students at embassy cultural center. Lived in jungle village.

**Peace Corps Guatemala**

*Volunteer at Sta. Catarina Barahona, Guatemala, Central America; 1982-1983*

Agricultural extension services in traditional Mayan community.

**Education**

**Suffolk University Law School**

J.D., Cum laude; 1990

Class rank 11<sup>th</sup> of 300 (top 3%)

▪ Suffolk University Law Review  
*Writer & Editor, 1988-90*

▪ Awards  
*Civil Procedure, Torts, 1988*  
*First Year Moot Court, 1988*  
*Business Associations, 1989*

**University of Illinois - Chicago**

*B.A., Political Science; 1983*

**Bar Admissions**

New Hampshire state and federal

First Circuit Court of Appeals

D.C. Circuit Court of Appeals

E.D. Mich., D. Mass, D. Conn., D. Me.

**Awards & Recognitions**

*Recognition, New Hampshire AFL-CIO, (Labor Day 2013)*

*Commissioner's Special Achievement Award, New Hampshire Division of Economic Development (2007)*

*Commissioner's Economic Development Award for Excellence, New Hampshire Division of Economic Development (2002)*

*Customer Service Excellence Award, Pension Benefit Guaranty Corp. (1999)*

## Reported Decisions and Publications

### Decisions

*New Hampshire Bank Comm'r v. Sweeney*, 167 N.H. 27 (2014) (affirming finding of personal jurisdiction over out of state investors in a Ponzi scheme)

*Lea v. Heritage Auctions, Inc. (In re John Ward Gillman Engraved June 20, 1775 Copper Printing Plate)*, 806 N.W.2d 861 (Minn. App. 2011) (*International Shoe* fairness standards apply to *quasi in rem* personal jurisdiction)

*Department of Env'tl. Servs. v. Mottolo*, 155 N.H. 57 (2007) (standards for injunctions, preliminary injunction upheld and new law made)

*State v. Ravell*, 155 N.H. 280 (2007) (double jeopardy and possession of child pornography, conviction affirmed)

*State v. Livingston*, 153 N.H. 399 (2006) (right to stop and inspect commercial motor vehicle without warrant or probable cause, conviction affirmed)

*Executive Benefits Ins. Agency v. Arkison*, 134 S. Ct. 2165 (2014) (*amicus* – bankruptcy court's jurisdiction to issue findings and conclusions for district court to enter)

*Florida Dept. of Revenue v. Gonzalez (In re Gonzalez)*, 832 F.3d 1251 (11th Cir. 2016) (*amicus* – Title IV child support agency held in contempt for collection efforts against chapter 13 debtor – also drafted SCOTUS *amicus* brief 3/2017)

*U.S. Dept. of Interior v. Federal Energy Regulatory Comm'n*, 2015 U.S.App. LEXIS 5281 (1st Cir. Feb. 12, 2015) (*amicus*--upholding FERC's decision to replace flash boards in Lowell Dam)

*Munce's Superior Petroleum Prods., Inc. v. New Hampshire Dept. of Env'tl. Servs. (In re Munce's Superior Petroleum Prods., Inc.)*, 736 F.3d 567 (1st Cir. 2013) (contempt sanctions ordered by state court have administrative expense priority in bankruptcy)

*Sevigny v. Employers Ins. Co. of Wausau*, 411 F.3d 24 (1<sup>st</sup> Cir. 2005) (*Burford* abstention as applied to reinsurance setoff litigation, remand denied)

*Connecticut ex rel. Blumenthal v. Crotty*, 346 F.3d 84 (2d Cir. 2003) (*amicus* – governmental liability and fishery management issues)

*Aetna Cas. & Sur. Co. v. LTV Steel Corp.*, 94 F.3d 772 (2d Cir. 1996) (setoff rights of surety company in bankruptcy protected)

*Aetna Cas. & Sur. Co. v. Georgia Tubing Co.*, 93 F.3d 56 (2d Cir. 1996) (surety's subrogation rights in bankruptcy protected)

*New Hampshire v. McGrahan (In re McGrahan)*, 459 B.R. 869 (B.A.P. 1st Cir. 2011) (debtor's plan not binding to preclude state offsets of tax refunds to collect child support from debtor)

*Massachusetts v. Pritzker*, 10 F. Supp. 3d 208 (D. Mass. 2014) (denying appeal of amendment to fishery management plan that would have devastating economic effects on N.H. fishing industry)

*Martha's Vineyard/Dukes County Fisherman's Ass'n v. Locke*, 811 F. Supp.2d 302 (2011) (complaint against state officials time-barred)

*Massachusetts v. Gutierrez*, 594 F. Supp. 2d 127 (D. Mass. 2009) (suspending implementation of Framework 42 of fisheries mgmt plan)

*Conservation Law Foundation v. Evans*, 211 F. Supp. 2d 55 (D.D.C. 2002) (marine fisheries management plan and complex remedy negotiated)

*In re Hinsdale Greyhound Racing Assoc., Inc.*, 417 B.R. 162 (Bankr. D.N.H. 2009) (upholding state's right to recover bond funds)

*In re McAdam*, 402 B.R. 473 (Bankr. D.N.H. 2009) (dismissing suit alleging violation of discharge injunction by Dept of Employment Security)

*In re Smith*, 325 B.R. 498 (Bankr. D.N.H. 2005) (when is an environmental penalty claim liquidated?)

*In re Davis*, 191 B.R. 577 (Bankr. S.D.N.Y. 1996) (ancillary bankruptcy proceedings in New York to assist foreign case from Montreal)

*In re Northeastern Contracting Co*, 187 B.R. 420 (Bankr. D. Conn. 1995) (preference liability and defenses to *Deprizio* action)

*In re Moreira*, 173 B.R. 965 (Bankr. D. Mass. 1994) (setoff rights of bank against customer deposits)

*In re Veilleux*, 140 B.R. 28 (Bankr. D. Conn. 1992) (informal proof of claim)

### ***Publications***

*Federal Practice & Bankruptcy: Contempt Is Futile: First Circuit Gives Penalties Priority in Bankruptcy*, N.H. Bar News (July 16, 2014)

*Environmental & Natural Resources: Assessing Environmental Impacts of Wind Energy Installations in New Hampshire*, N.H. Bar News (Sept. 16, 2011)

*Environmental Law and Bankruptcy*, 2004 ABI NORTHEAST BANKR. CONF. 461 (July 2004)

*Discretionary Function Sovereign Immunity for Environmental Regulation and Administration*, 42 N.H. BAR J. 20 (2001)

Co-author, *Ethical Standards in Bankruptcy Contexts: Disinterestedness in ASSET BASED FINANCING* (PLI 1994 - 2007)

*The Emerging Role of the Extractive Reserve in the Enforcement of Brazilian Deforestation Controls*, 2 COLO. J. INT'L ENVTL. LAW & POLICY 247 (1991) (in depth analysis of intersection of Brazilian environmental law and indigenous people's rights to use rainforest for sustainable extraction)

Case Comment, *The Absolute Priority Rule Reasserted – No Equity Participation Without Tangible Capital Contribution*, 23 SUFF. U. L. REV. 857 (1989)