

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 07-047  
 )  
 4 State of New Hampshire Banking ) Notice of Hearing - Cease and Desist  
 ) Order  
 5 Department, )  
 )  
 6 Petitioner, )  
 )  
 7 and )  
 )  
 8 Help With Debt, LLC and David A. )  
 )  
 9 Gelinas, )  
 )  
 10 Respondents

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11  
12 NOTICE OF HEARING

13 Pursuant to RSA 399-D:23 II, the Banking Department of the State of New  
14 Hampshire (hereinafter the "Department") has the authority to issue and cause  
15 to be served an order requiring any person engaged in any act or practice  
16 constituting a violation of RSA 399-D or any rule or order thereunder, to  
17 cease and desist from violations of RSA 399-D.

18 Pursuant to RSA 399-D:24, the Commissioner has the authority to  
19 suspend, revoke or deny any license and to impose administrative penalties of  
20 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

21 Pursuant to RSA 399-G:19 II, the Department has the authority to issue  
22 and cause to be served an order requiring any person engaged in any act or  
23 practice constituting a violation of RSA 399-G or any rule or order  
24 thereunder, to cease and desist from violations of RSA 399-G.

25 Pursuant to RSA 399-G:21, the Commissioner has the authority to  
suspend, revoke or deny any license and to impose administrative penalties of  
up to \$2,500.00 for each violation of New Hampshire banking law and rules.

1 The Department issued the Respondent a Cease and Deist Order on March  
2 2, 2007.

3 The Department alleges the following:

4 **Issue 1:** Unlicensed Debt Adjuster activity.

5 **Issue 2:** Unlicensed Money Transmitter activity.

6 Accordingly, an adjudicative proceeding shall be commenced pursuant to  
7 541-A:31 and Chapter 200 of the Department's rules (NH Code of  
8 Administrative Rules BAN 200) for the purpose of permitting the Respondent to  
9 show compliance with RSA 399-D and 399-G.

10 Each party has the right to have an attorney present to represent the  
11 party at the party's expense, or may represent itself. Each party has the  
12 right to have the Department provide a certified shorthand court reporter at  
13 the requesting party's expense. Any such request must be submitted in  
14 writing to the Department at least 10 days prior to a scheduled hearing date.

15 THEREFORE, IT IS ORDERED, that the Respondent appear before the New  
16 Hampshire Banking Department on June 12, 2007 at 10:00 am, at the  
17 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the  
18 purpose of participating in an adjudicative proceeding, at which time the  
19 Respondent will have the opportunity to demonstrate why the cease and desist  
order should not become permanent and/or penalties be imposed; and

20 IT IS FURTHER ORDERED, that if the Respondent elects to be represented  
21 by Counsel, said Counsel shall file notice of appearance at the earliest  
22 possible date; and

23 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New  
24 Hampshire Banking Department is designated as Hearing Counsel in this matter  
25 with authority to represent the public interest within the scope of the  
Department's authority. Hearing Counsel shall have the status of a party to  
this proceeding; and

1           IT IS FURTHER ORDERED, that the Commissioner shall designate a member  
2 of the Department who shall serve as the Presiding Officer in this proceeding  
3 and shall issue a RECOMMENDED DECISION in this matter which shall be  
4 reviewed and approved, disapproved or modified by the Bank Commissioner; and

5           IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,  
6 for identification only, and filed with the Department and provided to the  
7 opposing party as soon as possible. Hearing Counsel shall pre-mark the  
8 Department's exhibits with Arabic numbers. The Respondents shall pre-mark  
9 exhibits with capital letters. An index/list of exhibits providing a brief  
10 description of each exhibit with its corresponding pre-marked number or  
11 letter shall be filed by both parties simultaneous with the filing of  
12 exhibits; and

13           IT IS FURTHER ORDERED, that the parties shall exchange a list of all  
14 exhibits and witnesses to be called at the hearing with a brief summary prior  
15 to end of business on June 8, 2007, and shall at the same time file a copy of  
16 their respective lists with the Presiding Officer; and

17           IT IS FURTHER ORDERED, that all periods referenced in this notice shall  
18 be calendar days. If the last day of the period so computed falls on a  
19 Saturday, Sunday, or legal holiday, then the time period shall be extended to  
20 include the first business day that is not a Saturday, Sunday, or legal  
21 holiday; and

22           IT IS FURTHER ORDERED, that the Department shall have the burden of  
23 setting forth a *prima facie* case, then the Respondents shall have the burden  
24 of showing compliance with applicable law by a preponderance of the evidence;

25           IT IS FURTHER ORDERED, that Respondent's failure to appear at the time,  
date, and place specified may result in the hearing being held *in absentia*  
and/or default ruling in favor of the Department, without further notice or  
opportunity to be heard; and

1           IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall  
2 be recorded verbatim by the Banking Department. Upon request of any party,  
3 or upon the Presiding Officer's own initiative, such record shall be  
4 transcribed by a certified court reporter designated by the Presiding  
5 Officer, and that all costs shall be borne solely by the requesting party.  
6 Any such request shall be submitted in writing to the Presiding Officer prior  
7 to hearing.

8           IT IS FURTHER ORDERED, that all documents shall be filed with the  
9 Presiding Officer in the form of an original and one (1) copy and shall bear  
10 a certification that a copy is being delivered to Hearing Counsel and any  
11 other parties to this matter in accordance with NH Code of Administrative  
12 Rules Ban 204.08. All documents shall be filed by mailing or delivering them  
13 to the New Hampshire Banking Department, ATTN: Presiding Officer 07-047, 64-B  
14 Old Suncook Road, Concord, NH 03301. Filing by facsimile or electronic  
15 transmission shall not be accepted; and

16           IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,  
17 which shall include findings of fact and conclusions of law, separately  
18 stated, no later than ten (10) days following conclusion of the hearing(s) in  
19 this matter; and

20           IT IS FURTHER ORDERED, that routine procedural inquiries may be made by  
21 telephoning Abigail Shaine at (603)-271-3561, but all other communications  
22 with the Presiding Officer and with the Department shall be in writing and  
23 shall be filed as provided above. *Ex parte* communications are forbidden by  
24 statute; and

25           IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be  
mailed to Counsel for Respondent and that a copy shall also be delivered to  
all other named Respondents, James Shepard, Hearing Counsel, and to the  
Presiding Officer at the New Hampshire Banking Department.

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SO ORDERED,

      /S/ RAF    
Peter C. Hildreth  
Commissioner  
State of New Hampshire  
Banking Department

  5/16/07  
Date