

1 State of New Hampshire Banking Department

2 In re the Matter of: )Case No.: 08-BD-003  
3 State of New Hampshire Banking )  
4 Department, )Cease and Desist Order  
5 Petitioner, )Consent Order  
6 and )  
7 Family Protection Center (a/k/a )  
8 Mortgage Protection Center), Mortgage )  
9 Protection Center (a/k/a Family )  
10 Protection Center), The Mortgage )  
11 Protection Center, LLC (d/b/a Mortgage )  
12 Protection Center and Family Protection )  
13 Center), National Agents Alliance )  
14 Insurance Agency, LLC (a/k/a NAA, )  
15 National Agents Alliance, d/b/a )  
16 www.naaleads.com, Family Protection )  
17 Center, and Mortgage Protection )  
18 Center), National Agents Alliance )  
19 (a/k/a NAA, National Agents Alliance )  
20 Insurance Agency, LLC, d/b/a )  
21 www.naaleads.com, Family Protection )  
22 Center, and Mortgage Protection )  
23 Center), )  
24 Respondents )  
25

CONSENT ORDER

I. To clarify the names and relationships of the various entities listed as Respondents in the caption of this order:

a. Family Protection Center (a/k/a Mortgage Protection Center);

b. Mortgage Protection Center (a/k/a Family Protection Center);

c. National Agents Alliance Insurance Agency, LLC (a/k/a NAA, National Agents Alliance, d/b/a www.naaleads.com, Family Protection Center and Mortgage Protection Center); and

d. National Agents Alliance (a/k/a NAA, National Agents Alliance, d/b/a www.naaleads.com, Family Protection Center and Mortgage Protection Center),

are all affiliates of Superior Performers, Inc. (hereinafter

"Respondent Superior Performers"). Respondent Superior Performs does not represent The Mortgage Protection Center, LLC, which is a company unrelated to this action.

II. For purposes of settling the above-referenced matter, among other things, the New Hampshire Banking Department (hereinafter referred to as "the Department"), and Respondent Superior Performers, do hereby enter into this Consent Order and stipulate to the following:

1. Respondent Superior Performers is a company that solicits mortgage protection insurance products to mortgage holders by obtaining public records.

2. The Department and Respondent Superior Performers agree that Respondent Superior Performers has been subject to RSA 384:67 ("Unauthorized and Deceptive Use"), as amended by 2008 New

1 Hampshire Senate Bill 315 (SB0315), since June 3, 2008.

2 3. Respondent Superior Performers admits the allegations of the  
3 Staff Petition in this cause.

4 III. For purposes of amicably resolving and closing the above-referenced  
5 matter, Respondent Superior Performers agrees to the following terms  
6 and conditions and the Department accepts the same:

- 7 1. Respondent Superior Performers agrees that it has voluntarily  
8 entered into this Consent Order without reliance upon any  
9 discussions between the Department and Respondent Superior  
10 Performers, without promise of a benefit of any kind (other than  
11 concessions contained in this Consent Order), and without threats,  
12 force, intimidation, or coercion of any kind. Respondent Superior  
13 Performers further acknowledges its understanding of the nature of  
14 the offense stated above, including the penalties provided by law.
- 15 2. Respondent Superior Performers agrees to waive any and all rights  
16 to a hearing and appeal thereof.
- 17 3. Respondent Superior Performers agrees that it will not deny the  
18 factual basis for this Consent Order to which it has stipulated  
19 above and will not give conflicting statements about such facts or  
20 its involvement in the stipulated facts.
- 21 4. Respondent Superior Performers agrees that all terms of this  
22 Consent Order are contractual and none is a mere recital.
- 23 5. Respondent Superior Performers represents and warrants that it has  
24 all the necessary rights, powers and ability to carry out all of  
25 the terms of this Consent Order which are applicable to Respondent

1 Superior Performers.

2 6. Respondent Superior Performers agrees it is subject to an  
3 administrative penalty of \$30,000.00.

4 7. The Department agrees to accept monies in lieu thereof from  
5 Respondent Superior Performers as follows:

6 a. \$15,000.00 of which shall be held in abeyance for ninety (90)  
7 days from the date of this Consent Order, and shall not require  
8 the payment of such penalty as long Respondent Superior  
9 Performers complies with RSA 384:67, as amended.

10 (1). If the Department receives any non-compliant  
11 solicitations during this ninety (90) day period,  
12 the \$15,000.00 penalty held in abeyance shall not be  
13 owed.

14 (2). However, should the Department receive any non-  
15 compliant solicitations on the ninety-first (91<sup>st</sup>)  
16 day or thereafter, Respondent Superior Performers  
17 shall not only owe the \$15,000.00 held in abeyance  
18 but will also be required to provide within seven  
19 (7) calendar days a full list of the names and  
20 addresses of New Hampshire consumers to whom the  
21 solicitations were mailed; and

22 b. \$15,000.00 of which shall be paid by Respondent Superior  
23 Performers contemporaneously with the execution of this Consent  
24 Order. \$7,500.00 of the \$15,000.00 due from Respondent Superior  
25 Performers shall be paid to The New Hampshire Pro Bono Program

1           and \$7,500.00 of the same \$15,000.00 due from Respondent  
2           Superior Performers shall be paid to New Hampshire Legal  
3           Assistance for foreclosure prevention programs.

4       8.     Respondent Superior Performers agrees to alter its solicitation  
5           (and has already done so with samples provided to the Department)  
6           to comply with RSA 384:67 and SB0315 as follows:

7           a. Respondent Superior Performers shall not use the full or  
8           abbreviated name, trade name, service mark, or trademark of any  
9           financial institution in any written, electronic, or oral  
10          advertisement or solicitation for products and services without  
11          the financial institution's express prior written authorization;

12          b. Respondent Superior Performers shall not make reference to a  
13          loan number or other specific loan information on the outside of  
14          an envelope, visible through an envelope window, on a postcard,  
15          or in electronic communication in connection with any written or  
16          electronic solicitation without the financial institution's  
17          express prior written authorization;

18          c. Respondent Superior Performers shall not include a loan number  
19          or other specific loan information, other than a loan amount,  
20          relative to a specifically identified consumer that is publicly  
21          available:

22                 (1) in any written or electronic solicitation, unless the  
23                 advertisement or solicitation clearly and conspicuously  
24                 states on the front page or introduction in bold-faced  
25                 type that is in the same font size as is predominately

1 used in the advertisement or solicitation disclosing  
2 that such individual or business entity is not sponsored  
3 by or affiliated with, and that such solicitation is not  
4 authorized by, the financial institution and the  
5 information was retrieved from public records; or

6 (2) in an oral solicitation unless the same disclosure is  
7 made at the beginning of the solicitation.

8 9. Respondent Superior Performers agrees that it shall exclude the  
9 name of the financial institution from its current solicitation  
10 form it presented to the Department. The exclusion of the financial  
11 institution name from this solicitation does not serve to nullify  
12 or make void the statutory language in RSA 384:67 or nullify the  
13 privileges and rights of such companies to use the name of a  
14 financial institution with written authorization.

15 10. Respondent Superior Performers acknowledges that failure to comply  
16 as agreed above will result in imposition of the suspended fine,  
17 and may result in further administrative fines (subject to due  
18 process hearing), which may include a fine for each individual  
19 mailing that violates RSA 384:67, as amended, and possible criminal  
20 liability.

21 This Consent Order represents the complete and final resolution of, and  
22 discharge of any basis for any civil or administrative proceeding by the  
23 Department against Respondent Superior Performers for violations arising as  
24 a result of or in connection with any actions or omissions by Respondent  
25 Superior Performers through the date of this Order as it applies to such

1 fraudulent activity; provided, however, this release does not apply to facts  
2 not known by the Department or not otherwise provided by Respondent Superior  
3 Performers to the Department as of the date of this Order. The Department  
4 expressly reserves its right to pursue any administrative or civil action or  
5 remedy available to it should Respondent Superior Performers breach this  
6 Consent Order or in the future violate the Act or rules and orders  
7 promulgated thereunder.

8  
9 **WHEREFORE**, based on the foregoing, we have set our hands to this Consent  
10 Order, with it taking effect upon the signature of Peter C. Hildreth, Bank  
11 Commissioner.

12  
13 Recommended this 5th day of March, 2009.

14  
15 \_\_\_\_\_  
16 **Maryam Torben Desfosses, Hearings Examiner, Consumer Credit Division**

17 Executed this 6th day of March, 2009.

18  
19 \_\_\_\_\_, as counsel for Respondent Superior Performers.  
20 **Irvin D. Gordon, Esq.**

21  
22 **SO ORDERED,**

23 Entered this 9th day of March, 2009.

24  
25 \_\_\_\_\_  
Peter C. Hildreth,  
Bank Commissioner