

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 08-BD-004
)
 4 State of New Hampshire Banking)
)
 5 Department,)
) Staff Petition
 6 Petitioner,)
)
 7 and) August 12, 2008
)
 8 Courthouse Researcher Group (d/b/a)
)
 9 Data Processing Center), Domains by)
)
 10 Proxy, Inc. (d/b/a)
)
 11 www.easyrespond.com), and
 12 www.easyrespond.com,
 13 Respondents

14
15 STATEMENT OF ALLEGATIONS

16 I. The staff of the Banking Department, State of New Hampshire
17 (hereinafter referred to as the "Department") alleges the
18 following facts:

19 1. On or about July 24, 2008, the Department received a written
20 communication from Financial Institution A, a state-chartered
21 co-operative bank located in New Hampshire, regarding a mailing
22 from Respondent www.easyrespond.com with a mailing address of
23 Data Processing Center 802 Dunlap Avenue in Kernersville, North
24 Carolina 27284-9920.

25 2. An internet Google search revealed a job listed with
preferredjobs.com. The job was for an Independent Courthouse

1 Researcher and was posted by Respondent Courthouse Researcher
2 Group (hereinafter "CRG") located on 802 Dunlap Street in
3 Kernersville, North Carolina 27284, which is the same address as
4 in paragraph 1 above.

5 3. The registrant and administrative contact for
6 www.easyrespond.com, as indicated in a Network Solutions WHO IS
7 search, is Domains by Proxy, Inc. (DomainsByProxy.com) located
8 on 15111 N. Hayden Road, Suite 160, PMB 353 in Scottsdale,
9 Arizona 85260 (hereinafter "Domains").

10 4. A search for "Domains by Proxy" via the Arizona Secretary of
11 State website reveals Respondent Domains has a domestic address
12 of 14455 N Hayden Road, Suite 219 in Scottsdale, Arizona 85260.

13 5. Respondent www.easyrespond.com advertises on its website that
14 a consumer "[a]s a `Mortgage Holder'...may qualify to
15 participate in a low cost No Physical Exam Mortgage Life &
16 Disability Insurance Plan..."

17 6. Financial Institution A indicated in the letter that this
18 solicitation to Consumer A and Consumer B, a married couple,
19 appears to be in violation of the recently approved Senate
20 Bill 0315.

21 7. Respondents' solicitation advised that the Mortgage Life Plan
22 can protect Consumer A's and Consumer B's loan in the case of
23 an unexpected tragedy and that without the plan, Consumer A's
24 and Consumer B's family would still be responsible to make
25 monthly mortgage payments.

1 8. Respondents' solicitation further advised that benefits can
2 include:

3 a. in case of death, the program/plan would pay the mortgage
4 amount in the event of the consumer's death,

5 b. in case of disability, the program/plan provides money to
6 make the consumer's mortgage payment if the consumer cannot
7 work due to disability,

8 c. in case of unemployment, the program/plan pays the
9 consumer's premium payments for up to six months, and
10

11 d. a return of premium, wherein the program/plan returns 100%
12 of the consumer's premium at the end of the term if it is not
13 used.

14 9. Respondents' solicitation references the bank name in one
15 place on the solicitation itself:

16 a. At the very top of the solicitation preceded by "Lender:".
17

18 10. Respondents fail to reference in bold face type in the same
19 font as is predominately used in the solicitation that
20 Respondents are not affiliated with, authorized by, endorsed
21 by any financial institution that loan information is
22 retrieved from public records.

23 11. Respondents do not appear to have received any authorization
24 (written or otherwise) to use the full or abbreviated name,
25 trade name, service mark, or trademark of Financial
Institution A.

ISSUES OF LAW

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- 2 II. The staff of the Department alleges the following issues of law:
- 3 1. The Department re-alleges the above-stated facts in paragraphs
- 4 1 through 11.
- 5 2. The Department has jurisdiction over state-chartered banks
- 6 pursuant to RSA 383:9 ("Duties").
- 7 3. Pursuant to RSA 384:12-a, IV ("Cease and Desist Order"), the
- 8 Bank Commissioner (hereinafter "Commissioner") may issue and
- 9 serve upon an individual or business entity a cease and desist
- 10 order for any act or conduct that is in violation of RSA
- 11 384:67 ("Unauthorized and Deceptive Use").
- 12 4. Pursuant to RSA 384:68 ("Enforcement"), the Commissioner may
- 13 issue a cease and desist order against any individual or
- 14 business entity which engages in any act or conduct that
- 15 violates RSA 384:67 involving a financial institution under
- 16 the jurisdiction of the Commissioner and may bring legal
- 17 action to enforce the order.
- 18 5. Pursuant to RSA 384:67, IV, for the purposes thereof, the term
- 19 "financial institution" shall include a state-chartered bank
- 20 as defined in RSA 384-B:1, I.
- 21 6. Pursuant to RSA 384:67, I (a), no individual or business
- 22 entity shall, without the prior written authorization of a
- 23 financial institution, "use the full or abbreviated name,
- 24 trade name, service mark, or trademark of any financial
- 25 institution in any written, electronic, or oral advertisement
- or solicitation for products and services."
7. Pursuant to RSA 384:67, I (c), no individual or business
- entity shall, without the prior written authorization of a
- financial institution, include specific loan information

1 relative to a specifically identified consumer that is
2 publicly available "(1) in any written or electronic
3 solicitation, unless the advertisement or solicitation clearly
4 and conspicuously states on the front page or introduction in
5 bold-faced type that is the same font size as is predominately
6 used in the advertisement or solicitation disclosing that such
7 individual or business entity is not sponsored by or
8 affiliated with, and that such solicitation is not authorized
9 by, the financial institution and that the information was
10 received from public records."

11 **RELIEF REQUESTED**

12 The staff of the Department requests the Commissioner take the
13 following action:

14 1. Find as fact the allegations contained in Section I of the
15 Statement of Allegations of this Petition.

16 2. Make conclusions of law relative to the allegations contained
17 in Section II of the Statement of Allegations (Issues of Law) of this
18 Petition.

19 3. Pursuant to RSA 384:12-a, IV, order Respondents to immediately
20 Cease and Desist from any violations of RSA 384:67.

21 4. Pursuant to RSA 384:68, order Respondents to immediately Cease
22 and Desist from any violations of RSA 384:67.

23 5. Take such other legal administrative and legal actions as are
24 necessary for enforcement of the New Hampshire banking laws, the
25 protection of New Hampshire citizens, and to provide other equitable
relief.

1 RIGHT TO AMEND

2 The Department reserves the right to amend this Petition for Relief and
3 to request that the Banking Department Commissioner take additional
4 administrative action. Nothing herein shall preclude the Department from
5 bringing additional enforcement action under RSA 384:12-a, RSA 384:67 or RSA
6 384:68 or any regulations thereunder.

7 Respectfully Submitted:

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9 /S/
10 Maryam Torben Desfosses
11 Staff Attorney
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