

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 08-BD-005
)
 4 State of New Hampshire Banking)
) Staff Petition
 5 Department,)
)
 6 Petitioner) September 8, 2008
)
 7 and)
)
 8 Family Direct Insurance Services, Inc.)
)
 9 (d/b/a www.mortgageprotection.com))
)
 10 Respondent)
)

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12 STATEMENT OF ALLEGATIONS

13 I. The staff of the Banking Department, State of New Hampshire
14 (hereinafter referred to as the "Department") alleges the
15 following facts:

16 1. On or about July 24, 2008, the Department received a written
17 communication from Financial Institution A, a state-chartered
18 co-operative bank located in New Hampshire, regarding a mailing
19 from Respondent Family Direct Insurance Services, Inc. (d/b/a
20 www.mortgageprotection.com) with a mailing address of Family
21 Direct Insurance Services P.O. Box 127 Folsom, California 95763-
22 9921 and a sender address of 870 Glenn Drive Folsom, California
23 95630.

24 2. Financial Institution A indicated in the letter that Consumer A
25 had been solicited via written correspondence by Respondent
Family Direct Insurances Services, Inc. (in violation of SB

1 315), to purchase mortgage protection coverage, which is term
2 life insurance, to enable Consumer A to protect Consumer A's
3 mortgage loan in case of an unexpected occurrence.

4 3. Respondent Family Direct Insurance Services, Inc.'s solicitation
5 asked questions regarding the borrower's and any co-borrower's
6 health history and information.

7 4. Respondent Family Direct Insurance Services, Inc.'s solicitation
8 references the bank name at the top of the page.

9 5. Respondent Family Direct Insurance Services, Inc. did not
10 receive any authorization (written or otherwise) to use the full
11 or abbreviated name, trade name, service mark, or trademark of
12 Financial Institution A.

13 6. Respondent Family Direct Insurance Services, Inc. fails to
14 properly reference in bold face type in the same font as is
15 predominately used in the solicitation that Respondent is not
16 affiliated with, authorized by, endorsed by any financial
17 institution and that loan information is retrieved from public
18 records.

19 7. A search for "Family Direct Insurance Services" revealed the
20 website of www.mortgageprotection.com with an address of 870
21 Glenn Drive Folsom, California 95630.

22 8. The homepage for the website www.mortgageprotection.com lists
23 the following at the bottom of the page: "Family Direct
24 Insurance Services, Inc. 870 Glenn Drive Folsom, CA 95630."
25

1 9. The lead line for www.mortgageprotection.com states "Family
2 Direct Insurance Services is one of America's leading Mortgage
3 Protection agencies."

4 10. A search on the California Secretary of State's website shows
5 Family Direct Insurance Services, Inc. is registered with an
6 address of 870 Glenn Drive Folsom, California 95630.

7 **ISSUES OF LAW**

8 II. The staff of the Department alleges the following issues of law:

9 1. The Department re-alleges the above-stated facts in paragraphs 1
10 through 10.

11 2. The Department has jurisdiction over state-chartered banks
12 pursuant to RSA 383:9 ("Duties").

13 3. Pursuant to RSA 384:12-a, IV ("Cease and Desist Order"), the
14 Bank Commissioner (hereinafter "Commissioner") may issue and
15 serve upon an individual or business entity a cease and desist
16 order for any act or conduct that is in violation of RSA 384:67
17 ("Unauthorized and Deceptive Use").

18 4. Pursuant to RSA 384:68 ("Enforcement"), the Commissioner may
19 issue a cease and desist order against any individual or
20 business entity which engages in any act or conduct that
21 violates RSA 384:67 involving a financial institution under the
22 jurisdiction of the Commissioner and may bring legal action to
23 enforce the order.

24 5. Pursuant to RSA 384:67, IV, for the purposes thereof, the term
25 "financial institution" shall include a state-chartered bank as
defined in RSA 384-B:1, I.

6. Pursuant to RSA 384:67, I (a), no individual or business entity
shall, without the prior written authorization of a financial

1 institution, "use the full or abbreviated name, trade name,
2 service mark, or trademark of any financial institution in any
3 written, electronic, or oral advertisement or solicitation for
4 products and services."

5 **RELIEF REQUESTED**

6 III. The staff of the Department requests the Commissioner take the
7 following action:

- 8 1. Find as fact the allegations contained in Section I of the
9 Statement of Allegations of this Petition.
- 10 2. Make conclusions of law relative to the allegations contained in
11 Section II of the Statement of Allegations (Issues of Law) of
12 this Petition.
- 13 3. Pursuant to RSA 384:12-a, IV, order Respondent to immediately
14 Cease and Desist from any violations of RSA 384:67.
- 15 4. Pursuant to RSA 384:68, order the above mentioned Respondent to
16 immediately Cease and Desist from any violations of RSA 384:67.
- 17 5. Take such other legal administrative and legal actions as are
18 necessary for enforcement of the New Hampshire banking laws, the
19 protection of New Hampshire citizens, and to provide other
20 equitable relief.

21 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
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RIGHT TO AMEND

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

Respectfully Submitted:

 /S/
Maryam Torben Desfosses
Staff Attorney