

1 State of New Hampshire Banking Department

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3 In re the Matter of: ) Case No.: 08-BD-010  
 )  
 4 State of New Hampshire Banking) )  
 )  
 5 Department, ) MOTION TO AMEND OCTOBER 14, 2008  
 ) STAFF PETITION TO ADD IDENTIFIED  
 6 Petitioner, ) RESPONDENTS LEADSYSTEMS, Inc. AND TOM  
 ) HOOVER  
 7 and )  
 )  
 8 Tom Hoover, and LeadSystems, Inc.)  
 )  
 9 (d/b/a "Mortgage Protection Services, )  
 )  
 10 Processing Center, PO Box 661028, )  
 )  
 11 Arcadia, California 91066-9812"), )  
 )  
 12 Respondents )  
 )

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13  
14 MOTION TO AMEND

15 AMENDED STATEMENT OF ALLEGATIONS

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

- 18 1. On or about July 24, 2008, the Department received a written  
 19 communication from Financial Institution A, a state-chartered co-  
 20 operative bank located in New Hampshire, regarding a mailing from  
 21 Respondent Mortgage Protection Services, Processing Center, PO Box  
 22 661028, Arcadia, California 91066-9812" (hereinafter, "Respondent  
 Mortgage Protection Services - Arcadia").
- 23 2. Financial Institution A indicated in the July 22, 2008 letter that  
 24 this solicitation to Consumer A using the name of Financial  
 25 Institution A is in violation of Senate Bill 0315.

- 1           3. Respondent Mortgage Protection Services - Arcadia's solicitation  
2           advised that Consumer A may qualify for the new low cost mortgage  
3           free home protection program, which may help pay Consumer A's  
4           mortgage if Consumer A should pass prior to the mortgage being paid  
5           off.
- 6           4. Respondent Mortgage Protection Services - Arcadia's solicitation  
7           further advised Consumer A to return the solicitation for  
8           additional information.
- 9           5. Respondent Mortgage Protection Services - Arcadia's solicitation  
10           references the bank name in one place on the solicitation itself:  
11           a. In the middle of the index card-sized solicitation just above  
12           Consumer A's name and address, but below the amount and date of  
13           Consumer A's mortgage.
- 14           6. Respondent Mortgage Protection Services - Arcadia fails to  
15           properly, clearly and conspicuously reference in bold face type in  
16           the same font as is predominately used in the solicitation that  
17           Respondent is not affiliated with, authorized by, endorsed by any  
18           financial institution and that loan information is retrieved from  
19           public records.
- 20           7. Respondent Mortgage Protection Services - Arcadia has been subject  
21           to a similar cease and desist order in 2007, for such solicitation  
22           in the State of Illinois, by the State of Illinois Department of  
23           Financial and Professional Regulation, Division of Banking.
- 24           8. Respondent Mortgage Protection Services - Arcadia does not appear  
25           to have received any authorization (written or otherwise) to use  
          the full or abbreviated name, trade name, service mark, or  
          trademark of Financial Institution A.

1 9. The Department received information from the State of Wisconsin  
2 that the actual name of Respondent Mortgage Protection Services -  
3 Arcadia is LeadSystems, Inc. located in Arcadia, California.

4 10. The Department received information from the State of Wisconsin  
5 that the principal owner of LeadSystems, Inc is Tom Hoover.

6 **ISSUES OF LAW**

7 II. The staff of the Banking Department, State of New Hampshire alleges the  
8 following issues of law:

9 11. The Department re-alleges the above-stated facts in paragraphs 1  
10 through 10. The Department has jurisdiction over state-chartered  
11 banks pursuant to RSA 383:9 ("Duties").

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

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

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

25 15. Pursuant to RSA 384:67, I (a), no individual or business entity  
shall, without the prior written authorization of a financial  
institution, "use the full or abbreviated name, trade name, service  
mark, or trademark of any financial institution in any written,

1 electronic, or oral advertisement or solicitation for products and  
2 services."

3 16. Pursuant to RSA 384:67, I (c), no individual or business entity  
4 shall, without the prior written authorization of a financial  
5 institution, include specific loan information relative to a  
6 specifically identified consumer that is publicly available "(1) in  
7 any written or electronic solicitation, unless the advertisement or  
8 solicitation clearly and conspicuously states on the front page or  
9 introduction in bold-faced type that is the same font size as is  
10 predominately used in the advertisement or solicitation disclosing  
11 that such individual or business entity is not sponsored by or  
12 affiliated with, and that such solicitation is not authorized by,  
13 the financial institution and that the information was received  
14 from public records."

14 **RELIEF REQUESTED**

15 III. The staff of the Banking Department requests the Commissioner take the  
16 following action:

- 17 1. Find as fact the allegations contained in section I of the Amended  
18 Statement of Allegations of this petition.
- 19 2. Make conclusions of law relative to the allegations contained in section  
20 II of the Statement of Allegations of this petition.
- 21 3. Amend the previously issued Cease and Desist Order consistent with the  
22 attached proposed amended Cease and Desist Order to include Respondent  
23 LeadSystems, Inc. and Respondent Tom Hoover.
- 24 4. Take such other administrative and legal actions as are necessary for  
25 enforcement of the New Hampshire Banking laws, the protection of New  
Hampshire citizens, and to provide other equitable relief.

