

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 11-BD-001
))
3 State of New Hampshire Banking)
) Cease and Desist Order
4 Department,)
))
5 Petitioner,)
))
6 and)
))
7 Mortgage Protection Division, GK &)
))
8 Associates Financial Services (d/b/a)
))
9 GK & Associates, Inc, d/b/a Gary)
))
10 Kroll & Associates, Inc.), LeadCo,)
))
11 LLC (d/b/a Leadco, d/b/a)
))
12 LeadcoLeads), Gambler Tours &)
))
13 Charters (d/b/a The Gambler), Gary M.)
))
14 Kroll, and Dan Goff,)
))
15 Respondents)

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17 NOTICE OF CEASE AND DESIST ORDER

18 This Cease and Desist Order (hereinafter "Order") commences an
19 adjudicative proceeding under the provisions of RSA 384:12-a, RSA 384:67 and
20 RSA 384:68 in conformity with RSA 541-A:31 through RSA 541-A:36.

21 LEGAL AUTHORITY AND JURISDICTION

22 Pursuant to RSA 383:9 ("Duties"), banks shall be under the control and
23 supervision of the Bank Commissioner (hereinafter "the Commissioner"). Many
24 of the powers now vested in the Commissioner are listed in RSA Chapter 384,
25 entitled "General Provisions As To Savings Banks, Trust Companies, And

1 Depositories".

2 Pursuant to RSA 384:12-a ("Cease and Desist Order"), IV, if, in the
3 opinion of the Commissioner, an individual or business entity is engaging in
4 or has engaged in any act or conduct in violation of RSA 384:67, the
5 Commissioner may issue and serve an order upon the individual or business
6 entity requiring the individual or business entity to cease and desist from
7 such act or conduct.

8 Pursuant to RSA 384:68 ("Enforcement"), the Commissioner may issue a
9 cease and desist order, as provided in RSA 384:12-a, IV, against any
10 individual or business entity which engages in any act or conduct in
11 violation of RSA 384:67 involving a financial institution in New Hampshire
12 and may bring legal action to enforce the order.

13 Pursuant to RSA 383:10-d ("Consumer Complaints and Restitution"), the
14 Commissioner shall have exclusive authority and jurisdiction to investigate
15 conduct that is or may be an unfair or deceptive act or practice that may
16 violate any of the provisions of Titles XXXV and XXXVI and administrative
17 rules adopted thereunder. The Commissioner may hold hearings relative to
18 such conduct and may order restitution for a person or persons adversely
19 affected by such conduct.

20 **NOTICE OF RIGHT TO REQUEST A HEARING**

21 The above named Respondents or any interested party has the right to
22 petition for a hearing on this Cease and Desist Order (hereinafter "Order"),
23 as well as the right to be represented by counsel. If the above named
24 Respondents to whom this Order is issued, or any interested party, fail to
25 request a hearing within 30 calendar days of receipt of such Order, then such

1 person shall be deemed in default, and the Order shall, on the thirty-first
2 day, become permanent and shall remain in full force and effect until and
3 unless later modified or vacated by the Commissioner, for good cause shown.
4 Any such request for a hearing shall be in writing, signed by the
5 Respondent(s) or by the duly authorized agent of the above named Respondents,
6 and shall be delivered either by hand or certified mail, return receipt
7 requested, to the Banking Department, State of New Hampshire, 53 Regional
8 Drive, Suite 200, Concord, NH 03301.

9 A hearing shall be held not later than 10 days after the petition for
10 such hearing is received by the Commissioner. All hearings shall comply with
11 RSA 541-A. If the person to whom this Order is issued fails to appear at the
12 petitioned hearing after being duly notified of the date and time, such
13 business entity shall be deemed in default, and the proceeding may be
14 determined against it upon consideration of this Order, the allegations of
15 which may be deemed to be true.

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17 **STATEMENT OF ALLEGATIONS, APPLICABLE LAW, AND RELIEF REQUESTED**

18 The Staff Petition dated April 21, 2011 (a copy of which is attached
19 hereto) is incorporated by reference herein.

20
21 **ORDER**

22 WHEREAS, finding it necessary and appropriate and in the public
23 interest, and consistent with the intent and purposes of the New Hampshire
24 banking laws, and

25 WHEREAS, finding that the allegations contained herein, if proved true
and correct, form the legal basis of the relief requested,

1 It is hereby ORDERED, that:

2 1. The Respondents shall immediately cease and desist from the
3 unauthorized and deceptive use of the full or abbreviated
4 name, trade name, service mark, or trademark of any financial
5 institution in any written, electronic, or oral advertisement
6 or solicitation for products or services;

7 2. The Respondents shall immediately cease and desist from
8 including loan information relative to a specifically
9 identified consumer that is publicly available in:

10 a. any written or electronic solicitation when the
11 advertisement or solicitation does not clearly and
12 conspicuously state on the front page or introduction in
13 bold-faced type in the same font size as is
14 predominantly used in the advertisement or solicitation
15 disclosing that such individual or business entity is
16 not sponsored by or affiliated with, and that such
17 solicitation is not authorized by, the financial
18 institution and that the information was retrieved from
19 public records, or

20 b. an oral solicitation when the same disclosure is not
21 made at the beginning of the solicitation;

22 3. Failure to request a hearing within 30 days of the date of
23 receipt of this Order shall result in a default judgment being
24 rendered.

1 SO ORDERED,

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3 Dated: 4/21/11

_____/s/
Robert A. Fleury
Deputy Bank Commissioner

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1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 11-BD-001
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 4 State of New Hampshire Banking)
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 5 Department,)
) Staff Petition
 6 Petitioner,)
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 7 and)
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 8 Mortgage Protection Division, GK &) April 21, 2011
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 9 Associates Financial Services (d/b/a)
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 10 GK & Associates, Inc, d/b/a Gary)
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 11 Kroll & Associates, Inc.), LeadCo,)
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 12 LLC (d/b/a Leadco, d/b/a)
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 13 LeadcoLeads), Gambler Tours &)
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 14 Charters (d/b/a The Gambler), Gary M.)
)
 15 Kroll, and Dan Goff,)
)
 16 Respondents)
)

17 STATEMENT OF ALLEGATIONS

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

- 20 1. On or about January 19, 2010 the Department received a written
 21 communication from a New Hampshire state-chartered bank (hereinafter
 22 "Financial Institution A") regarding a solicitation for insurance from
 23 Customer Service Department, Mortgage Protection Division, P.O. Box
 24 1737, Owasso, Oklahoma 74055-9900.
- 25 2. On or about April 22, 2010 the Department received another written

1 communication from Financial Institution A, regarding a second
2 mailing, nearly identical to the first, from Customer Service
3 Department, Mortgage Protection Division, P.O. Box 1737, Owasso,
4 Oklahoma 74055-9900.

5 3. The Mortgage Data Card contained in the solicitation materials
6 contains the following information:

7 a. The name of the mortgage lender, Financial Institution A;
8 and

9 b. The borrowers' information, including name and address
10 along with the total loan amount and name of borrowers'
11 lender.

12 4. Financial Institution A did not authorize any of the above named
13 Respondents to use the full or abbreviated name, trade name, service
14 mark, or trademark of Financial Institution A.

15 5. The Notice of Offering Mortgage Free Home Protection card enclosed
16 with solicitation material further advises that "as a homeowner, you
17 may qualify for the new Low Cost Mortgage Free Home Protection
18 Program. This program will provide a check to Guarantee A Mortgage
19 Free Home For Your Family in the event that you or your spouse should
20 die before the mortgage is paid off. For additional information,
21 please complete the enclosed card and return it in the postage paid
22 envelope provided for your convenience. Thank you. The Customer
23 Service Department."

24 6. The only company name listed on any of the solicitation materials is
25 Customer Service Department, Mortgage Protection Division ("Respondent
Mortgage Protection Division").

1 7. The address listed on the envelope in which the solicitation was
2 mailed is Customer Service Department Mortgage Protection Division, PO
3 Box 1737, Owasso, OK 74055-9903.

4 8. The name and address listed on the Business Reply envelope is Customer
5 Service Department, Mortgage Protection Division, PO Box 1737, Owasso,
6 OK 74055-9903.

7 9. On or about March 17, 2011, the Department received a written
8 communication from a second New Hampshire state-chartered bank
9 ("Institution B") regarding a third solicitation for insurance from
10 Customer Service Department, Mortgage Protection Division, P.O. Box
11 1737, Owasso, Oklahoma 74055-9900. The return address on the envelope
12 in which the materials were mailed is P.O. Box 661028, Arcadia,
13 California 91066-1028. This is the address on record with the
14 Department for Tom Hoover, and LeadSystems, Inc. (d/b/a "Mortgage
15 Protection Services Processing Center) which the Department issued a
16 Cease and Desist Order on November 7, 2008 and a Default Judgment on
17 June 9, 2009. (*See NHBD Enforcement Order Docket 08-BD-010.*) The
18 materials enclosed with the mailing are similar to the first two
19 solicitations forwarded to the Department by Institution A.

20 10. Financial Institution B did not authorize any of the above named
21 Respondents to use the full or abbreviated name, trade name, service
22 mark, or trademark of Financial Institution B.

23 11. Information regarding Customer Service Department, Mortgage Protection
24 Division, P.O. Box 1737 Owasso, OK 74055-9900 was not available via a
25 Google internet search or on the Oklahoma Secretary of State website.

1 12. A Google internet search of "PO Box 1737 Owasso, OK 74055-9900"
2 revealed this address belongs to Gambler Tours & Charters, Inc. (d/b/a
3 The Gambler) ("Respondent Gambler Tours").

4 13. Gambler Tours & Charters, Inc. and The Gambler, LLC are listed as
5 active companies on the Oklahoma Secretary of State website.

6 14. The envelope in which the materials were mailed specifically states:
7 "PRSRT STD Auto U.S. Postage PAID Dallas, TX Permit 165." United
8 States Post Office records indicate Permit No. 165 was issued to
9 Leadco LLC, PO Box 471917, Tulsa, Oklahoma 74147-1917.

10 15. The Business Reply envelope lists "Permit No. 7, Owasso, OK." United
11 States Post Office records indicate the applicant named on the permit
12 application is Dan Goff, Mortgage Protection Division. The current
13 address listed on the permit is 2805 E. Skelly Drive, Suite 806,
14 Tulsa, OK 74105

15 16. Respondent Dan Goff is listed as the contact person on an online
16 employment advertisement for LeadCo, LLC. Respondent Gary Kroll is the
17 registered agent for Leadco, LLC. This company is also located at 2211
18 E. Skelly, Tulsa OK 74105.

19 17. A Google internet search for "2805 E. Skelly Drive, Suite 806, Tulsa,
20 OK 74105" indicates this address belongs to the following companies:

21 a. LeadCo, LLC (d/b/a Leadco, d/b/a LeadcoLeads)

22 b. GK & Associates (d/b/a GK & Associates, Inc, d/b/a Gary
23 Kroll & Associates, Inc.)

24 18. Respondent Gary Kroll is the founder, president and CEO of GK &
25 Associates Financial Services (d/b/a GK & Associates, Inc, d/b/a Gary

1 Kroll & Associates, Inc.) ("Respondent GK & Associates"). This company
2 is also located at 2211 E. Skelly, Tulsa OK 74105.

3 19. United State Post Office records reveal that Respondent Mortgage
4 Protection Division may also receive mail at PO Box 701171 Tulsa, OK
5 74170. A Google internet search indicates that this is the address
6 for the following companies:

7 a. LeadStar, LLC

8 b. Lead Machine, LLC

9 20. United States Post Office records reveal that Respondent Mortgage
10 Protection Services may also receive mail at 2211 E. Skelly, Tulsa OK
11 74105. A Google internet search indicates that this is the address for
12 the following companies:

13 a. LeadCo, LLC (d/b/a Leadco, d/b/a LeadcoLeads)

14 b. GK & Associates (d/b/a GK & Associates, Inc, d/b/a Gary
15 Kroll & Associates, Inc.)

16 21. The State of Illinois Department of Financial and Professional
17 Regulation Division of Banking issued a Cease and Desist Order against
18 Mortgage Protection Division, P.O. Box 1737, Owasso, Oklahoma, 74055-
19 9900 on October 15, 2010 for violations of law pertaining to the
20 unauthorized use of a bank name.

21 **ISSUES OF LAW**

22 The staff of the Department alleges the following issues of law:

- 23 1. The Department re-alleges the above-stated facts in paragraphs 1
24 through 21.
- 25 2. The Department has jurisdiction over state-chartered banks and credit

1 unions pursuant to RSA 383:9 ("Duties").

2 3. Pursuant to RSA 384:12-a, IV ("Cease and Desist Order"), the Bank
3 Commissioner (hereinafter "Commissioner") may issue and serve upon an
4 individual or business entity a Cease and Desist Order for any act or
5 conduct that is in violation of RSA 384:67 ("Unauthorized and
6 Deceptive Use").

7 4. Pursuant to RSA 384:68 ("Enforcement"), the Commissioner may issue a
8 Cease and Desist Order against any individual or business entity which
9 engages in any act or conduct that violates RSA 384:67 involving a
10 financial institution in New Hampshire and may bring legal action to
11 enforce the order.

12 5. Pursuant to RSA 384:67, I (a), no individual or business entity shall,
13 without the prior written authorization of a financial institution,
14 "use the full or abbreviated name, trade name, service mark, or
15 trademark of any financial institution in any written, electronic, or
16 oral advertisement or solicitation for products and services."

17 6. Respondents used the name of two state-chartered institutions in their
18 solicitations without permission from the institutions and thus
19 violated RSA 384:67, I (a).

20 **RELIEF REQUESTED**

21 The staff of the Department requests the Commissioner take the following
22 action:

- 23 1. Find as fact the allegations contained in Section I of the Statement of
24 Allegations of this Petition.
- 25 2. Make conclusions of law relative to the allegations contained in
Section II of the Statement of Allegations (Issues of Law) of this

