

1 In re the Matter of: ) Case No.: 09-152  
 )  
 2 State of New Hampshire Banking )  
 )  
 3 Department, )  
 )  
 4 Petitioner, ) Order to Show Cause and  
 ) Cease and Desist  
 5 and )  
 )  
 6 Diener Law Office (d/b/a Home Relief )  
 )  
 7 Services, LLC d/b/a US Loan Mod )  
 )  
 8 Processing d/b/a HRS Communications )  
 )  
 9 d/b/a The Diener Law Firm d/b/a Diener )  
 )  
 10 Law Group), and Christopher Diener, )  
 )  
 11 Esq., )  
 )  
 12 Respondents )

13 NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST ("ORDER")

14 1. This Order commences an adjudicative proceeding under the provisions  
 15 of RSA Chapter 399-D (including RSA 399-D:13,I, RSA 399-D:23,I and II, RSA  
 16 399-D:24, IV and V and RSA 399-D:25,IV) and RSA Chapter 541-A.

17 2. The Commissioner may impose administrative penalties of up to  
 18 \$2,500.00 for each violation. RSA 399-D:24,IV and V.

19 RESPONDENTS

20 3. Diener Law Office (d/b/a Home Relief Services, LLC d/b/a US Loan Mod  
 21 Processing d/b/a HRS Communications d/b/a The Diener Law Firm d/b/a Diener  
 22 Law Group ("Respondent Diener Law") is a professional corporation  
 23 incorporated in the State of California on November 17, 2008, with a  
 24 principal office location in Irvine, California. The Respondent Diener Law  
 25 is not registered with the New Hampshire Secretary of State's Office.

1 Respondent Diener Law is a "Person." RSA 399-D:1,VII.

2 4. The New Hampshire Banking Department's ("Department") records do not  
3 indicate that Respondent Diener Law has ever held a New Hampshire Debt  
4 Adjuster license.

5 5. Christopher Diener, Esq. ("Respondent Diener") is an attorney licensed  
6 to practice in the State of California since May 20, 1997 and owner of  
7 Respondent Diener Law. Respondent Diener is a Control Person (RSA 399-  
8 D:2,II-a), a Direct Owner (RSA 399-D:2,V-b), a Principal (RSA 399-D:2,VII-  
9 a), and a Person (RSA 399-D:2,VII).

10 6. The New Hampshire Banking Department's ("Department") records do not  
11 indicate that Respondent Diener has ever held a New Hampshire Debt Adjuster  
12 license.

13 7. The above-named Respondents are hereinafter collectively known as  
14 "Respondents".

15 **RIGHT TO REQUEST A HEARING**

16 8. Respondents have a right to request a hearing on this Order. A hearing  
17 shall be held not later than ten (10) days after the Commissioner receives  
18 the Respondent's written request for a hearing. Respondents may request a  
19 hearing and waive the ten (10) day hearing requirement. The hearing shall  
20 comply with RSA Chapter 541-A. RSA 399-D:13,I and RSA 399-D:23, I and II.

21 9. If any person fails to request a hearing within thirty (30) days of  
22 receiving this Order, then such person shall be deemed in default, and the  
23 Order shall, on the thirty-first (31<sup>st</sup>) day, become permanent, all  
24 allegations may be deemed true, and shall remain in full force and effect  
25 until modified or vacated by the Commissioner for good cause shown. RSA

1 399-D:13,I and RSA 399-D:23,II.

2 10. A default may result in administrative fines as described in Paragraph  
3 2 above.

4 STATEMENT OF ALLEGATIONS

5 11. On March 26, 2009, the Department received a complaint against  
6 Respondents from a New Hampshire consumer ("Consumer A") alleging that  
7 Respondents failed to provide debt relief assistance or refund money paid  
8 for this assistance.

9 12. On November 11, 2008, Respondents had contracted with Consumer A to  
10 negotiate and settle consumer debt on behalf of Consumer A. The contract  
11 provided that Consumer A would pay \$1,695.00 as a retainer to Respondents  
12 for services that Respondents would provide. On November 24, 2008, Consumer  
13 A paid an initial deposit of \$847.50 to Respondents. On January 8, 2009,  
14 Consumer A paid another payment of \$847.50 to Respondents. Respondents  
15 charged an advanced fee, in violation of RSA 399-D:14,I.

16 13. By January 8, 2009, Respondent had collected \$1,695.00 in fees from  
17 Consumer A, without either the written consent of Consumer A's creditors or  
18 any payments made to Consumer A's creditors, in violation of RSA 399-D:14,I  
19 and II.

20 14. Respondent failed to conduct any debt negotiations on behalf of  
21 Consumer A, and has failed to use any of the funds to pay Consumer A's  
22 creditors.

23 15. On April 30, 2009, the Department sent a letter via U.S. Mail Return  
24 Receipt Requested to Respondents, suggesting Respondent apply for licensure  
25 with the Department and resolution of Consumer A's complaint. The

1 correspondence was received by the Respondents on May 7, 2009.

2 16. On June 10, 2009, the Department sent a letter via U.S. Mail Return  
3 Receipt Requested to Respondents, indicating that a response to the  
4 Department's correspondence dated April 30, 2009 was needed by the  
5 Respondents. This correspondence was returned to the Department on July 20,  
6 2009 marked "Return to Sender - Refused".

7 17. On June 12, 2009, the Department received a correspondence from  
8 Respondents indicating that Respondents were reviewing the request, but were  
9 unaware of any New Hampshire contacts.

10 18. On June 16, 2009, the Department sent a letter via U.S. Mail Return  
11 Receipt Requested to Respondents which provided Consumer A's complaint and  
12 requested a response to the Department's correspondence dated April 30,  
13 2009. This correspondence was received by the Respondents on June 22, 2009.

14 19. On July 6, 2009, the Department received a correspondence from  
15 Respondents indicating that Consumer A contracted with Respondents to  
16 perform negotiations with her lender regarding her residential mortgage and  
17 those services were preformed. Respondents also indicated that any  
18 communications between Respondents and Consumer A could not be disclosed  
19 because of Attorney-Client confidentiality.

20 20. On February 9, 2010, the Department sent a letter via U.S. Mail Return  
21 Receipt Requested to Respondents suggesting Respondents apply for licensure  
22 with the Department. This correspondence was returned to the Department on  
23 March 11, 2010 marked "Return to Sender - Unclaimed".

24 21. On August 12, 2011, the Department sent a letter via U.S. Mail Return  
25 Receipt Requested to Respondents suggesting Respondents apply for licensure

1 with the Department, provide documentation to the Department regarding any  
2 New Hampshire consumer activity, and respond to the consumer complaint.  
3 This correspondence was received by the Respondents on August 18, 2011.

4 22. To date, Respondents have failed to respond or to provide any of the  
5 information requested by the Department, in violation of RSA 399-D:22,VIII.

6 23. To date, Respondent has failed to return \$1,695.00 of Consumer A's  
7 funds.

8  
9 \_\_\_\_\_ /s/  
10 Ryan McFarland  
Hearings Examiner

September 6, 2011  
Date

11 **ORDER**

12 24. **I hereby find as follows:**

13 a. Pursuant to RSA 399-D:13,I, the facts as alleged above, if true,  
14 show Respondents are operating or have operated in violation of RSA Chapter  
15 399-D and form the legal basis for this Order;

16 b. Pursuant to 399-D:25,VI, this Order is necessary and appropriate  
17 to the public interest and for the protection of consumers and consistent  
18 with the purpose and intent of New Hampshire banking laws;

19 c. The Department finds pursuant to RSA 399-D:23,II reasonable  
20 cause to issue an order to cease and desist; and

21 d. Pursuant to RSA 399-D:13,I and RSA 399-D:23,II, if any  
22 Respondent fails to respond to this Order and/or defaults then all facts as  
23 alleged herein are deemed as true.

24 25. **Accordingly, it is hereby ORDERED that:**

25 a. Respondents shall cease and desist from violating RSA Chapter

1 399-D and rules or orders thereunder;

2       b.     Respondents shall immediately provide the Department a list of  
3 all New Hampshire consumers for whom Respondents have conducted or  
4 contracted to conduct debt adjustment activities. This list must include  
5 the names and contact information of the New Hampshire consumers, along with  
6 all monies charged, collected, and waived (if applicable). The list shall  
7 also be accompanied by all contracts, checks to and from the consumer and  
8 any other documents in the New Hampshire consumers' files;

9       c.     Respondents shall show cause why the Commissioner should not  
10 enter an order of rescission, restitution, or disgorgement of profits in the  
11 amount of at least \$1,695.00 (Consumer A);

12       d.     Respondents shall show cause why an administrative fine of up to  
13 a maximum of \$2,500.00 per violation should not be imposed as follows:

14           (1).   Respondent Diener Law:

15                   Violation #1: Unlicensed activity as a debt adjuster (RSA  
16                   399-D:3,I) - 1 count;

17                   Violation #2: Collecting a Fee prior to payment to  
18                   creditors (RSA 399-D:14,I) - 1 count;

19                   Violation #3: Collecting a Fee without consent of the  
20                   creditors (RSA 399-D:14,II) - 1 count;

21                   Violation #4: Failure to provide documents (RSA 399-  
22                   D:22,VIII) - 1 count;

23           (2).   Respondent Diener (as Control Person, Direct Owner, and  
24                   Principal):

25                   Violation #1: Unlicensed activity as a debt adjuster (RSA

