

1 State of New Hampshire Banking Department

2

3 In re the Matter of: ) Case No.: 07-047  
 )  
 4 State of New Hampshire Banking ) Cease and Desist Order  
 )  
 5 Department, )  
 )  
 6 and )  
 )  
 7 Help With Debt, LLC and David A. )  
 )  
 8 Gelinas )  
 )  
 9 Respondents )  
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 10 )  
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11  
12 NOTICE OF ORDER

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14 This Order commences an adjudicative proceeding under the provisions of  
15 RSA 399-D:23 II, 399-G:24 and RSA 383:10-d.

16 LEGAL AUTHORITY AND JURISDICTION

17 Pursuant to RSA 399-D:23 II, the Banking Department of the State of New  
18 Hampshire (hereinafter the "Department") has the authority to issue and cause  
19 to be served an order requiring any person engaged in any act or practice  
20 constituting a violation of RSA 399-D or any rule or order thereunder, to  
cease and desist from violations of RSA 399-D.

21 Pursuant to RSA 399-D:24, the Commissioner has the authority to  
22 suspend, revoke or deny any license and to impose administrative penalties of  
23 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

24 Pursuant to RSA 399-G:19 II, the Department has the authority to issue  
25 and cause to be served an order requiring any person engaged in any act or

1 practice constituting a violation of RSA 399-G or any rule or order  
2 thereunder, to cease and desist from violations of RSA 399-G.

3 Pursuant to RSA 399-G:21, the Commissioner has the authority to  
4 suspend, revoke or deny any license and to impose administrative penalties of  
5 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

6 Pursuant to RSA 383:10-d, the Commissioner shall have exclusive  
7 authority and jurisdiction to investigate conduct that is or may be an unfair  
8 or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or  
9 that may violate any of the provisions of Titles XXXV and XXXVI and  
10 administrative rules adopted thereunder. The Commissioner may hold hearings  
11 relative to such conduct and may order restitution for a person or persons  
12 adversely affected by such conduct.

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

14 The above named respondent has the right to request a hearing on this  
15 Order to Cease and Desist, as well as the right to be represented by counsel.  
16 A hearing shall be held not later than 10 days after the request for such  
17 hearing is received by the commissioner after which and within 20 days of the  
18 date of the hearing the commissioner shall issue a further order vacating the  
19 cease and desist order or making it permanent as the facts require. All  
20 hearings shall comply with 541-A. If the person to whom a cease and desist  
21 order is issued fails to appear at the hearing after being duly notified, such  
22 person shall be deemed in default, and the proceeding may be determined against  
23 him or her upon consideration of the cease and desist order, the allegations of  
24 which may be deemed to be true.

25 If the person to whom a cease and desist order is issued fails to request  
a hearing within 30 calendar days of receipt of such order, then such person  
shall likewise be deemed in default, and the order shall, on the thirty-first  
day, become permanent, and shall remain in full force and effect until and  
unless later modified or vacated by the commissioner, for good cause shown.

1 Any such request for a hearing shall be in writing, and signed by the  
2 respondent or by the duly authorized agent of the above named respondent, and  
3 shall be delivered either by hand or certified mail, return receipt request,  
4 to the Banking Department, State of New Hampshire, 64B Old Suncook Road,  
5 Concord, NH 03301.

6 **STATEMENT OF ALLEGATIONS**

7 The allegations contained in the Staff Petition dated February 27, 2007  
8 (a copy of which is attached hereto) are incorporated by reference hereto.

9 **ORDER**

10 WHEREAS, finding it necessary and appropriate and in the public  
11 interest, and consistent with the intent and purposes of the New Hampshire  
12 banking laws, and

13 WHEREAS, finding that the allegations contained in the Staff Petition,  
14 if proved true and correct, form the legal basis of the relief requested,

15 It is hereby ORDERED, that:

- 16 1. The Respondents are hereby ordered to immediately cease  
17 engaging in the activity of a debt adjuster in New Hampshire.
- 18 2. The Respondents are hereby ordered to immediately cease  
19 engaging in the activity of a money transmitter in New  
20 Hampshire.
- 21 3. Failure to request a hearing within 30 days of the date of  
22 receipt of this Order shall result in a default judgment being  
23 rendered, administrative penalties being imposed upon the  
24 defaulting Respondent, and such further action as is necessary  
25 to determine the proper amount of restitution.

SIGNED,

Dated: 3/1/07

/s/  
PETER C. HILDRETH  
BANK COMMISSIONER

1  
2 State of New Hampshire Banking Department

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4 In re the Matter of: ) Case No.: 07-047  
5 State of New Hampshire Banking )  
6 Department, ) Cease and Desist Order  
7 and ) Staff Petition  
8 Help With Debt, LLC, and David A. )  
9 Gelinas, )  
10 Respondents )  
11 )  
12 )

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13 STATEMENT OF ALLEGATIONS

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

- 16 1. Help with Debt, LLC (hereinafter Respondent Help) is a limited  
17 liability company registered with the Secretary of State as having a  
18 principal address at 104 Douglas Drive, Candia, NH.
- 19 2. David A. Gelinas (Hereinafter Respondent Gelinas) is the record  
20 majority owner/shareholder of Respondent Help.
- 21 3. Respondents are not licensed by the Department in any capacity.
- 22 4. Respondent Help maintains a website at www.helpwithdebt.com. This  
23 website purports to assist consumers in obtaining the services of a  
24 debt adjuster.
- 25 5. At a minimum the website offers to assist consumers in obtaining relief  
from overdue credit card bills and other obligations by receiving money  
from a debtor and negotiating with the debtor's creditors for relief

1 from the obligations. The website clearly states that such services  
2 are performed in exchange for a fee.

3 6. This petitioner contacted Respondent Help via the telephone number  
4 listed on their website, identified himself as a New Hampshire  
5 resident, and requested their assistance.

6 7. Respondents' agent stated that for the debt situation proposed by this  
7 petitioner that the petitioner would best be served by not paying any  
8 of his outstanding obligations and instead making monthly payments to  
9 Respondent Help's trust company to be held in escrow until the  
10 creditors were in a position of "charging off" the debts. Respondents'  
11 agent suggested that in this way the petitioner would only have to pay  
12 half of his debts and would only suffer the inconvenience of debt  
13 collector calls and a bad credit record.

14 8. Respondents' agent then stated that Respondent Help would contract with  
15 an attorney on the petitioner's behalf who would negotiate this payment  
16 amount. Respondent Help would then instruct the trust company to  
17 release those funds to the creditor.

18 9. On January 3, 2007 the Banking Commissioner by Order simultaneously  
19 found that debt adjusters were required to be licensed as money  
20 transmitters and exempted licensed debt adjusters from the application  
21 of 399-G under certain conditions. Respondents are neither licensed as  
22 debt adjusters nor have they met the other conditions.

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

25 1. The Banking Department ("Department"), has jurisdiction over the  
licensing and regulation of persons engaged in debt adjustment  
activities pursuant to NH RSA 399-D:3.

- 1 2. Pursuant to the New Hampshire Banking laws, RSA 399-D:3 requires any  
2 person not exempt under RSA 399-D:4 that, in its own name or on behalf  
3 of other persons, engages in the business of debt adjustment in this  
4 state or with persons located in this state shall be required to obtain  
5 a license from the banking department.
- 6 3. Pursuant to NH RSA 399-D:23 the Department has the power to issue and  
7 to serve an order requiring persons to cease and desist from violations  
8 of the chapter whenever it has reasonable cause to believe that any  
9 person has engaged in any act or practice constituting a violation of  
10 the banking laws, or any rule or order thereunder. Respondent has  
11 violated RSA 399-D:3 by conducting unlicensed debt adjuster activities  
12 in New Hampshire.
- 13 4. Pursuant to RSA 399-D:24 any person who, either knowingly or  
14 negligently, violates any provision of this chapter may, upon notice and  
15 opportunity for hearing, and in addition to any such other penalty  
16 provided for by law, be subject to suspension, revocation or denial of  
17 any registration or license, including forfeiture of any application fee,  
18 or an administrative fine not to exceed \$2,500, or both. Each of the  
19 acts specified shall constitute a separate violation, and each such  
20 administrative action or fine may be imposed in addition to any criminal  
21 or civil penalties imposed.
- 22 5. Also pursuant to RSA 399-D:24 every person who directly or indirectly  
23 controls a person liable under this section, every partner, principal  
24 executive officer or director of such person, every person occupying a  
25 similar status or performing a similar function, every employee of such  
person who materially aids in the act constituting the violation, and  
every licensee or person acting as a common law agent who materially aids  
in the acts constituting the violation, either knowingly or negligently,  
may, upon notice and opportunity for hearing, and in addition to any

1 other penalty provided for by law, be subject to suspension, revocation,  
2 or denial of any registration or license, including the forfeiture of any  
3 application fee, or the imposition of an administrative fine not to  
4 exceed \$2,500, or both.

5 6. Pursuant to 399-G:3 any person not exempt under RSA 399-G:4 that, in its  
6 own name or on behalf of other persons, engages in the business of money  
7 transmission must obtain a license from the banking department.

8 7. The Department has the power to issue a Cease and Desist Order against  
9 any person who it has reasonable cause to believe is in violation of the  
10 provisions of the Chapter pursuant to RSA 399-G:19.

11 8. Pursuant to RSA 399-G:21 any person who, either knowingly or negligently,  
12 violates any provision of this chapter may, upon notice and opportunity  
13 for hearing, and in addition to any such other penalty provided for by  
14 law, be subject to license suspension, revocation or denial, including  
15 forfeiture of any application fee, or an administrative fine not to  
16 exceed \$2,500, or both. An administrative action or fine may be imposed  
17 in addition to any criminal or civil penalties imposed.

18 9. Also pursuant to RSA 399-G:21 Every person who directly or indirectly  
19 controls a person liable under this section, every partner, principal  
20 executive officer, or director of such person, every person occupying a  
21 similar status or performing a similar function, every employee of such  
22 person who materially aids in the act constituting the violation, and  
23 every licensee or person acting as a common law agent who materially aids  
24 in the acts constituting the violation, either knowingly or negligently,  
25 may, upon notice and opportunity for hearing, and in addition to any  
other penalty provided for by law, be subject to license suspension,  
revocation, or denial, including the forfeiture of any application fee,  
or the imposition of an administrative fine not to exceed \$2,500, or  
both.

1 10. Pursuant to RSA 383:10-d, the commissioner shall have exclusive  
2 authority and jurisdiction to investigate conduct that is or may be an  
3 unfair or deceptive act or practice under RSA 358-A and exempt under RSA  
4 358-A:3, I or that may violate any of the provisions of Titles XXXV and  
5 XXXVI and administrative rules adopted thereunder. The commissioner may  
6 hold hearings relative to such conduct and may order restitution for a  
7 person or persons adversely affected by such conduct.

8 **RELIEF REQUESTED**

9 The staff of the Banking Department requests the Commissioner take the  
10 following action:

- 11 1. Find as fact the allegations contained in section I of the Statement of  
12 Allegations of this petition.
- 13 2. Make conclusions of law relative to the allegations contained in section  
14 II of the Statement of Allegations of this petition.
- 15 3. Pursuant to NH RSA 399-D:23, immediately Order Respondent to Cease and  
16 Desist from violations of the New Hampshire Banking Laws.
- 17 4. Issue a fine against Respondent Help With Debt, LLC in the amount of  
18 \$2,500.00 for each consumer with which Respondent has contracted for  
19 violation of Chapter 399-D.
- 20 5. Issue a fine against Respondent Gelinas in the amount of \$2,500.00 for  
21 each consumer with which Respondents have contracted for violation of  
22 Chapter 399-D.
- 23 6. Pursuant to NH RSA 399-G:19, immediately Order Respondent to Cease and  
24 Desist from violations of the New Hampshire Banking Laws.
- 25 7. Issue a fine against Respondent Help With Debt, LLC in the amount of  
\$2,500.00 for each consumer with which Respondent has contracted for  
violation of Chapter 399-G.
8. Issue a fine against Respondent Gelinas in the amount of \$2,500.00 for

