

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 08-BD-011
)
 4 State of New Hampshire Banking)
) Staff Petition
 5 Department,)
)
 6 Petitioner) October 22, 2008
)
 7 and)
)
 8 Insurance Wholesalers Insurance)
)
 9 Services, Inc. (d/b/a Mortgage)
)
 10 Protection Insurance, d/b/a Mortgage)
)
 11 Protection Insurance Services, d/b/a)
)
 12 Mortgage Protection, and d/b/a)
)
 13 Mortgage Protection Svcs.),)
)
 14 Respondent)
)

15
16 STATEMENT OF ALLEGATIONS

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

20 1. On or about October 16, 2008, the Department received a
21 written communication from Financial Institution A, a state-
22 chartered savings bank located in New Hampshire, regarding a
23 mailing from Respondent Insurance Wholesalers Insurance
24 Services, Inc. (d/b/a Mortgage Protection Insurance, d/b/a
25 Mortgage Protection Insurance Services, d/b/a Mortgage
Protection, and d/b/a Mortgage Protection Svcs.) (hereinafter
"Respondent Insurance Wholesalers Insurance Services, Inc.")

1 with an address based in Citrus Heights, California and a
2 return address based in Roseville, California.

3 2. The envelope in which the solicitation was mailed to Consumer
4 A had a Citrus Heights, California address and the name of
5 Mortgage Protection Insurance Services. When the address was
6 searched on the computer, a Los Angeles Times article dated
7 September 2, 2007 discussing this company revealed the
8 company name as Insurance Wholesalers Insurance Services,
9 Inc.

10 3. A further online internet search of the same address as in
11 Paragraph 2 above came back with the name of Insurance
12 Wholesalers but with a suite number.

13 4. A search of "Insurance Wholesalers Insurance Services, Inc."
14 with the California Secretary of State's Business Portal
15 revealed the same mailing address as listed above and as
16 listed on the envelope Consumer A received.

17 5. A search of "Insurance Wholesalers Insurance Services, Inc."
18 with the Commonwealth of Massachusetts' Corporations Division
19 revealed the same address with the same suite number as
20 listed above.

21 6. A search of "Insurance Wholesalers Insurance Services, Inc."
22 with the Massachusetts Division of Insurance revealed the
23 same address with the same suite number as listed above.

24 7. A search of "Insurance Wholesalers Insurance Services, Inc."
25 with the New Hampshire Secretary of State's office revealed
the same address with the same suite number as listed above.

8. Financial Institution A indicated in the October 15, 2008
letter that this solicitation to Consumer A fraudulently used

1 the name of Financial Institution A in violation of Senate
2 Bill 0315.

3 9. Respondent Insurance Wholesalers Insurance Services, Inc.'s
4 solicitation advised that Consumer A has an opportunity to
5 participate in a mortgage protection program, which may help
6 protect Consumer A's mortgage loan in case of an unexpected
7 tragedy.

8 10. Respondent Insurance Wholesalers Insurance Services, Inc.'s
9 solicitations further advised that benefits can include:

10 a. in case of death, the program/plan would pay the mortgage
11 amount in the event of borrower death,

12 b. in case of disability, the program/plan provides money to
13 make the consumer's mortgage payment if the consumer cannot
14 work due to disability,

15 c. in case of unemployment, the program/plan pays the
16 consumer's policy premiums, and

17 d. a return of premium, wherein the program/plan returns 100%
18 of the consumer's premium at the end of the term.

19 11. Respondent Insurance Wholesalers Insurance Services, Inc.'s
20 solicitation references the bank name in two places on the
21 solicitation itself:

22 a. At the very top of the solicitation preceded by "Lender:"
23 and followed by "To Borrower:", and

24 b. Before the amount of the loan, Consumer A's name and
25 address.

1 12. Respondent Insurance Wholesalers Insurance Services, Inc.
2 fails to properly, clearly and conspicuously reference in
3 bold face type in the same font as is predominately used in
4 the solicitation that Respondent is not affiliated with,
5 authorized by, endorsed by any financial institution and that
6 loan information is retrieved from public records.

7 13. Respondent Insurance Wholesalers Insurance Services, Inc.
8 does not appear to have received any authorization (written
9 or otherwise) to use the full or abbreviated name, trade
10 name, service mark, or trademark of Financial Institution A.

11 **ISSUES OF LAW**

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

- 13 1. The Department re-alleges the above-stated facts in
14 paragraphs 1 through 13.
- 15 2. The Department has jurisdiction over state-chartered banks
16 pursuant to RSA 383:9 ("Duties").
- 17 3. Pursuant to RSA 384:12-a, IV ("Cease and Desist Order"), the
18 Bank Commissioner (hereinafter "Commissioner") may issue and
19 serve upon an individual or business entity a cease and
20 desist order for any act or conduct that is in violation of
21 RSA 384:67 ("Unauthorized and Deceptive Use").
- 22 4. Pursuant to RSA 384:68 ("Enforcement"), the Commissioner may
23 issue a cease and desist order against any individual or
24 business entity which engages in any act or conduct that
25 violates RSA 384:67 involving a financial institution under
the jurisdiction of the Commissioner and may bring legal
action to enforce the order.

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

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

9 **RELIEF REQUESTED**

10 III. The staff of the Department requests the Commissioner take the
11 following action:

- 12 1. Find as fact the allegations contained in Section I of the
13 Statement of Allegations of this Petition.
- 14 2. Make conclusions of law relative to the allegations contained
15 in Section II of the Statement of Allegations (Issues of Law)
16 of this Petition.
- 17 3. Pursuant to RSA 384:12-a, IV, order Respondent to immediately
18 Cease and Desist from any violations of RSA 384:67.
- 19 4. Pursuant to RSA 384:68, order the above mentioned Respondent
20 to immediately Cease and Desist from any violations of RSA
21 384:67.
- 22 5. Take such other legal administrative and legal actions as are
23 necessary for enforcement of the New Hampshire banking laws,
24 the protection of New Hampshire citizens, and to provide
25 other equitable relief.

