

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 09-BD-002
)
 3 State of New Hampshire Banking)
)
 4 Department,)
) Cease and Desist Order
 5 Petitioner,)
)
 6 and)
)
 7 Mortgage and Insurance Advertising,) March 18, 2010
)
 8 LLC, (d/b/a Mortgage & Insurance)
)
 9 Advertising Service LLC), Program)
)
 10 Headquarters, Mail Time Inc.(d/b/a)
)
 11 Mailtime, Inc.), Julian Phillips,)
)
 12 Callan & Palmer, LLP (d/b/a Callan &)
)
 13 Palmer Financial Advisors, LLC),)
)
 14 David J. Callan,)
)
 15 Respondents)

16 NOTICE OF CEASE AND DESIST ORDER

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

20 LEGAL AUTHORITY AND JURISDICTION

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

25 Pursuant to RSA 384:12-a ("Cease and Desist Order"), IV, if, in the
opinion of the Commissioner, an individual or business entity is engaging in

1 or has engaged in any act or conduct in violation of RSA 384:67, the
2 Commissioner may issue and serve an order upon the individual or business
3 entity requiring the individual or business entity to cease and desist from
4 such act or conduct.

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

11 Pursuant to RSA 383:10-d ("Consumer Complaints and Restitution"), the
12 Commissioner shall have exclusive authority and jurisdiction to investigate
13 conduct that is or may be an unfair or deceptive act or practice that may
14 violate any of the provisions of Titles XXXV and XXXVI and administrative
15 rules adopted thereunder and RSA 358-A. The Commissioner may hold hearings
16 relative to such conduct and may order restitution for a person or persons
17 adversely affected by such conduct.

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

19 The above named Respondents or any interested party has the right to
20 petition for a hearing on this Cease and Desist Order (hereinafter "Order"),
21 as well as the right to be represented by counsel. If the above named
22 Respondents to whom this Order is issued, or any interested party, fail to
23 request a hearing within 30 calendar days of receipt of such Order, then such
24 person shall be deemed in default, and the Order shall, on the thirty-first
25 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.
Any such request for a hearing shall be in writing, signed by the Respondent
or by the duly authorized agent of the above named Respondents, and shall be
delivered either by hand or certified mail, return receipt request, to the

1 Banking Department, State of New Hampshire, 53 Regional Drive, Suite 200,
2 Concord, NH 03301.

3 A hearing shall be held not later than 10 days after the petition for
4 such hearing is received by the Commissioner. Within 20 days of the date of any
5 such hearing the Commissioner shall issue a further order either vacating this
6 Order or making it permanent as the facts require. All hearings shall comply
7 with RSA 541-A. If the person to whom this Order is issued fails to appear at
8 the petitioned hearing after being duly notified of the date and time, such
9 business entity shall be deemed in default, and the proceeding may be
10 determined against it upon consideration of this Order, the allegations of
11 which may be deemed to be true.

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

13 The Staff Petition dated March 18, 2010 (a copy of which is attached
14 hereto) is incorporated by reference herein.

15 **ORDER**

16 WHEREAS, finding it necessary and appropriate and in the public
17 interest, and consistent with the intent and purposes of the New Hampshire
18 banking laws, and

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

21 It is hereby ORDERED, that:

- 22 1. The Respondents shall immediately cease and desist from the
23 unauthorized and deceptive use of the full or abbreviated
24 name, trade name, service mark, or trademark of any financial
25 institution in any written, electronic, or oral advertisement
or solicitation for products or services;

1 State of New Hampshire Banking Department

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14 Palmer Financial Advisors, LLC),)
))
15 David J. Callan,)
))
16 Respondents)
))

17 STATEMENT OF ALLEGATIONS

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

- 20 1. On or about June 30, 2009, the Department received a written
21 communication from Consumer A, an individual, regarding a
22 mailing from Respondent Mortgage and Insurance Services, LLC
23 (d/b/a Mortgage & Insurance Advertising Services, LLC [mailing
24 address of P.O. Box 161, Woodstock, MD 21163-9901],d/b/a
25 Program Headquarters [mailing address: 224 Stockton Street, Unit

1 21, Phillipsburg, New Jersey 08865]) (Hereinafter "Respondent
2 Mortgage and Insurance Services").

3 2. Respondent Mortgage and Insurance Advertising Services LLC's
4 (and therefore all of the above mentioned Respondents)
5 solicitation reference the name of a New Hampshire state-
6 chartered bank (hereinafter "Financial Institution A") in two
7 places on the solicitation itself:

8 a. The top of the solicitation states Consumer A's name and
9 address with the loan amount,

10 b. The borrower information box states Consumer A's name and
11 address along with the total loan amount and name of lender.

12
13 3. Respondent Mortgage and Insurance Advertising Services, LLC
14 (and therefore all of the above mentioned Respondents) did not
15 receive any authorization (written or otherwise) to use the
16 full or abbreviated name, trade name, service mark, or
17 trademark of Financial Institution A.

18 4. Respondent Mortgage and Insurance Advertising Services, LLC's
19 (and therefore all of the above mentioned Respondents)
20 solicitation further advised that benefits can include:

21 a. In case of death, the program/plan would pay the mortgage
22 amount in the event of borrower's death,

23 b. In case of disability, the program/plan makes the
24 consumer's monthly mortgage payment if the borrower cannot
25 work due to illness and injury,

1 c. In case of unemployment, the program/plan pays the
2 borrower's premiums,

3 d. A money back option allows the return of all premium
4 payments if benefits are not used by the end of the mortgage
5 term.

6 5. Two return addresses are listed the solicitation materials.

7
8 a. The envelope containing the solicitation materials lists
9 a return address of 224 Stockton Street, Unit 21,
10 Phillipsburg, New Jersey, 08865 under the company name
11 Program Headquarters.

12 b. The solicitation's return envelope lists the company
13 name as Mortgage & Insurance Advertising Services, LLC
14 with a mailing address of P.O. Box 161, Woodstock, MD
15 21163-9901

16 6. A Google internet search indicates that the address 224
17 Stockton Street, Phillipsburg, New Jersey, 08865 belongs to a
18 company by the name of Mail Time Inc. (d/b/a Mailtime, Inc.)
19 A phone call made to the company on September 16, 2009 by a
20 Banking Department staff member verified that this company is
21 located at Unit 21 which is the same as listed on the
22 solicitation materials.

23 7. A Google internet search of "224 Stockton Street,
24 Phillipsburg, New Jersey" revealed a United States Postal
25 Service Postage Statement belonging to Mailtime, Inc. 224
Stockton Street, Unit 21, Phillipsburg, New Jersey. The

1 company's telephone number as included on the statement is
2 listed as 407-702-3785. The postage statement was processed on
3 June 6, 2009 and was signed by Julian, Signing Agent for
4 Mailtime, Inc.

5 8. A Google internet search for "407-702-3785" reveals that this
6 number is a cell phone number belonging to Julian Phillips,
7 Operations Manager of Mailtime, Inc.

8 9. A Google internet search for "Julian Phillips" reveals that
9 Julian Phillips is listed as the Vice President of MailTime
10 Inc.

11 10. Records found on Better Business Bureau website regarding
12 Mortgage & Insurance Advertising Services LLC reveal this
13 company uses the address P.O. Box 161, Woodstock, MD 21163-
14 9901. The TOB Classification listed is Advertising
15 Specialties.

16 11. A search on the Maryland Secretary of State website for
17 Mortgage & Insurance Advertising Services LLC indicates the
18 following:

19 a. The company also operates under the name Mortgage and
20 Insurance Advertising Services, LLC.

21 b. The company's principal office address is 113 Old
22 Padonia Road, Cockeysville, Maryland, 21030.

23 c. The registered agent listed is David J. Callan at 113
24 Old Padonia Road, Cockeysville, Maryland, 21030.
25

1 d. The Corporate Charter Approval Sheet lists Registered
2 Agent David J. Callan at PO Box 5078 Timonium, Maryland,
3 21094-5087.

4 e. The Articles of Organization state that the purpose of
5 the company is to engage in the purchase and sale of
6 mailing lists and public information along with any
7 other lawful purpose.

8 f. The Articles of Organization state that the principal
9 address and place of the company shall be at 113 Old
10 Padonia Road, Cockeysville, Maryland 21030.

11 12. A Google internet search of David J. Callan revealed Mr.
12 Callan is a financial advisor and branch manager for Callan &
13 Palmer Financial Advisors, LLC (d/b/a Callan & Palmer, LLP)
14 located at 113 Old Padonia Road, Cockeysville, Maryland,
15 21030. This is the same address listed for Mortgage and
16 Insurance Advertising Services, LLC.

17
18 **ISSUES OF LAW**

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

20 a. The Department re-alleges the above-stated facts in
21 paragraphs 1 through 12.

22 b. The Department has jurisdiction over state-chartered banks
23 and credit unions pursuant to RSA 383:9 ("Duties").

24 c. Pursuant to RSA 384:12-a, IV ("Cease and Desist Order"),
25 the Bank Commissioner (hereinafter "Commissioner") may
issue and serve upon an individual or business entity a

1 Cease and Desist Order for any act or conduct that is in
2 violation of RSA 384:67 ("Unauthorized and Deceptive
3 Use").

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

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

16 **RELIEF REQUESTED**

17 The staff of the Department requests the Commissioner take the
18 following action:

19 1. Find as fact the allegations contained in Section I of the
20 Statement of Allegations of this Petition.

21 2. Make conclusions of law relative to the allegations contained
22 in Section II of the Statement of Allegations (Issues of Law) of this
23 Petition.

24 3. Pursuant to RSA 384:12-a, IV, order Respondent to immediately
25 Cease and Desist from any violations of RSA 384:67.

4. Pursuant to RSA 384:68, order all above mentioned Respondents
to immediately Cease and Desist from any violations of RSA 384:67.

