

In re the Matter of:)	Case No.: 10-460
)	
State of New Hampshire Banking)	
Department,)	
)	
Petitioner,)	Order to Cease and Desist
)	
and)	
)	
Zarvad III S.A. (d/b/a)	
mypaydayloan.com))	
)	
Respondent)	

NOTICE OF ORDER TO CEASE AND DESIST ("ORDER")

1. This Order commences an adjudicative proceeding under the provisions of RSA Chapter 399-A (including RSA 399-A:7,I and II, RSA 399-A:8,I and RSA 399-A:16,IV) and RSA Chapter 541-A.
2. The Commissioner may impose administrative penalties of up to \$2,500.00 for each violation. *RSA 399-A:18,V and VI.*

RESPONDENT

3. Zarvad III S.A. (d/b/a www.mypaydayloan.com) ("Respondent"), an online payday loan company, duly registered with the Utah Secretary of State from March 12, 2009 to October 12, 2009 with a principal office location in Salt Lake City, Utah. Communication from Respondent's counsel indicates that it is located in San Jose, Costa Rica. Respondent is not registered

with the New Hampshire Secretary of State. New Hampshire Banking Department ("Department") records indicate Respondent never held a Payday or Small Loan Lender license with the Department. Respondent is a "Person" as defined under RSA 399-A:1,XII, a "Lender" as defined under RSA 399-A:1,VIII, a "Payday Loan Lender" as defined under RSA 399-A:1,XI and a "Small Loan Lender" as defined under RSA 399-A:1,XV.

RIGHT TO REQUEST A HEARING

4. Respondent has a right to request a hearing on this Order. A hearing shall be held not later than ten (10) days after the Commissioner receives Respondent's written request for a hearing. Respondent may request a hearing and waive the ten (10) day hearing requirement. The hearing shall comply with RSA Chapter 541-A, RSA 399-A:7, RSA 399-A:8, and Administrative Rule JUS Chapter 800.
5. If any person fails to request a hearing within thirty (30) days of receiving this Order, then such person shall be deemed in default, and the Order shall, on the thirty-first (31st) day, become permanent, all allegations may be deemed true, and shall remain in full force and effect until modified or vacated by the Commissioner for good cause shown. RSA 399-A:7 and

RSA 399-A:8.

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

STATEMENT OF ALLEGATIONS

7. On October 21, 2010, the Department received a complaint from a New Hampshire consumer ("Consumer A") against Respondent, as my paydayloan.com, concerning a payday or small loan.
8. On July 1, 2010, Respondent issued Consumer A a payday or small loan in the amount of \$300.00, in violation of RSA 399-A:2,I.
9. Consumer A indicates well over \$300.00 was paid back to Respondent.

Correspondence:

10. On July 8, 2011, the Department sent a letter via U.S. Certified Mail return receipt requested to Respondent at the Salt Lake City, Utah address instructing it to apply for a license with the Department, requesting documentation regarding a New Hampshire loan list, and requesting a response to the consumer complaint that had been filed. The correspondence was returned to the Department on July 22, 2011 as "Attempted Not Known, Unable to Forward."
11. On September 14, 2011, the Department sent a letter

via International Certified Mail return receipt requested to Respondent at the San Jose, Costa Rica address instructing it to apply for a license with the Department, requesting documentation regarding a New Hampshire loan list, and requesting a response to the consumer complaint that had been filed. An email was also sent to Respondent's email address.

12. On September 26, 2011, the Department received email communication from Respondent's legal counsel indicating that an investigation into company records revealed one New Hampshire consumer and in the interest of resolving the matter that account had been marked in full and that online applications from New Hampshire consumers will be denied "for not offering services in that area." The consumer mentioned in this September 26, 2011 email is a different consumer than Consumer A.
13. On September 26, 2011 and on December 7, 2011, the Department emailed Respondent's legal counsel but received no return response.
14. On October 17, 2012 and pursuant to RSA 399-A:16,I, the Department issued an administrative subpoena duces tecum to Respondent in care of its legal counsel giving Respondent until November 5, 2012 to respond to

the purpose and intent of New Hampshire banking laws;

- c. The Department finds pursuant to RSA 399-A:8,I, reasonable cause to issue an order to cease and desist; and
- d. Pursuant to RSA 399-A:8,I, if Respondent fails to respond to this Order and/or defaults then all facts as alleged herein may be deemed as true.

19. **Accordingly, it is hereby ORDERED that:**

- a. Respondent shall cease and desist from violating RSA Chapter 399-A and rules or orders thereunder;
- b. Respondent shall immediately provide the Department a list of all New Hampshire consumers for whom Respondent has given payday or small loans and a status of those accounts. This list must include the names and contact information of the New Hampshire consumers, along with monies charged, collected and/or waived (if applicable). The list shall also be accompanied by all contracts, checks to and from the consumer and any other documents in the New Hampshire consumers' files;
- c. Respondent shall be hereby ordered to rescind, provide restitution or disgorge profits,

including but not limited to any monies owed to Consumer A;

- d. Respondent shall hereby be administratively fined a maximum of \$2,500.00 per violation (as stated in Counts below) pursuant to RSA 399-A:18,V and VI as follows:

(1). Respondent Zarvad:

#1: Unlicensed payday or small loan activity (RSA 399-A:2,I) - 2 Counts;

#2: Failure to respond to subpoena duces tecum (RSA 399-A:16,I) - 1 Count;

and

- e. Nothing in this Order:

(1). shall prevent the Department from taking any further administrative and legal action as necessary under New Hampshire law; and

(2). shall prevent the New Hampshire Office of the Attorney General from bringing an action against the above named Respondent in any New Hampshire superior court, with or without prior administrative action by the Commissioner.

SO ORDERED.

_____/s/
RONALD A. WILBUR
BANK COMMISSIONER

Dated: 1/4/13