

1 **State of New Hampshire Banking Department**

2	In re the Matter of:) Case No.: 09-130
)
3	State of New Hampshire Banking)
)
4	Department,)
) Notice of Hearing – Order to Show Cause
5	Petitioner) and Cease and Desist
)
6	and)
)
7	CashForce USA Inc., Michael Melody, and)
)
8	Courtney Carey,)
)
9	Respondents)
)

10 **Notice of Hearing**

11 **For Order to Show Cause and Cease and Desist**

12 1. The Department issued to the above named Respondents, via certified mail to the
13 principal mailing address, an Order to Show Cause and Cease and Desist on April 8,
14 2010. RSA Chapter 541-A and RSA Chapter 399-A require the Department to hold a
15 hearing on such matter within ten (10) calendar days of a written request for a hearing
16 unless otherwise waived by the Respondents. On May 10, 2010 (the 31st day after the
17 order was issued), Respondent Courtney Carey defaulted on the Order to Show and
18 Cease and Desist. On May 17, 2010, Respondents (except Respondent Courtney Carey)
19 filed a request for a hearing and waived their right to a hearing in ten (10) days and
20 advised that communication can be directed to their Counsel. On December 3, 2010,
21 Counsel withdrew his appearance for CashForce USA and Michael Melody.
22 Respondents CashForce USA Inc. and Michael Melody shall now be collectively
23 known as Remaining Respondents.

1 It is Hereby Ordered That:

- 2 2. Remaining Respondents appear before the New Hampshire Banking Department on
3 Tuesday, June 21, 2011 at 10:00 am, at the New Hampshire Banking Department
4 located at 53 Regional Drive, Suite 200, Concord, New Hampshire 03301, for the
5 purpose of participating in an adjudicative proceeding, at which time the Respondents
6 will have the opportunity to demonstrate why the relief sought in the Order to Show
7 Cause and Cease and Desist should not become permanent.
- 8 3. Pursuant to RSA 541-A:31,III(b), the legal authorities under which the
9 hearing is to be held are: RSA 541-A:30,III, RSA 399-A:7; RSA 399-A:8; RSA 399-
10 A:16; and RSA 399-A:18.
- 11 4. The Department's alleged violations against the above named Respondents in the
12 Order to Show Cause and Cease and Desist are as follows:

13
14 Respondent
15 Cash Force USA, Inc.

- 16 a. 76 Counts for *knowingly* violating the
17 Commissioner's Rule or Order.
18 RSA 399-A:18, III.

19 *Or in the alternative*

20 76 Counts for negligently violating the
21 Commissioner's Rule or Order.
22 RSA 399-A:18, IV.

- 23 b. 76 Counts for Unethical or Dishonest
24 business practices in the making or
25 collecting of small loans, payday loans, or
title loans.
RSA 399-A:7, I (h).

- c. 1 Count Failure to Provide the
Department with Examination Materials
Within 21 Calendar Days
RSA 399-A:10, III

- d. 1 Count Failure to pay costs of
the Examination

RSA 399-A:10, II

- e. 76 Counts for Employing a Device, Scheme, or Artifice to Defraud
RSA 399-A:8-a,I(a)
- f. 76 Counts for Making Any Untrue Statement of Material Fact Or To Omit to State a Material Fact
RSA 399-A:8-a,I(b)
- g. 76 Counts for Engaging in Any Act Or Practice Of Course of Business which Operates as a Fraud or Deceit Upon any Person
RSA 399-A:8-a,I(c)
- h. 1 Count Made False or Misleading Statement to the Commissioner
RSA 399-A:7,I(b)
- i. 76 Counts Fraudulent Misrepresentations or Concealment of Material Particulars to Borrowers
RSA 399-A:7,I(c)
- j. 2 Counts Against Respondent Melody Only Failure of Officer or Owner to Respond to Department Inquiries
RSA 399-A:4,XII
- k. 1 Count Failure to Timely Surrender Physical License
RSA 399-A:4,VIII(a)
- l. 1 Count Failure to Properly Surrender
RSA 399-A:4,VIII(b)

1 Respondent
2 Michael Melody

- a. 76 Counts for *knowingly* violating the
Commissioner's Rule or Order.
RSA 399-A:18, III.

3 *Or in the alternative*

4 76 Counts for negligently violating the
5 Commissioner's Rule or Order.
6 RSA 399-A:18, IV.

- 7 b. 76 Counts for Unethical or Dishonest
8 business practices in the making or
9 collecting of small loans, payday loans, or
10 title loans.
11 RSA 399-A:7, I (h).

- 12 c. 1 Count Failure to Provide the
13 Department with Examination Materials
14 Within 21 Calendar Days
15 RSA 399-A:10, III

- 16 d. 1 Count Failure to pay costs of
17 the Examination
18 RSA 399-A:10, II

- 19 e. 76 Counts for Employing a Device,
20 Scheme, or Artifice to Defraud
21 RSA 399-A:8-a,I(a)

- 22 f. 76 Counts for Making Any Untrue
23 Statement of Material Fact Or To
24 Omit to State a Material Fact
25 RSA 399-A:8-a,I(b)

- g. 76 Counts for Engaging in Any Act
Or Practice Of Course of Business
which Operates as a Fraud or Deceit
Upon any Person
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- h. 1 Count Made False or Misleading
Statement to the Commissioner
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1 i. 76 Counts Fraudulent Misrepresentations
2 or Concealment of Material Particulars
3 to Borrowers

RSA 399-A:7,I(c)

4 j. 2 Counts Against Respondent Melody
5 Only Failure of Officer or Owner to
6 Respond to Department Inquiries

RSA 399-A:4,XII

7 k. 1 Count Failure to Timely Surrender
8 Physical License

RSA 399-A:4,VIII(a)

9 l. 1 Count Failure to Properly Surrender

RSA 399-A:4,VIII(b)

10
11 5. The facts as alleged in the Order to Show Cause and Cease and Desist dated April 6,
12 2010 are herein incorporated by reference.

13 6. An adjudicative proceeding shall be commenced pursuant to RSA 541-A:31 for the
14 purpose of permitting the above named Remaining Respondents to show compliance
15 with the stated violations.

16 7. Each party has the right to have an attorney present to represent the party at the party's
17 expense, or may represent itself or himself. If the Remaining Respondents elect to be
18 represented by Counsel, said Counsel shall file a notice of appearance at the earliest
19 possible date.

20 8. Raef J. Granger, Esq., Hearings Examiner, New Hampshire Banking
21 Department is designated as Hearings Examiner in this matter with authority to
22 represent the public interest within the scope of the Department's authority. The
23 Hearings Examiner shall have the status of a party to this proceeding.

24 9. A Presiding Officer will be delegated to preside over this matter pursuant to
25 RSA 383:7-a and see also RSA 541-A:1, XV.

- 1 10. Any proposed exhibits shall be pre-marked, for identification only, and filed with the
2 Department and provided to the opposing party five (5) days prior to the Hearing, on
3 June 16, 2011. The Hearings Examiner shall pre-mark the Department's exhibits with
4 Arabic numbers. The Remaining Respondents shall pre-mark exhibits with capital
5 letters. An index/list of exhibits providing a brief description of each exhibit with its
6 corresponding pre-marked number or letter shall be filed by both parties simultaneous
7 with the filing of exhibits.
- 8 11. The parties shall exchange a list of all exhibits and witnesses to be called at the hearing
9 with a brief summary at the hearing, and shall at the same time file a copy of their
10 respective lists with the Presiding Officer.
- 11 12. All periods referenced in this notice shall be calendar days. If the last day of the period
12 so computed falls on a Saturday, Sunday, or legal holiday, then the time period shall be
13 extended to include the first business day that is not a Saturday, Sunday, or legal
14 holiday.
- 15 13. The Department shall have the burden of setting forth a *prima facie* case, then the
16 Remaining Respondents shall have the burden of showing compliance with applicable
17 law by a preponderance of the evidence.
- 18 14. Any Remaining Respondent's failure to appear at the time, date, and place specified
19 may result in the hearing being held *in absentia* and/or default ruling in favor of the
20 Department, without further notice or opportunity to be heard.
- 21 15. The entirety of all verbal proceedings shall be recorded verbatim by the Department.
22 Upon request of any party, or upon the Presiding Officer's own initiative, such record
23 shall be transcribed by a certified court reporter designated by the Presiding Officer,
24 and that all costs shall be borne solely by the requesting party.
25

- 1 16. Each party has the right to have the Department provide a certified short-hand reporter
2 at the requesting party's expense. Any such request shall be submitted in writing to the
3 Presiding Officer at least 10 days prior to the hearing.
- 4 17. All documents shall be filed with the Presiding Officer in the form of an original and
5 one (1) copy and shall bear a certification that a copy is being delivered to Hearings
6 Examiner and any other parties to this matter in accordance with applicable laws. All
7 documents shall be filed by mailing or delivering them to the New Hampshire Banking
8 Department, ATTN: Presiding Officer 09-130, 53 Regional Drive, Suite 200, Concord,
9 NH 03301. Filing by facsimile or electronic transmission shall not be accepted.
- 10 18. The parties may submit Proposed Orders, which shall include findings of fact and
11 conclusions of law, separately stated, no later than ten (10) days following conclusion of
12 the hearing(s) in this matter.
- 13 19. Routine procedural inquiries may be made by telephoning the Hearings Examiner, Raef
14 J. Granger, Esq. at (603)271-3561, but all other communications with the Presiding
15 Officer and with the Department shall be in writing and shall be filed as provided above.
16 *Ex parte* communications are forbidden by statute.
- 17 20. A copy of this Notice of Hearing shall be mailed to all named Respondents at their
18 addresses of record and that a copy shall also be delivered to the Hearings Examiner,
19 Raef J. Granger, Esq. and to the Presiding Officer at the New Hampshire Banking
20 Department.

21 **SO ORDERED,**

22
23
24 _____
25 Robert A. Fleury
Deputy Bank Commissioner
New Hampshire Banking Department

_____ 05/25/11
Date