

1	In re the Matter of:) Case No.: 10-043
)
2	State of New Hampshire Banking)
)
3	Department,)
)
4	Petitioner,) Order to Show Cause and
5	and) Cease and Desist
)
6	Sagamore Corp. (a/k/a B&B Processing),)
)
7	Respondent)
)
8)

9 **NOTICE OF ORDER TO SHOW CAUSE AND CEASE AND DESIST ("ORDER")**

10 1. This Order commences an adjudicative proceeding under the provisions
11 of RSA Chapter 399-A (including RSA 399-A:7,I and II, RSA 399-A:8,I and RSA
12 399-A:16,IV) and RSA Chapter 541-A.

13 2. The Commissioner may impose administrative penalties of up to
14 \$2,500.00 for each violation. RSA 399-A:18,V and VI.

15 **RESPONDENT**

16 3. Sagamore Corp. (a/k/a B&B Processing) ("Respondent Sagamore") is an
17 online company located in Shawnee Mission, Kansas. Respondent Sagamore is
18 not registered with the Kansas Secretary of State. Respondent Sagamore is
19 not registered with the New Hampshire Secretary of State. Respondent
20 Sagamore is a "Person." RSA 399-A:1,XII.

21 4. The New Hampshire Banking Department ("Department") records indicate
22 Respondent Sagamore has never held a PayDay or Small Loan Lender license
23 with the Department.

24 **RIGHT TO REQUEST A HEARING**

25 5. Respondent has a right to request a hearing on this Order. A hearing

1 shall be held not later than ten (10) days after the Commissioner receives
2 the Respondent's written request for a hearing. Respondent may request a
3 hearing and waive the ten (10) day hearing requirement. The hearing shall
4 comply with RSA Chapter 541-A. RSA 399-A:7 and RSA 399-A:8.

5 6. If any person fails to request a hearing within thirty (30) days of
6 receiving this Order, then such person shall be deemed in default, and the
7 Order shall, on the thirty-first (31st) day, become permanent, all
8 allegations may be deemed true, and shall remain in full force and effect
9 until modified or vacated by the Commissioner for good cause shown. RSA
10 399-A:7 and RSA 399-A:8.

11 7. A default may result in administrative fines as described in Paragraph
12 2 above.

13 **STATEMENT OF ALLEGATIONS**

14 **Consumer A:**

15 8. On October 29, 2010, the Department received a complaint from a New
16 Hampshire consumer ("Consumer A") against Respondent concerning a payday or
17 small loan.

18 9. On September 2, 2009, Respondent issued Consumer A the payday or small
19 loan in the amount of \$300.00, in violation of RSA 399-A:2,I.

20 10. The annual percentage rate on this payday loan issued by Respondent
21 was 782.14% in violation of RSA 399-A:13,XX.

22 11. The loan contract issued by Respondent with Consumer A did not contain
23 the language that the consumer or the consumer's attorney may file a
24 complaint with the commissioner in violation of RSA 399-A:11,XIV.

25 12. The loan agreement between Respondent and Consumer A did not contain

1 language advising the consumer that they have the right to cancel the loan
2 transaction at any time before the close of business of the next business
3 day following the date of the transaction in violation of RSA 399-
4 A:13,II(f).

5 **Consumer B:**

6 13. On June 24, 2011, the Department received a complaint from a New
7 Hampshire consumer ("Consumer B") against Respondent concerning a payday or
8 small loan.

9 14. On June 18, 2011, Respondent issued Consumer B the payday or small
10 loan in the amount of \$350.00, in violation of RSA 399-A:2,I.

11 15. The annual percentage rate on this payday loan issued by Respondent
12 was 782.14% in violation of RSA 399-A:13,XX.

13 16. The loan contract issued by Respondent with Consumer B did not contain
14 the language that the consumer or the consumer's attorney may file a
15 complaint with the commissioner in violation of RSA 399-A:11,XIV.

16 17. The loan agreement between Respondent and Consumer B did not contain
17 language advising the consumer that they have the right to cancel the loan
18 transaction at any time before the close of business of the next business
19 day following the date of the transaction in violation of RSA 399-
20 A:13,II(f).

21 **Correspondence:**

22 18. On March 24, 2011, the Department sent a letter via U.S. Certified
23 Mail return receipt requested to Respondent at the Shawnee Mission, Kansas
24 address suggesting it apply for licensure with the Department, resolution of
25 a consumer complaint, and requesting documentation from Respondent regarding

1 New Hampshire consumer activity. The correspondence was received by the
2 Respondent on April 6, 2011.

3 19. On April 7, 2011, the Department received correspondence from the Law
4 Offices of Franke, Schultz & Mullen indicating that they represented
5 Respondent and were in the process of reviewing the New Hampshire statutes
6 and would respond in a timely fashion.

7 20. On April 8, 2011, the Department sent a letter via facsimile to
8 Respondent's attorney with a copy of the consumer complaint. The Department
9 requested correspondence from the Respondent or Respondent's attorney and
10 the necessary documents by April 22, 2011. The facsimile was received by
11 the Respondent's attorney.

12 21. To date, the Department has not received any response from Respondent
13 regarding the licensure requirement and the request for documentation
14 regarding New Hampshire consumers.

15 22. To date, the Respondent has not settled the consumer complaint that
16 was forwarded to Respondent's attorney on April 8, 2011.

17
18 _____
19 /s/
20 Ryan McFarland
21 Hearings Examiner

September 26, 2011
Date

22 **ORDER**

23 23. **I hereby find as follows:**

24 a. Pursuant to RSA 399-A:7,I and II, the facts as alleged above, if
25 true, show Respondent is operating or has operated in violation of RSA
Chapter 399-A and form the legal basis for this Order;

b. Pursuant to 399-A:16,VI, this Order is necessary and appropriate

1 to the public interest and for the protection of consumers and consistent
2 with the purpose and intent of New Hampshire banking laws;

3 c. The Department finds pursuant to RSA 399-A:8,I, reasonable cause
4 to issue an order to cease and desist; and

5 d. Pursuant to RSA 399-A:7,I and II and RSA 399-A:8,I, if
6 Respondent fails to respond to this Order and/or defaults then all facts as
7 alleged herein are deemed as true.

8 **24. Accordingly, it is hereby ORDERED that:**

9 a. Respondent shall cease and desist from violating RSA Chapter
10 399-A and rules or orders thereunder;

11 b. Respondent shall immediately provide the Department a list of
12 all New Hampshire consumers for whom Respondent has given payday or small
13 loans and a status of those accounts. This list must include the names and
14 contact information of the New Hampshire consumers, along with monies
15 charged, collected and waived (if applicable). The list shall also be
16 accompanied by all contracts, checks to and from the consumer and any other
17 documents in the New Hampshire consumers' files;

18 c. Respondent shall show cause why the Commissioner should not
19 enter an order of rescission, restitution, or disgorgement of profits,
20 including at a minimum restitution for Consumer A, and Consumer B if
21 applicable;

22 d. Respondent shall show cause why an administrative fine of up to
23 a maximum of \$2,500.00 per violation should not be imposed as follows:

24 (1). Respondent Sagamore:

25 Violation #1: Unlicensed payday or small loan activity

1 (RSA 399-A:2,I) - 2 Counts;

2 Violation #2: Failure to provide requested documents (RSA
3 399-A:10,II) - 1 count;

4 Violation #3: Failure to provide notice to consumers that
5 a complaint may be filed with the commissioner (RSA 399-
6 A:11,XIV) - 2 counts;

7 Violation #4: Making a payday loan with an Annual
8 Percentage Rate in excess of 36 percent per year (RSA 399-
9 A:13,XX) - 2 counts;

10 Violation #5: Failure to use a loan agreement form that
11 complies with RSA 399-A:13,II (RSA 399-A:13,II(f)) - 2
12 Counts;

13 e. Nothing in this Order:

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

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

20
21 **SO ORDERED.**

22 _____
23 /s/
24 RONALD A. WILBUR
25 BANK COMMISSIONER

Dated: September 26, 2011