

) Case No.: 10-066

1 In re the Matter of:)
)
 2 State of New Hampshire Banking Department,)
)
 3 Petitioner,)
)
 4 and) Order to Show Cause and
) Cease and Desist
 5 Government Employees Credit Center, Inc.)
)
 6 (d/b/a GECC, d/b/a Cash Direct Express, and)
)
 7 d/b/a cashdirectexpress.com), Vincent Keith)
)
 8 Ney, and Brian Watt,)
)
 9 Respondents)

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

11 1. This Order commences an adjudicative proceeding under the provisions
 12 of RSA Chapter 399-A (including RSA 399-A:7,I and II, RSA 399-A:8,I and RSA
 13 399-A:16,IV) and RSA Chapter 541-A.

14 2. The Commissioner may impose administrative penalties of up to
 15 \$2,500.00 for each violation. RSA 399-A:18,V and VI.

RESPONDENTS

17 3. Government Employees Credit Center, Inc. (d/b/a GECC, d/b/a Cash
 18 Direct Express, and d/b/a cashdirectexpress.com) ("Respondent GECC") is a
 19 company located Wilmington, Delaware and possibly at one point in Newark,
 20 Delaware. Respondent GECC registered with the Delaware Division of
 21 Corporations on September 9, 2003. As of October 28, 2011, the Delaware
 22 Office of the State Bank Commissioner's "Licensees and Existing Branches"
 23 list includes Respondent GECC as a licensee with the following name
 24 "Government Employees Credit Center, Inc., D/B/A Cash Direct Express".
 25 Respondent GECC is a "Person." RSA 399-A:1,XII.

1 4. Vincent Keith Ney ("Respondent Ney"), according to State of California
2 Department of Corporations January 7, 2009 Desist and Refrain Order and
3 August 24, 2009 Settlement Agreement, is the President of Respondent GECC,
4 including Cash Direct Express. According to the Better Business Bureau,
5 Respondent Ney is part of the Management. Respondent Ney is a Person (RSA
6 399-A:1,XII) and a Principal (RSA 399-A:1,XIII).

7 5. Brian Watt ("Respondent Watt"), according to the Better Business
8 Bureau, is the Chief Operating Officer. Respondent Watt is a Person (RSA
9 399-A:1,XII) and a Principal (RSA 399-A:1,XIII).

10 6. The New Hampshire Banking Department ("Department") records indicate
11 Respondent GECC, Respondent Ney and Respondent Watt have never held a Payday
12 or Small Loan Lender license with the Department.

13 7. The above named Respondents shall be collectively known as
14 "Respondents".

15 **RIGHT TO REQUEST A HEARING**

16 8. Respondents have a right to request a hearing on this Order. A hearing
17 shall be held not later than ten (10) days after the Commissioner receives
18 the Respondent's written request for a hearing. Respondents may request a
19 hearing and waive the ten (10) day hearing requirement. The hearing shall
20 comply with RSA Chapter 541-A. RSA 399-A:7 and RSA 399-A:8.

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

1 A:7 and RSA 399-A:8..

2 10. A default may result in administrative fines as described in Paragraph
3 2 above.

4 STATEMENT OF ALLEGATIONS

5 11. On October 29, 2010, the Department received two complaints from a New
6 Hampshire consumer ("Consumer A"). One complaint was against Respondent
7 GECC as Cash Direct Express and the other complaint was against Respondent
8 GECC as Government Employees Credit Center, Inc. for what Consumer A
9 believes concerns a payday or small loan.

10 12. Prior to June 19, 2009, Respondents issued Consumer A the payday or
11 small loan, in violation of RSA 399-A:2,I. The due date for the \$400.00 loan
12 was on June 19, 2009 with a total due of \$506.00.

13 13. On June 19, 2009 and pursuant to the contract, Respondents could
14 contractually deduct \$506.00 from Consumer A's bank account in violation of
15 RSA 399-A:11,XI and RSA 399-A:13,I.

16 14. Respondents' cashdirectexpress.com website includes a section that
17 indicated in what states Respondents could not issue loans.

18 a. As of March 28, 2011, those states were: Arizona, Arkansas,
19 California, Colorado, Georgia, Maine, Maryland, Mississippi,
20 North Carolina, North Dakota, Pennsylvania, Washington and West
21 Virginia; and

22 b. As of May 12, 2011, those states now included New Hampshire as
23 follows: "Currently unable to issue loans in the states of
24 Arizona, Arkansas, California, Colorado, Georgia, Maine,
25 Maryland, Mississippi, North Carolina, New Hampshire, North

1 Dakota, Pennsylvania, Washington or West Virginia".

2 15. The timing of the inclusion of the State of New Hampshire in the
3 states wherein such loans are precluded by Respondent GECC indicates that
4 Respondents included New Hampshire once it received the Department's
5 correspondences in April of 2011 as described below.

6 16. On April 5, 2011, the Department sent a letter via U.S. Certified Mail
7 Return Receipt requested to Respondent GECC (d/b/a Cash Direct Express) to
8 the attention of Respondent Ney at the Newark, Delaware address suggesting
9 it apply for licensure with the Department, requesting documentation
10 regarding Respondents' New Hampshire consumer activity and resolution of the
11 Consumer A complaint. The letter was returned to the Department on April 18,
12 2011 as "return to sender; attempted not known; unable to forward".

13 a. For the complaint received against Government Employees
14 Credit Center, Inc.: On June 7, 2011, the Department sent a
15 letter via U.S. Certified Mail Return Receipt requested to
16 Respondent GECC the Wilmington, Delaware address, suggesting it
17 apply for licensure with the Department and requesting
18 documentation regarding Respondents' New Hampshire consumer
19 activity. Respondents received the letter on June 11, 2011. The
20 faxes on the same date were unsuccessful.

21 17. On April 5, 2011, the Department sent a letter via U.S. Certified Mail
22 Return Receipt requested to Respondent GECC (d/b/a Cash Direct Express at
23 the Wilmington, Delaware address suggesting it apply for licensure with the
24 Department, requesting documentation regarding Respondents' New Hampshire
25 consumer activity and resolution of the Consumer A complaint. Respondents

1 received the correspondence on April 12, 2011 as signed by a "M. Gunnoe".

2 18. On May 10, 2011, the Department received correspondence from counsel
3 for Respondent GECC (both Government Employees Credit Center, Inc. and Cash
4 Direct Express) requesting information on the identity of the complainant.
5 Respondent GECC then indicated it "ignores historical and fundamental
6 standards of what constitutes doing business in various states." Respondent
7 GECC's counsel indicated that since it conducts activities in accordance
8 with Delaware law, it does not somehow market in New Hampshire and indicated
9 the Department "has no basis to compel GECC to seek a license in New
10 Hampshire, or to sanction GECC for not doing so." Respondent GECC's counsel
11 indicated "GECC voluntarily agrees to terminate all lending activity with
12 New Hampshire residents immediately." Yet, according to the print out of
13 the application as of October 31, 2011, New Hampshire is still a drop down
14 option on the online application.

15 19. On June 16, 2011, the Department wrote to Respondent GECC's counsel
16 indicating that the Department requires a list of all loans to New Hampshire
17 residents, including the consumers' names, addresses, dates and amount of
18 loans or pending loan and any contracts for these loans.

19 20. On June 27, 2011, the Department received correspondence from
20 Respondent GECC's counsel indicating reconfirming that Respondents promptly
21 and voluntarily withdrew from the underwriting of loans in New Hampshire.
22 The letter requested the identity of the consumer complainant.

23 21. On June 27, 2011, the Department's Legal Division telephoned and left
24 a voice mail for Respondent GECC's legal counsel. The legal counsel did not
25 return the call until August 11, 2011 and left a voicemail. The Department

1 immediately returned the voicemail but had to leave another message. To
2 date, no other messages have been received from counsel.

3 22. To date, Respondents have not obtained a payday or small loan license
4 from the Department, provided the Department with the requested
5 documentation or resolved the Consumer A complaint, in violation of RSA 399-
6 A:10,II.

7
8 _____
9 /s/ Maryam Torben Desfosses
Hearings Examiner

10 _____
11 10/31/11
Date

12 **ORDER**

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

14 a. Pursuant to RSA 399-A:7,I and II, the facts as alleged above, if
15 true, show Respondents are operating or have operated in violation of RSA
16 Chapter 399-A and form the legal basis for this Order;

17 b. Pursuant to 399-A:16,VI, this Order is necessary and appropriate
18 to the public interest and for the protection of consumers and consistent
19 with the purpose and intent of New Hampshire banking laws;

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

22 d. Pursuant to RSA 399-A:7,I and II and RSA 399-A:8,I, if
23 Respondents fail to respond to this Order and/or default then all facts as
24 alleged herein are deemed as true.

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

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

1 b. Respondents shall immediately provide the Department a list of
2 all New Hampshire consumers for whom Respondents have given payday or small
3 loans and a status of those accounts. This list must include the names and
4 contact information of the New Hampshire consumers, along with monies
5 charged, collected and waived (if applicable). The list shall also be
6 accompanied by all contracts, checks to and from the consumer and any other
7 documents in the New Hampshire consumers' files;

8 c. Respondents shall show cause why the Commissioner should not
9 enter an order of rescission, restitution, or disgorgement of profits,
10 including at a minimum restitution for Consumer A if applicable;

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

13 (1). Respondent GECC:

14 Violation #1: Unlicensed payday or small loan activity

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

16 Violation #4: Failure to provide requested documents (RSA

17 399-A:10,II) - 1 Count;

18 Violation #2: Charging additional fees on a loan (RSA 399-

19 A:11,XI)) - 1 count;

20 Violation #3: Charging additional fees on a loan (RSA 399-

21 A:13,I) - 1 count;

22 (2). Respondent Ney:

23 Violation #1: Unlicensed payday or small loan activity

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

25 Violation #4: Failure to provide requested documents (RSA

1 399-A:10,II) - 1 Count;

2 Violation #2: Charging additional fees on a loan (RSA 399-
3 A:11,XI)) - 1 count;

4 Violation #3: Charging additional fees on a loan (RSA 399-
5 A:13,I) - 1 count;

6 (3). Respondent Watt:

7 Violation #1: Unlicensed payday or small loan activity
8 (RSA 399-A:2,I) - 1 Count;

9 Violation #4: Failure to provide requested documents (RSA
10 399-A:10,II) - 1 Count;

11 Violation #2: Charging additional fees on a loan (RSA 399-
12 A:11,XI)) - 1 count;

13 Violation #3: Charging additional fees on a loan (RSA 399-
14 A:13,I) - 1 count;

15 e. Nothing in this Order:

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

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

22
23 **SO ORDERED.**

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

Dated: 11/01/2011