

1	In re the Matter of:) Case No.: 10-080
)
2	State of New Hampshire Banking)
)
3	Department,)
)
4	Petitioner,) Order to Cease and Desist
)
5	and)
)
6	e Payday Loan (a/k/a e-payday-)
)
7	loan.com),)
)
8	Respondent)

NOTICE OF ORDER TO 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.

RESPONDENT

16 3. e Payday Loan (a/k/a e-payday-loan.com) ("Respondent E-Payday") is an
17 online company located in Murray, Utah and possibly most recently in
18 Talmage, California. Respondent E-Payday is not registered with the New
19 Hampshire Secretary of State, the California Secretary of State or with the
20 Utah Secretary of State. Respondent E-Payday is a "Person" as defined under
21 RSA 399-A:1,XII, a "Lender" as defined under RSA 399-A:1,VIII, a "Payday
22 Loan Lender" as defined under RSA 399-A:1,XI and a "Small Loan Lender" as
23 defined under RSA 399-A:1,XV.

24 4. The New Hampshire Banking Department ("Department") records indicate
25 Respondent E-Payday has never held a Payday or Small Loan Lender license

1 with the Department.

2 **RIGHT TO REQUEST A HEARING**

3 5. Respondent E-Payday has a right to request a hearing on this Order. A
4 hearing shall be held not later than ten (10) days after the Commissioner
5 receives the Respondent E-Payday's written request for a hearing. Respondent
6 E-Payday may request a hearing and waive the ten (10) day hearing
7 requirement. The hearing shall comply with RSA Chapter 541-A, RSA 399-A:7,
8 RSA 399-A:8, and Administrative Rule JUS Chapter 800.

9 6. If any person fails to request a hearing within thirty (30) days of
10 receiving this Order, then such person shall be deemed in default, and the
11 Order shall, on the thirty-first (31st) day, become permanent, all
12 allegations may be deemed true, and shall remain in full force and effect
13 until modified or vacated by the Commissioner for good cause shown. RSA
14 399-A:7 and RSA 399-A:8.

15 7. A default may result in administrative fines as described in Paragraph
16 2 above.

17 **STATEMENT OF ALLEGATIONS**

18 **Consumer A:**

19 8. On July 21, 2010, the Department received a complaint from a New
20 Hampshire consumer ("Consumer A") against Respondent E-Payday concerning a
21 payday or small loan.

22 9. On February 3, 2010, Respondent E-Payday issued Consumer A the payday
23 or small loan in the amount of \$250.00, in violation of RSA 399-A:2,I.

24 10. Respondent E-Payday deducted \$750.00 from Consumer A's bank account
25 over the course of five (5) months in violation of RSA 399-A:11,XI and RSA

1 399-A:13,I. Consumer A should be entitled to a refund of the full \$500.00,
2 the amount over the \$250.00 originally borrowed.

3 11. The payday or small loan issued by Respondent E-Payday to Consumer A
4 had an annual percentage rate greater than thirty-six percent (36%) per year
5 in violation of RSA 399-A:13,XX.

6 **Consumer B:**

7 12. On October 18, 2010, the Department received a complaint from a New
8 Hampshire consumer ("Consumer B") against Respondent E-Payday concerning a
9 payday or small loan.

10 13. In November of 2009, Respondent E-Payday issued Consumer B the payday
11 or small loan in the amount of \$350.00, in violation of RSA 399-A:2,I.

12 14. Respondent E-Payday deducted \$468.00 from Consumer B's bank account
13 over the course of two (2) months in violation of RSA 399-A:11,XI and RSA
14 399-A:13,I. Consumer B should be entitled to a refund of \$118.00, the amount
15 over the \$350.00 originally borrowed.

16 15. The payday or small loan issued by Respondent E-Payday to Consumer B
17 had an annual percentage rate greater than thirty-six percent (36%) per year
18 in violation of RSA 399-A:13,XX.

19 **Correspondence:**

20 16. On September 13, 2010, the Department sent a letter via U.S. Certified
21 Mail return receipt requested and facsimile to Respondent E-Payday at the
22 Murray, Utah address instructing it to apply for a license with the
23 Department, requesting documentation regarding a New Hampshire loan list,
24 and requesting a response to the consumer complaint that had been filed.
25 The correspondence was returned by the U.S. Post Office on September 23,

1 2010 stating "Return to Sender, Not Deliverable as Addressed, Unable to
2 Forward." The Department received a report indicating the facsimile was
3 transmitted properly. The Department did not receive a response to this
4 correspondence.

5 17. To date, Respondent E-Payday has an active website and has not
6 specifically excluded New Hampshire from states in which it offers payday or
7 small loans.

8 18. To date, Consumer A has not received any refund.

9
10 _____ /s/
11 Maryam Torben Desfosses
12 Hearings Examiner

05/09/10
Date

13 **ORDER**

14 19. **I hereby find as follows:**

15 a. Pursuant to RSA 399-A:2 and RSA 399-A:2,I, the facts as alleged
16 above, if true, show Respondent E-Payday is operating or has operated in
17 violation of RSA Chapter 399-A and form the legal basis for this Order;

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

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

23 d. Pursuant to RSA 399-A:8,I, if Respondent E-Payday fails to
24 respond to this Order and/or defaults then all facts as alleged herein may
25 be deemed as true.

1 20. **Accordingly, it is hereby ORDERED that:**

2 a. Respondent E-Payday shall cease and desist from violating RSA
3 Chapter 399-A and rules or orders thereunder;

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

11 c. Respondent E-Payday shall be hereby ordered to rescind, provide
12 restitution or disgorge profits;

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

16 (1). Respondent E-Payday:

17 #1: Unlicensed payday or small loan activity (RSA 399-
18 A:2,I) - 2 Counts;

19 #2: Charging additional fees on a loan (RSA 399-A:11,XI)
20 - 2 Counts;

21 #3: Charging additional fees on a loan (RSA 399-A:13,I) -
22 2 Counts;

23 #4: Charging an annual percentage rate over the statutory
24 limit (RSA 399-A:13,XX) - 2 Counts;

1 e. Nothing in this Order:

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

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

8
9 **SO ORDERED.**

10 _____ /s/
11 RONALD A. WILBUR
12 BANK COMMISSIONER

Dated: 05/10/12