

1	In re the Matter of:) Case No.: 10-100
)
2	State of New Hampshire Banking)
)
3	Department,)
)
4	Petitioner,) Order to Show Cause and
5	and) Cease and Desist
)
6	Ameriloan (d/b/a Ace Cash Services,)
)
7	d/b/a United Cash Loans, d/b/a US Fast)
)
8	Cash and d/b/a Tribal Financial)
)
9	Services),)
)
10	Respondent)
)
11)

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

13 1. This Order commences an adjudicative proceeding under the provisions
14 of RSA Chapter 399-A (including RSA 399-A:7,I and II, RSA 399-A:8,I and RSA
15 399-A:16,IV) and RSA Chapter 541-A.

16 2. The Commissioner may impose administrative penalties of up to
17 \$2,500.00 for each violation. RSA 399-A:18,V and VI.

18 RESPONDENT

19 3. Ameriloan (d/b/a Ace Cash Services, d/b/a United Cash Loans, d/b/a US
20 Fast Cash and d/b/a Tribal Financial Services) ("Respondent Ameriloan") is
21 an online company located in Miami, Oklahoma. The Better Business Bureau
22 has Respondent Ameriloan also located in Carson City, Nevada; and Overland
23 Park, Kansas. Respondent Ameriloan is not registered with the New Hampshire
24 Secretary of State. Respondent Ameriloan is a "Person." RSA 399-A:1,XII.

25 4. The New Hampshire Banking Department ("Department") records indicate

1 Respondent Ameriloan has never held a Payday or Small Loan Lender license
2 with the Department.

3 **RIGHT TO REQUEST A HEARING**

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

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 May 19, 2008 the Department received a complaint from a New
20 Hampshire consumer ("Consumer A") against Respondent concerning a payday or
21 small loan.

22 9. On February 23, 2007, Respondent issued Consumer A the payday or small
23 loan in the amount of \$150.00, in violation of RSA 399-A:2,I.

24 10. Respondent deducted \$180.00 from Consumer A's bank account over the
25 course of 2 (two) months in violation of RSA 399-A:11,XI and RSA 399-A:13,I.

1 Consumer A also had to pay \$245.00 in overdraft fees after Respondent
2 attempted to withdraw more fees from Consumer A's bank account. Consumer A
3 should be entitled to a refund of \$275.00, the amount over the \$150.00
4 originally borrowed plus the overdraft fees.

5 11. On March 1, 2007, Respondent issued Consumer A the payday or small
6 loan in the amount of \$200.00, in violation of RSA 399-A:2,I.

7 12. Respondent deducted \$180.00 from Consumer A's bank account over the
8 course of 1 (one) month in violation of RSA 399-A:11,XI and RSA 399-A:13,I.

9 Consumer A also had to pay \$315.00 in overdraft fees after Respondent
10 attempted to withdraw more fees from Consumer A's bank account. Consumer A
11 should be entitled to a refund of \$315.00, the amount of the overdraft fees.

12 13. Respondent issued a payday loan to Consumer A while Consumer A had an
13 outstanding payday loan in violation of RSA 399-A:13,XIX.

14 **Consumer B:**

15 14. On November 13, 2009 the Department received a complaint from a New
16 Hampshire consumer ("Consumer B") against Respondent concerning a payday or
17 small loan.

18 15. On July 3, 2009, Respondent issued Consumer B the payday or small loan
19 in the amount of \$250.00, in violation of RSA 399-A:2,I.

20 16. Respondent deducted \$760.00 from Consumer B's bank account over the
21 course of 4 (four) months in violation of RSA 399-A:11,XI and RSA 399-
22 A:13,I. Consumer B also had to pay \$115.00 in overdraft fees after
23 Respondent attempted to withdraw more fees from Consumer B's bank account.
24 Consumer B should be entitled to a refund of \$625.00, the amount over the
25 \$250.00 originally borrowed plus the overdraft fees.

1 17. The annual percentage rate for this loan was 456.25% in violation of
2 RSA 399-A:13,XX.

3 18. On July 10, 2009, Respondent issued Consumer B the payday or small
4 loan in the amount of \$350.00, in violation of RSA 399-A:2,I and RSA 399-
5 A:13,XIX.

6 19. Respondent deducted \$745.00 from Consumer B's bank account over the
7 course of 4 (four) months in violation of RSA 399-A:11,XI and RSA 399-
8 A:13,I. Consumer B also had to pay \$92.00 in overdraft fees after
9 Respondent attempted to withdraw more fees from Consumer B's bank account.
10 Consumer B should be entitled to a refund of \$487.00, the amount over the
11 \$350.00 originally borrowed plus the overdraft fees.

12 20. The annual percentage rate for this loan was 644.12% in violation of
13 RSA 399-A:13,XX.

14 **Consumer C:**

15 21. On April 9, 2009 the Department received a complaint from a New
16 Hampshire consumer ("Consumer C") against Respondent concerning a payday or
17 small loan.

18 22. Between June 2008 and February 2009, Respondents issued Consumer C the
19 payday or small loan, in violation of RSA 399-A:2,I.

20 23. Between June 2008 and February 2009, Respondents issued Consumer C a
21 second payday or small loan, in violation of RSA 399-A:2,I.

22 **Consumer D:**

23 24. On June 7, 2010 the Department received a complaint from a New
24 Hampshire consumer ("Consumer D") against Respondent concerning a payday or
25 small loan.

1 25. On October 10, 2009, Respondent issued Consumer D the payday or small
2 loan, in violation of RSA 399-A:2,I.

3 **Consumer E:**

4 26. On April 23, 2010 the Department received a complaint from a New
5 Hampshire consumer ("Consumer E") against Respondent concerning a payday or
6 small loan.

7 27. On August 14, 2009, Respondent issued Consumer E the payday or small
8 loan in the amount of \$250.00, in violation of RSA 399-A:2,I.

9 **Consumer F:**

10 28. On January 30, 2009 the Department received a complaint from a New
11 Hampshire consumer ("Consumer F") against Respondent concerning a payday or
12 small loan.

13 29. On May 24, 2007, Respondent issued Consumer F the payday or small loan
14 in the amount of \$300.00, in violation of RSA 399-A:2,I.

15 30. Respondent deducted \$270.00 from Consumer F's bank account over the
16 course of 2 (two) months in violation of RSA 399-A:11,XI and RSA 399-A:13,I.

17 31. On June 4, 2007, Respondent issued Consumer F the payday or small loan
18 in the amount of \$300.00, in violation of RSA 399-A:2,I.

19 32. Respondent deducted \$270.00 from Consumer F's bank account over the
20 course of 1 (one) month in violation of RSA 399-A:11,XI and RSA 399-A:13,I.

21 33. Respondent issued a payday loan to Consumer F while Consumer F had an
22 outstanding payday loan in violation of RSA 399-A:13,XIX.

23 34. The annual percentage rate for this loan was 995.45% in violation of
24 RSA 399-A:13,XX.

25

1 **Consumer G:**

2 35. On August 2, 2011 the Department received a complaint from a New
3 Hampshire consumer ("Consumer G") against Respondent concerning a payday or
4 small loan.

5 36. On May 25, 2011, Respondent issued Consumer G the payday or small loan
6 in the amount of \$200.00, in violation of RSA 399-A:2,I.

7 37. Respondent deducted \$410.00 from Consumer G's bank account On July 29,
8 2011, in violation of RSA 399-A:11,XI and RSA 399-A:13,I. Consumer G should
9 be entitled to a refund of \$210.00, the amount over the \$200.00 originally
10 borrowed.

11 **Consumer H:**

12 38. On June 14, 2011 the Department received a complaint from a New
13 Hampshire consumer ("Consumer H") against Respondent concerning a payday or
14 small loan.

15 39. Between January 2009 and December 2009, Respondent issued Consumer H
16 the payday or small loan, in violation of RSA 399-A:2,I.

17 **Consumer I:**

18 40. On September 29, 2010 the Department received a complaint from a New
19 Hampshire consumer ("Consumer I") against Respondent concerning a payday or
20 small loan.

21 41. On May 19, 2010, Respondent issued Consumer I the payday or small loan
22 in the amount of \$300.00, in violation of RSA 399-A:2,I.

23 **Consumer J:**

24 42. On October 29, 2010 the Department received a complaint from a New
25 Hampshire consumer ("Consumer J") against Respondent concerning a payday or

1 small loan.

2 43. Prior to January 2010, Respondent issued Consumer J the payday or
3 small loan, in violation of RSA 399-A:2,I.

4 44. Prior to January 2010, Respondent issued Consumer J a second payday or
5 small loan, in violation of RSA 399-A:2,I.

6 **Consumer K:**

7 45. On May 20, 2010 the Department received a complaint from a New
8 Hampshire consumer ("Consumer K") against Respondent concerning a payday or
9 small loan.

10 46. On December 15, 2009, Respondent issued Consumer K the payday or small
11 loan in the amount of \$350.00, in violation of RSA 399-A:2,I.

12 **Consumer L:**

13 47. On June 24, 2011 the Department received a complaint from a New
14 Hampshire consumer ("Consumer L") against Respondent concerning a payday or
15 small loan.

16 48. Respondent issued Consumer L the payday or small loan in the amount of
17 \$400.00, in violation of RSA 399-A:2,I.

18 **Consumer M:**

19 49. On July 21, 2011 the Department received a complaint from a New
20 Hampshire consumer ("Consumer M") against Respondent concerning a payday or
21 small loan.

22 50. Respondent issued Consumer M the payday or small loan, in violation of
23 RSA 399-A:2,I.

24 **Consumer N:**

25 51. On April 29, 2010 the Department received a complaint from a New

1 Hampshire consumer ("Consumer N") against Respondent concerning a payday or
2 small loan.

3 52. On October 23, 2009, Respondent issued Consumer N the payday or small
4 loan, in violation of RSA 399-A:2,I.

5 **Consumer O:**

6 53. On April 16, 2010 the Department received a complaint from a New
7 Hampshire consumer ("Consumer O") against Respondent concerning a payday or
8 small loan.

9 54. On February 9, 2010, Respondent issued Consumer O the payday or small
10 loan in the amount of \$300.00, in violation of RSA 399-A:2,I.

11 55. The annual percentage rate for this loan was 576.32% in violation of
12 RSA 399-A:13,XX.

13 **Consumer P:**

14 56. On December 21, 2010 the Department received a complaint from a New
15 Hampshire consumer ("Consumer P") against Respondent concerning a payday or
16 small loan.

17 57. On August 9, 2010, Respondent issued Consumer P the payday or small
18 loan in the amount of \$500.00, in violation of RSA 399-A:2,I.

19 58. Respondent deducted \$600.00 from Consumer P's bank account over the
20 course of 2 (two) months in violation of RSA 399-A:11,XI and RSA 399-A:13,I.
21 Consumer P should be entitled to a refund of \$100.00, the amount over the
22 \$500.00 originally borrowed.

23 **Consumer Q:**

24 59. On October 18, 2010 the Department received a complaint from a New
25 Hampshire consumer ("Consumer Q") against Respondent concerning a payday or

1 small loan.

2 60. In August 2009, Respondent issued Consumer Q the payday or small loan
3 in the amount of \$400.00, in violation of RSA 399-A:2,I.

4 61. Respondent deducted \$621.00 from Consumer Q's bank account over the
5 course of 5 (five) months in violation of RSA 399-A:11,XI and RSA 399-
6 A:13,I. Consumer Q should be entitled to a refund of \$221.00, the amount
7 over the \$400.00 originally borrowed.

8 **Consumer R:**

9 62. On August 4, 2011 the Department received a complaint from a New
10 Hampshire consumer ("Consumer R") against Respondent concerning a payday or
11 small loan.

12 63. On June 6, 2011, Respondent issued Consumer R the payday or small loan
13 in the amount of \$500.00, in violation of RSA 399-A:2,I.

14 64. Respondent deducted \$450.00 from Consumer R's bank account over the
15 course of 1 (one) month in violation of RSA 399-A:11,XI and RSA 399-A:13,I.

16 65. The annual percentage rate for this loan was 644.12% in violation of
17 RSA 399-A:13,XX.

18 **Correspondence:**

19 66. On August 5, 2008, the Department sent a letter via U.S. Certified
20 Mail return receipt requested to Respondent at the Carson City, Nevada
21 address suggesting it apply for licensure with the Department. The
22 correspondence was received by the Respondent on August 11, 2008. The
23 Department did not receive a response to this correspondence.

24 67. On August 5, 2008, the Department sent a letter via U.S. Certified
25 Mail return receipt requested to Respondent at the Miami, Oklahoma address

1 suggesting it apply for licensure with the Department. The correspondence
2 was received by the Respondent on August 8, 2008. The Department did not
3 receive a response to this correspondence.

4 68. On November 3, 2008, the Department sent a letter via U.S. Certified
5 Mail return receipt requested to Respondent at the Carson City, Nevada
6 address suggesting it apply for licensure with the Department. The
7 correspondence was received by the Respondent on November 6, 2008. The
8 Department did not receive a response to this correspondence.

9 69. On November 3, 2008, the Department sent a letter via U.S. Certified
10 Mail return receipt requested to Respondent at the Miami, Oklahoma address
11 suggesting it apply for licensure with the Department. The correspondence
12 was received by the Respondent on November 12, 2008. The Department did not
13 receive a response to this correspondence.

14 70. On October 6, 2009, the Department sent a letter via U.S. Mail to
15 Respondent at the Carson City, Nevada address suggesting it apply for
16 licensure with the Department. The Department received the letter back from
17 the U.S. Post Office on October 20, 2009 indicating, "Return to Sender,
18 Attempted - Not Known, Unable to Forward".

19 71. On October 7, 2009, the Department sent a letter via U.S. Certified
20 Mail return receipt requested to Respondent at the Miami, Oklahoma address
21 suggesting it apply for licensure with the Department. The correspondence
22 was received by the Respondent on October 13, 2009. The Department did not
23 receive a response to this correspondence.

24 72. On September 14, 2010, the Department sent a letter via U.S. Certified
25 Mail return receipt requested to Respondent at the Miami, Oklahoma address

1 suggesting it apply for licensure with the Department, resolution of a
2 consumer complaint, and requesting documentation regarding any New Hampshire
3 consumer activity. The correspondence was received by the Respondent on
4 September 20, 2010. The Department did not receive a response to this
5 correspondence.

6 73. To date, Respondent has an active website and has not specifically
7 excluded New Hampshire from the states in which it offers payday or small
8 loans.

9 74. To date, Respondent has failed to provide the Department with the
10 requested documents in violation of RSA 399-A:10,II.

11
12 /S/ September 29, 2011
13 Ryan McFarland Date
14 Hearings Examiner

14 **ORDER**

15 **75. I hereby find as follows:**

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

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

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

24 d. Pursuant to RSA 399-A:7,I and II and RSA 399-A:8,I, if
25 Respondent fails to respond to this Order and/or defaults then all facts as

1 alleged herein are deemed as true.

2 76. **Accordingly, it is hereby ORDERED that:**

3 a. Respondent shall cease and desist from violating RSA Chapter
4 399-A and rules or orders thereunder;

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

12 c. Respondent shall show cause why the Commissioner should not
13 enter an order of rescission, restitution, or disgorgement of profits,
14 including at a minimum restitution of \$590.00 (for Consumer A), \$1,112.00
15 (for Consumer B), \$210.00 (for Consumer G), \$100.00 (for Consumer P),
16 \$221.00 (for Consumer Q), and restitution for Consumer C, Consumer D,
17 Consumer E, Consumer F, Consumer H, Consumer I, Consumer J, Consumer K,
18 Consumer L, Consumer M, Consumer N, Consumer O and Consumer R if applicable;

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

21 (1). Respondent Ameriloan:

22 Violation #1: Unlicensed payday or small loan activity
23 (RSA 399-A:2,I) - 23 counts;

24 Violation #2: Charging additional fees on a loan (RSA 399-
25 A:11,XI)) - 10 counts;

1 Violation #3: Charging additional fees on a loan (RSA 399-
2 A:13,I) - 10 counts;

3 Violation #4: Making multiple payday loans to a borrower
4 within sixty days (RSA 399-A:13,XIX) - 3 counts;

5 Violation #5: Failure to provide requested documents (RSA
6 399-A:10,II) - 1 count;

7 Violation #6: Making a payday loan with an annual
8 percentage rate greater than 36 percent (RSA 399-A:13,XX)
9 - 5 counts;

10 e. Nothing in this Order:

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

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

17
18 **SO ORDERED.**

19 _____ /s/
20 RONALD A. WILBUR
21 BANK COMMISSIONER

Dated: September 29, 2011