

) Case No.: 11-203

1 In re the Matter of:)
)
 2 State of New Hampshire Banking Department,)
)
 3 Petitioner,)
)
 4 and) Order to Cease and Desist
)
 5 First West Coast Financial Services a/k/a)
)
 6 Atlas Money (d/b/a atlasmoneyonline.com,)
)
 7 atlasmoneyonline.net, and)
)
 8 atlasmoneyonline.ca),)
)
 9 Respondent)

NOTICE OF ORDER TO 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.

RESPONDENT

17 3. First West Coast Financial Services a/k/a Atlas Money (d/b/a
 18 atlasmoneyonline.com, atlasmoneyonline.net and atlastmoneyonline.ca)
 19 ("Respondent Atlas") is an online company located in Vancouver, British
 20 Columbia, Canada. Respondent Atlas (under either name) is not registered
 21 with the New Hampshire Secretary of State. Respondent Atlas is a "Person" as
 22 defined under RSA 399-A:1,XII, a "Lender" as defined under RSA 399-A:1,VIII,
 23 a "Payday Loan Lender" as defined under RSA 399-A:1,XI and a "Small Loan
 24 Lender" as defined under RSA 399-A:1,XV.

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

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

3 **RIGHT TO REQUEST A HEARING**

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

10 6. If any person fails to request a hearing within thirty (30) days of
11 receiving this Order, then such person shall be deemed in default, and the
12 Order shall, on the thirty-first (31st) day, become permanent, all
13 allegations may be deemed true, and shall remain in full force and effect
14 until modified or vacated by the Commissioner for good cause shown. RSA
15 399-A:7 and RSA 399-A:8.

16 7. A default may result in administrative fines as described in Paragraph
17 2 above.

18 **STATEMENT OF ALLEGATIONS**

19 **Consumer A:**

20 8. On March 24, 2011, the Department received a complaint from a New
21 Hampshire consumer ("Consumer A") against Respondent Atlas (as First West
22 Coast Financial Services with an email address ending with
23 atlastmoneyonline.com) concerning a payday or small loan.

24 9. On July 13, 2010, Respondent Atlas issued Consumer A the payday or
25 small loan in the amount of \$600.00, in violation of RSA 399-A:2,I.

1 10. Respondent Atlas charged Consumer A and collect a total of \$2,970.00
2 in violation of RSA 399-A:11,XI and RSA 399-A:13,I. Consumer A should be
3 entitled to a refund of \$2,370.00, the amount over the \$600.00 originally
4 borrowed by Consumer A.

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

8 **Correspondence:**

9 12. On September 26, 2010, the Department sent a letter via International
10 Mail return receipt requested and facsimile to Respondent Atlas at the
11 Vancouver, British Columbia, Canada address instructing it to apply for a
12 license with the Department and requesting documentation regarding a New
13 Hampshire loan list. The correspondence was never returned. The Department
14 also submitted the correspondence via facsimile, the report of which
15 indicates the facsimile was successfully transmitted. The Department did not
16 receive a response to the correspondence.

17 13. To date, Respondent Atlas has an active website and has not
18 specifically excluded New Hampshire from states in which it offers payday or
19 small loans.

20 14. To date, Consumer A has not received any refund.

21 _____ /s/
22 Maryam Torben Desfosses
23 Hearings Examiner

05/04/12
Date

23 **ORDER**

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

25 a. Pursuant to RSA 399-A:2 and RSA 399-A:2,I, the facts as alleged

1 above, if true, show Respondent Atlas is operating or has operated in
2 violation of RSA Chapter 399-A and form the legal basis for this Order;

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

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

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

11 16. **Accordingly, it is hereby ORDERED that:**

12 a. Respondent Atlas shall cease and desist from violating RSA
13 Chapter 399-A and rules or orders thereunder;

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

21 c. Respondent Atlas shall be hereby ordered to rescind, provide
22 restitution or disgorge profits, including at minimum \$2,370.00 to Consumer
23 A;

24 d. Respondent Atlas shall hereby be administratively fined a
25 maximum of \$2,500.00 per violation (as stated in Counts below) pursuant to

1 RSA 399-A:18,V and VI as follows:

2 (1). Respondent Atlas:

3 #1: Unlicensed payday or small loan activity (RSA 399-
4 A:2,I) - 1 Count;

5 #2: Charging additional fees on a loan (RSA 399-A:11,XI)
6 - 1 Count;

7 #3: Charging additional fees on a loan (RSA 399-A:13,I) -
8 1 Count;

9 #4: Charging an annual percentage rate over the statutory
10 limit (RSA 399-A:13,XX) - 1 Count; and

11 e. Nothing in this Order:

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

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

18
19 **SO ORDERED.**

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

Dated: 05/07/12