

**STATE OF NEW HAMPHIRE**

**BANKING DEPARTMENT**

In re Cash Web USA

Case No. 12-447

**ORDER TO CEASE AND DESIST**

Now comes the State of New Hampshire Banking Department (the “Department”) commencing an adjudicative proceeding under the provisions of RSA Chapter 399-A and RSA Chapter 541-A against the respondent, Cash Web USA.

**JURISDICTION**

The Department licenses and regulates persons “engage[d] in the business of making small loans, title loans, or payday loans in this state or with consumers located in this state . . . .” RSA 399-A:2, I. “The [Department] may issue a cease and desist order against any licensee or person who it has reasonable cause to believe has violated or is about to violate the provisions of [RSA Chapter 399-A] or any rule or order under [RSA Chapter 399-A].” RSA 399-A:8, I. The Bank Commissioner may also “by order, upon due notice and opportunity for a hearing, assess penalties [for violating RSA Chapter 399-A] . . . if it is in the public interest.” RSA 3990A:7, I(i).

**FACTS**

On or about September 21, 2012, the Department received a complaint from Consumer A against the respondent. Consumer A is a New Hampshire resident. In the complaint, Consumer A alleged that the respondent contacted her via email and said it would deposit \$500 into her bank account. Consumer A also alleged that the respondent stated that it would charge her \$20 for a wire fee and \$150 in interest. Subsequently, the respondent deposited the money into Consumer A’s bank account. Consumer A closed her bank account, but the respondent began

collection calls to Consumer A. Consumer A provided the Department with an email from the respondent notifying Consumer A of an ACH payment and a bank account record showing the \$500 deposit to her bank account.

Additionally, on February 6, 2013, the Department received a tip from Consumer B alleging that the respondent provided him with a payday or small loan. Consumer B is a New Hampshire resident. Consumer B sent the Department a number of emails from the respondent indicating that the respondent provided him with a loan in the amount of \$350 or \$500. Consumer B also sent the Department bank account records demonstrating that the respondent had deposited and withdrawn money from the account.

The Department investigated the respondent and determined that it does not hold a New Hampshire payday or small loan lender license. The Department sent an administrative subpoena to the respondent on April 12, 2013 via certified mail return receipt requested. The letter enclosing the subpoena was returned to the Department on May 9, 2013 marked “unclaimed” by the postal service.

#### **GOVERNING LAW**

Under RSA 399-A:2, I “[n]o person shall engage in the business of making small loans, title loans, or payday loans . . . with consumers located in [New Hampshire] without first obtaining a license from the [Bank Commissioner].” A “payday loan” is “a short-maturity, secured or unsecured loan, other than a title loan.” RSA 399-A:1, X. A “small loan” is “a closed-end loan in the amount of \$10,000 or less or an open-end loan with a line of credit of \$10,000 or less, and where the lender contracts for . . . any charges . . .” RSA 399-A:1, XIV.

## **FINDINGS**

Pursuant to RSA 399-A:8, I, the Department has reasonable cause to believe that the respondent has violated the following provisions of RSA Chapter 399-A:

1. RSA 399-A:2, I: The respondent knowingly or negligently violated RSA 399-A:2, I when it engaged in the business of making a small loan or payday loan to Consumer A without first obtaining a license from the Department.
2. RSA 399-A:2, I: The respondent knowingly or negligently violated RSA 399-A:2, I when it engaged in the business of making a small loan or payday loan to Consumer B without first obtaining a license from the Department.

Pursuant to RSA 399-A:7, I, this Order is necessary and appropriate to the public interest, for the protection of consumers, and consistent with the purposes fairly intended by the policy and provisions of RSA Chapter 399-A.

## **ORDER**

Accordingly, the Bank Commissioner orders as follows:

1. The respondent shall cease and desist from violating RSA Chapter 399-A and any rules or order under RSA Chapter 399-A. RSA 399-A:8, I.
2. The respondent shall disgorge any finance charges, delinquency charges, or collection charges associated with the above-referenced consumers' accounts. RSA 399-A:18, II.
3. The respondent shall be assessed an administrative fine of \$2,500 for knowingly or negligently violating RSA 399-A:2, I when it engaged in the business of making a small loan or payday loan to Consumer A without first obtaining a license from the Department. RSA 399-A:7, I(i); RSA 399-A:18, V.

4. The respondent shall be assessed an administrative fine of \$2,500 for knowingly or negligently violating RSA 399-A:2, I when it engaged in the business of making a small loan or payday loan to Consumer B without first obtaining a license from the Department. RSA 399-A:7, I(i); RSA 399-A:18, V.

**NOTICE OF RIGHT TO A HEARING**

The respondent has a right to request a hearing in writing on this Order to Cease and Desist. If requested, “[a] hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner . . . .” RSA 399-A:8, I.

If the respondent “fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.” Id.

**RECOMMENDED by:**

06/12/13  
Date

/s/  
Emelia A.S. Galdieri  
N.H. Bar #19840  
Hearings Examiner  
State of New Hampshire Banking Department

**ORDERED by:**

06/12/13  
Date

/s/  
Glenn A. Perlow  
Bank Commissioner  
State of New Hampshire Banking Department

**CERTIFICATE OF SERVICE**

I, Emelia A.S. Galdieri, hereby certify that on 06/12/13, a copy of this Order to Cease and Desist was sent to the following parties via U.S. Certified Mail First Class:

Tim Shields  
Dellinger Financial  
4949 Timber Ridge Rd.  
Marietta, GA 30068

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/s/  
Emelia A.S. Galdieri  
N.H. Bar #19840  
Hearings Examiner  
State of New Hampshire Banking Department