

1 State of New Hampshire Banking Department

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3 In re the Matter of:) Case No.: 07-034
)
 4 State of New Hampshire Banking) Notice of Hearing - Order to Show
) Cause with Immediate Suspension
 5 Department,)
)
 6 Petitioner,)
)
 7 and)
)
 8 Cashforce USA Inc., Michael Melody)
)
 9 and Daniel Melody,)
)
 10 Respondents)

11
12 NOTICE OF HEARING

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14 Pursuant to RSA 399-A:8, the Banking Department of the State of New
15 Hampshire (hereinafter the "Department") has the authority to issue and cause
16 to be served an order requiring any person engaged in any act or practice
17 constituting a violation of RSA 399-A or any rule or order thereunder, to
18 cease and desist from violations of RSA 399-A.

19 Pursuant to RSA 399-A:18, the Commissioner has the authority to
20 suspend, revoke or deny any license and to impose administrative penalties of
21 up to \$2,500.00 for each violation of New Hampshire banking law and rules.

22 Pursuant to RSA 399-A:7 the Commissioner may take action to immediately
23 suspend a license within the confines of RSA 541-A.

24 The Department issued to the Respondents an Order to Show Cause and an
25 immediate suspension of the license of Respondent Cashforce USA Inc. on

1 February 6, 2007. RSA 541-A requires the Department to hold a hearing on
2 such summary action within ten working days.

3
4 The Department alleges the following:

5 **Issue 1:** Violation of Commissioner's Order

6 Accordingly, an adjudicative proceeding shall be commenced pursuant to
7 541-A:31 and Chapter 200 of the Department's rules (NH Code of Administrative
8 Rules BAN 200) for the purpose of permitting the Respondent to show
9 compliance with RSA 399-A.

10 Each party has the right to have an attorney present to represent the
11 party at the party's expense, or may represent itself. Each party has the
12 right to have the Department provide a certified shorthand court reporter at
13 the requesting party's expense. Any such request must be submitted in
14 writing to the Department at least 5 days prior to a scheduled hearing date.

15 THEREFORE, IT IS ORDERED, that the Respondents appear before the New
16 Hampshire Banking Department on February, 15, 2007 at 10:00am, at the
17 Department's offices at 64B Old Suncook Road, Concord, New Hampshire, for the
18 purpose of participating in an adjudicative proceeding, at which time the
19 Respondents will have the opportunity to demonstrate why their license should
20 not be revoked and fines imposed; and

21 IT IS FURTHER ORDERED, that if the Respondent elects to be represented
22 by Counsel, said Counsel shall file notice of appearance at the earliest
23 possible date; and

24 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
25 Hampshire Banking Department is designated as Hearing Counsel in this matter
with authority to represent the public interest within the scope of the

1 Department's authority. Hearing Counsel shall have the status of a party to
2 this proceeding; and

3 IT IS FURTHER ORDERED, that the Commissioner shall designate a
4 Presiding Officer in this proceeding who shall issue a RECOMMENDED DECISION
5 in this matter which shall be reviewed and approved, disapproved or modified
6 by the Bank Commissioner; and

7 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
8 for identification only, and filed with the Department and provided to the
9 opposing party as soon as possible. Hearing Counsel shall pre-mark the
10 Department's exhibits with Arabic numbers. The Respondents shall pre-mark
11 exhibits with capital letters. An index/list of exhibits providing a brief
12 description of each exhibit with its corresponding pre-marked number or
13 letter shall be filed by both parties simultaneous with the filing of
14 exhibits; and

15 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
16 exhibits and witnesses to be called at the hearing with a brief summary prior
17 to close of business on February, 14, 2006, and shall at the same time file a
18 copy of their respective witness lists with the Presiding Officer; and

19 IT IS FURTHER ORDERED, that all periods referenced in this notice shall
20 be calendar days. If the last day of the period so computed falls on a
21 Saturday, Sunday, or legal holiday, then the time period shall be extended to
22 include the first business day that is not a Saturday, Sunday, or legal
23 holiday; and

24 IT IS FURTHER ORDERED, that the Department shall have the burden of
25 setting forth a *prima facie* case, then the Respondents shall have the burden of
26 showing compliance with applicable law by a preponderance of the evidence;

IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,
date, and place specified may result in the hearing being held *in absentia*

1 and/or default ruling in favor of the Department, without further notice or
2 opportunity to be heard; and

3 IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall be
4 recorded verbatim by the Banking Department. Upon request of any party, or
5 upon the Presiding Officer's own initiative, such record shall be transcribed
6 by a certified court reporter designated by the Presiding Officer, and that all
7 costs shall be borne solely by the requesting party. Any such request shall be
8 submitted in writing to the Presiding Officer prior to hearing.

9 IT IS FURTHER ORDERED, that all documents shall be filed with the
10 Presiding Officer in the form of an original and one (1) copy and shall bear a
11 certification that a copy is being delivered to Hearing Counsel and any other
12 parties to this matter in accordance with NH Code of Administrative Rules Ban
13 204.08. All documents shall be filed by mailing or delivering them to the New
14 Hampshire Banking Department, ATTN: Presiding Officer 07-034, 64-B Old Suncook
15 Road, Concord, NH 03301. Filing by facsimile or electronic transmission shall
16 not be accepted; and

17 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders, which
18 shall include findings of fact and conclusions of law, separately stated, no
19 later than ten (10) days following conclusion of the hearing(s) in this matter;
20 and

21 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
22 telephoning Maryam Torben-Desfosses at (603)-271-3561, but all communications
23 with the Presiding Officer and all other communications with the Department
24 shall be in writing and shall be filed as provided above. *Ex parte*
25 communications are forbidden by statute; and

IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
served to the licensee, mailed to John Kalled, Counsel for Respondents, and
that a copy shall also be delivered to James Shepard, Hearing Counsel, and to
the Presiding Officer, at the New Hampshire Banking Department.

