

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) Order to Show Cause with
))
5 Department,) Immediate Suspension
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6 Petitioner,))
))
7 and))
))
8 Cashforce USA Inc., Michael Melody))
))
9 and Daniel Melody))
))
10 Respondents

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12 This Order commences an adjudicative proceeding under the provisions of
13 RSA 399-A:18 and RSA 541-A.

14 LEGAL AUTHORITY AND JURISDICTION

15 Pursuant to RSA 399-A:18, the Banking Department of the State of New
16 Hampshire (hereinafter the "Department") has the authority to issue and cause
17 to be served an order requiring any person about to engage in or has engaged
18 in any act or practice constituting a violation of RSA 399-A or any rule or
19 order thereunder, to show cause why their license should not be revoked for
20 violations of RSA 399-A.

21 NOTICE OF RIGHT TO REQUEST A HEARING

22 The above named respondent has the right to request a hearing on this
23 Cease and Desist Order, as well as the right to be represented by counsel. A
24 hearing shall be held not later than 10 days after the request for such
25 hearing is received by the commissioner after which and within 20 days of the
date of the hearing the commissioner shall issue a further order vacating the

1 cease and desist order or making it permanent as the facts require. All
2 hearings shall comply with RSA 541-A. If the Respondent of a cease and desist
3 order fails to appear at the hearing after being duly notified, such person
4 shall be deemed in default, and the proceeding may be determined against him
5 or her upon consideration of the cease and desist order, the allegations of
6 which may be deemed to be true.

7 If the Respondent fails to request a hearing on the Cease and Desist
8 Order within 30 calendar days of receipt of such order, then such person shall
9 be deemed in default and the order shall, on the thirty-first day, become
10 permanent and shall remain in full force and effect until and unless later
11 modified or vacated by the commissioner, for good cause shown. Any such
12 request for a hearing shall be in writing, signed by the respondent or by the
13 duly authorized agent of the above named respondent, and delivered either by
14 hand or certified mail, return receipt requested, to the Banking Department,
15 State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301.

16 **STATEMENT OF ALLEGATIONS, APPLICABLE LAW, AND RELIEF REQUESTED**

17 The Staff Petition dated February 6, 2007 (a copy of which is attached
18 hereto) is incorporated by reference hereto.

19 **ORDER**

20 WHEREAS, finding it necessary and appropriate and in the public
21 interest, and consistent with the intent and purposes of the New Hampshire
22 banking laws, and

23 WHEREAS, finding that the allegations contained in the Staff Petition,
24 if proved true and correct, form the legal basis of the relief requested,

25 It is hereby ORDERED, that:

1. The Respondents' license is hereby suspended immediately; and

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2 State of New Hampshire Banking Department

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4 In re the Matter of:) Case No.: 07-034
5 State of New Hampshire Banking) Staff Petition
6 Department,)
7 and) February 6, 2007
8 Cashforce USA Inc., Michael Melody)
9 and Daniel Melody)
10 Respondents)
11

12 STATEMENT OF ALLEGATIONS

13 I. The staff of the Banking Department, State of New Hampshire (hereinafter
14 referred to as the "Department") alleges the following facts:

- 15 1. Cashforce USA (hereinafter "Respondent entity") is a licensed small
16 loan lender with a principal place of business at 2 Main St. Keene, NH.
17 2. Mr. Michael M. Melody (hereinafter Respondent M. Melody) is the
18 President of said Respondent entity.
19 3. Mr. Daniel P. Melody (hereinafter Respondent D. Melody) is the branch
20 manager of said Respondent entity.
21 4. The Department conducted an examination of Cashforce USA Inc. on
22 January 31, 2007 as the Respondent is licensed to conduct small loan
23 activities.
24 5. A small loan lending license allows licensees to make loans of \$10,000
25 or less, payday loans or title loans.
6. Respondent's primary business is payday lending.

1 7. Respondent entity was served with a cease and desist order on or about
2 June 20, 2006. Said order became permanent on October 23, 2006.

3 8. The Commissioner by virtue of that Order found that the "New Loan
4 Policy" being used at that time by Respondent entity was in violation
5 of RSA 399-A:13.

6 9. During the first day of the exam which began on January 31, 2007 it was
7 discovered that Respondent entity is still using the "New Loan Policy"
8 previously found illegal.

9 10. On that same day Respondent D. Melody revealed that for at least
10 two customers Cashforce USA has renewed, extended, or refinanced
11 existing loans multiple times through its application of the "New Loan
12 Policy."

13 II. The staff of the Department alleges the following issues of law:

14 1. The Banking Department ("Department"), has jurisdiction over the
15 licensing and regulation of persons engaged in small loan, payday or
16 title loan activities pursuant to NH RSA 399-A.

17 2. Pursuant to RSA 399-A:1 X "Payday loan" means a small, short-maturity
18 loan on security, regardless of cancelability under Regulation E and
19 regardless of any other law that may govern this transaction in the
20 form of:

21 (a) A check;

22 (b) Any form of assignment of an interest in the account of an
23 individual or individuals at a depository institution; or

24 (c) Any form of assignment of income payable to an individual or
25 individuals.

(d) Any payment authorization that allows a person to debit the
account of an individual or individuals at a depository
institution.

1 The Respondent meets the definition of a payday lender.

- 2 3. Pursuant to the New Hampshire Banking laws, RSA 399-A:13 VII states in
3 relevant part that "A lender shall not refinance, renew, or extend any
4 loan." Respondent's practice of allowing automatic loan renewals
5 violates this law.
- 6 4. Pursuant to NH RSA 399-A:8, the Department has the power to issue and
7 to serve an order requiring persons to cease and desist from violations
8 of the chapter whenever it has reasonable cause to believe that any
9 person has engaged in any act or practice constituting a violation of
10 the banking laws, or any rule or order thereunder. Violation of RSA
11 399-A:13 VII constitutes sufficient grounds to issue a Cease and Desist
12 Order.
- 13 5. Pursuant to NH RSA 399-A:7 the Department may take action for immediate
14 suspension of a license, pursuant to RSA 541-A.
- 15 6. Pursuant to NH RSA 399-A:18 any person who knowingly violates any rule
16 or order of the Commissioner may be subject to suspension, revocation
17 or administrative fine of \$2,500 per violation or a combination
18 thereof.
- 19 7. Pursuant to NH RSA 399-A:18 every person who directly or indirectly
20 controls a person liable under Chapter 399-A is subject to suspension,
21 revocation or administrative fine of \$2,500 per violation or a
22 combination thereof.
- 23 8. Pursuant to NH RSA 399-A:18 violations of Department Order's may be
24 punishable by criminal penalties.

25 **RELIEF REQUESTED**

The staff of the Banking Department requests the Commissioner take the following action:

1. Find as fact the allegations contained in section I of the Statement of

1 Allegations of this petition.

2 2. Make conclusions of law relative to the allegations contained in section
3 II of the Statement of Allegations of this petition.

4 3. Pursuant to NH RSA 399-A:18, Issue an immediate suspension of respondent
5 entity's small loan license for violations of the Commissioner's previous
6 Order.

7 4. Pursuant to NH RSA 399-A:18, Order Respondent entity to show cause why
8 they should not be revoked and fines imposed for violation of a
9 previously issued Order.

10 5. Pursuant to NH RSA 399-A:18, Order Respondent M. Melody to show cause why
11 they should not be revoked and fines imposed for violation of a
12 previously issued Order.

13 6. Pursuant to NH RSA 399-A:18, Order Respondent D. Melody to show cause why
14 they should not be revoked and fines imposed for violation of a
15 previously issued Order.

16 7. Take such other administrative and legal actions as are necessary for
17 enforcement of the New Hampshire Banking laws, the protection of New
18 Hampshire citizens, and to provide other equitable relief.

19 **RIGHT TO AMEND**

20 The Department reserves the right to amend this Petition for Relief and
21 to request that the Banking Department Commissioner take additional
22 administrative action. Nothing herein shall preclude the Department from
23 bringing additional enforcement action under RSA 399-A or the regulations
24 thereunder.
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Dated this 6th day of February, 2007

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/s/

State of New Hampshire
Banking Department
64B Old Suncook Road
Concord, NH 03301
James Shepard