

State of New Hampshire

State of New Hampshire
Banking Department

Docket # 10-078

v.

Loan Shop Online; and all
Officers, Directors, Employees
and Agents

Order to Cease & Desist
And
Order to Show Cause

Respondents

Notice of Order to Show Cause and Cease and Desist Order (Order)

This Order commences an adjudicative proceeding under the provisions of RSA 399-A, RSA 541-A and RSA 383:10-d.

Respondents

1. Loan Shop Online is a business with a principal office location of 2207 Concord Pike #505, Wilmington, DE 19803. (Loan Shop Online and all Officers, Directors, Employees and Agents are hereinafter referred to collectively as Respondents).
2. Respondents have never held a New Hampshire small loan license, pursuant to RSA 399-A.

Legal Authority and Jurisdiction

3. The Commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of RSA 399-A. RSA 399-A:16, IV.
4. All Respondents are “Persons” as defined by RSA 399-A:1, XII.
5. Any person, not exempt, that advertises, solicits, or holds oneself out as willing to make or procure small loans, payday loans or title loans shall be presumed to be engaged in the business of making such loans. RSA 399-A:10, IV.

6. A payday loan is a short maturity, secured or unsecured loan, other than a title loan.
A payday loan lender is a person engaged in the business of making payday loans.
RSA 399-A:1, X and XI.
7. No person shall engage in the business as a small loan in New Hampshire or with consumers located in New Hampshire, without first obtaining a small loan license from the Banking Department. RSA 399-A:2, I
8. Any person violating the provisions of RSA 399-A:12 through RSA 399:15 or engaging in the business of a small loan lender, payday loan lender, or title lender without first obtaining a license if a license is required shall be barred from recovering any finance charge, delinquency, or collection charge on the contract.
RSA 399- A:18, II.
9. Every person who directly or indirectly controls a person liable under this section, either knowingly or negligently, may be subject to administrative fines up to a maximum of \$2,500. Each act shall constitute a separate violation, and be in addition to any civil or criminal penalty imposed. *See* RSA 399-A:18, VI.
10. Any person and the several members, officers, directors, agents, and employees thereof who shall knowingly violate any provision of RSA Chapter 399-A, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.
RSA 399-A:18, I.
11. The Banking Department (the Department) has jurisdiction to examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this chapter and the rules adopted under it pursuant to statute. RSA 399-A:10, I.

12. The Commissioner shall have exclusive authority and jurisdiction to investigate conduct that is or may be an unfair and deceptive act or practice under RSA 358-A:3, I or Titles XXXV and XXXVI and administrative rules thereunder. RSA 383:10-d.
13. The Commissioner may by order, upon due notice and opportunity for a hearing, assess penalties or deny, suspend, or revoke any license or application, if it is in the public interest and the applicant, respondent, or licensee, any partner, member, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant, respondent, or licensee: has engaged in dishonest or unethical practices in the conduct of the business of making or collecting small loans, payday loans or title loans. RSA 399-A:7, I (h).
14. And, the Commissioner has jurisdiction to order restitution and assess penalties up to a maximum fine of \$2,500.00 for each violation. RSA 399-A:18 and RSA 383:10-d.
15. The Commissioner has jurisdiction to recover the costs of investigation. RSA 399-A:10, V.
16. The Department may issue a Cease and Desist Order when it has reasonable cause to believe a licensee or other person is in violation or about to violate New Hampshire law, rule, or order under RSA 399-A. RSA 399-A:8, I.

Right to a Hearing

17. Respondents have the right to request a hearing of this Order. A hearing shall be held not later than ten (10) days after the Commissioner receives the Respondents' request for a hearing. The Respondents may request a hearing and waive the ten (10) day hearing requirement. The hearing shall comply with RSA 541-A and RSA 399-A:8, I.

18. If any person fails to request a hearing within thirty (30) days of receiving this Order, then such person shall likewise be deemed in default, and the Order shall, on the thirty-first (31st) day, become permanent, all allegations may be deemed true, and shall remain in full force and effect until modified or vacated by the Commissioner for good cause shown. RSA 399-A:7, II and RSA 399-A:8, I.
19. A default shall result in administrative fines up to the maximum amount of \$2,500.00 per violation. Each of the acts specified shall constitute a separate violation. RSA 399-A:18, V.

Statement of Alleged Facts

20. Two New Hampshire consumers (Consumers A&B) filed complaints with the Department regarding Respondents' services stating in all or in part that despite attempts to pay back the small loan, Respondents are improperly crediting payments and erroneously charging fees and interest to the consumer's detriment.
21. As a result of the consumer complaints, on or about September 9, 2010, the Department conducted an investigation into the Respondents' business activities.
22. The Department found that Respondents are not licensed to be engaged in the business of offering small loan payday lending to New Hampshire consumers.
23. The Department found that Respondents operate a website or are part of a network of websites that offer consumers a small loan in exchange for certain fees and/ or interest that is charged to the consumer and typically automatically debited from the consumer's bank account.
24. The Department verified by searching its licensing data base that Respondents do not hold a New Hampshire license as required by RSA 399-A:2. Unlicensed activity may be considered unfair and deceptive pursuant to RSA 383:10-d.

Order

28. **Whereas the Commissioner Finds** the facts as alleged above, if true, show Respondents are operating or have operated in violation of New Hampshire banking laws RSA 399-A.
29. **Whereas the Commissioner Finds** this Order necessary or appropriate to the public's best interest or for the protection of consumers and consistent with the purposes of New Hampshire banking laws.
30. **Whereas the Commissioner Finds** reasonable cause to issue an Order to Respondents to Cease and Desist.
31. **Whereas the Commissioner Finds** if Respondents fail to respond to this Order and/or are defaulted then all facts as alleged are deemed as true.
32. **Now Therefore the Department Orders Respondents to:**
- a. Cease and Desist immediately from violating RSA 399-A in the State of New Hampshire;
 - b. Provide to the Department, for the past calendar year, a loan list detailing name, date, address, and amount of each loan and provide all consumer contracts involving New Hampshire consumers within thirty (30) days of the date of this Order;
 - c. Pay restitution as the Commissioner determines to New Hampshire consumers;
 - d. Show cause as to why penalties should not be imposed for violations of this statute;
 - e. Show cause as to why costs should not be recovered for investigation in the minimum amount of \$2,250.00;

- f. Show cause as to why administrative penalties should not be paid up to the maximum amount of \$2,500.00 per violation;
- g. Show cause as to why Respondents shall not be found guilty of a Misdemeanor if a natural person and guilty of a class B felony if any other person for knowingly violating RSA 399-A.

SO ORDERED,

Entered this November 4, 2010.

/s/ Robert A. Fleury for

Peter C. Hildreth - New Hampshire Bank Commissioner
By Robert A. Fleury, Deputy Bank Commissioner

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