1	In re the Matter of:)Case No.: 10-470)
2	State of New Hampshire Banking)
3	Department,)
4	Petitioner,))Order to Show Cause and
5	and) Cease and Desist)
6	Payday-loan-yes (d/b/a <u>www.payday-</u>)
7	loan-yes.com and a/k/a Fastcash)
8	Advance, a/k/a CashNet, a/k/a)
9	CashNet500, a/k/a First National	
10	Services, a/k/a Global Payday Loan,	
11	LLC, a/k/a United Cash Loans, and)
12	a/k/a AmeriLoan),)
13	Respondent) _)
13 14	Respondent NOTICE OF ORDER TO SHOW CAUSE) _) AND CEASE AND DESIST ("ORDER")
	NOTICE OF ORDER TO SHOW CAUSE) _) AND CEASE AND DESIST ("ORDER") ative proceeding under the provisions
14	NOTICE OF ORDER TO SHOW CAUSE	
14 15	NOTICE OF ORDER TO SHOW CAUSE	ative proceeding under the provisions
14 15 16	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A.	ative proceeding under the provisions
14 15 16 17	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A.	ative proceeding under the provisions 09-A:7,I and II, RSA 399-A:8,I and RSA administrative penalties of up to
14 15 16 17 18	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A. 2. The Commissioner may impose	ative proceeding under the provisions 09-A:7,I and II, RSA 399-A:8,I and RSA administrative penalties of up to A:18,V and VI.
14 15 16 17 18 19	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A. 2. The Commissioner may impose \$2,500.00 for each violation. RSA 399-A <u>RESPO</u>	ative proceeding under the provisions 09-A:7,I and II, RSA 399-A:8,I and RSA administrative penalties of up to A:18,V and VI.
14 15 16 17 18 19 20	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A. 2. The Commissioner may impose \$2,500.00 for each violation. RSA 399-A <u>RESPO</u>	ative proceeding under the provisions 09-A:7,I and II, RSA 399-A:8,I and RSA administrative penalties of up to A:18,V and VI. NDENT day-loan-yes.com and a/k/a Fastcash
14 15 16 17 18 19 20 21	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A. 2. The Commissioner may impose \$2,500.00 for each violation. RSA 399-2 <u>RESPO</u> 3. Payday-loan-yes (d/b/a www.pay	ative proceeding under the provisions 29-A:7,I and II, RSA 399-A:8,I and RSA administrative penalties of up to A:18,V and VI. NDENT day-loan-yes.com and a/k/a Fastcash t500, a/k/a First National Services,
14 15 16 17 18 19 20 21 22	NOTICE OF ORDER TO SHOW CAUSE 1. This Order commences an adjudic of RSA Chapter 399-A (including RSA 39 399-A:16,IV) and RSA Chapter 541-A. 2. The Commissioner may impose \$2,500.00 for each violation. RSA 399-A <u>RESPO</u> 3. Payday-loan-yes (d/b/a www.pay Advance, a/k/a CashNet, a/k/a CashNe	ative proceeding under the provisions 09-A:7,I and II, RSA 399-A:8,I and RSA administrative penalties of up to A:18,V and VI. NDENT day-loan-yes.com and a/k/a Fastcash t500, a/k/a First National Services, nited Cash Loans, and a/k/a Ameriloan)

Respondent Payday is not registered with the New Hampshire Secretary of
 State. Respondent Payday is a "Person." RSA 399-A:1,XII.

3 4. The New Hampshire Banking Department ("Department") records indicate
4 Respondent Payday has never held a PayDay or Small Loan Lender license with
5 the Department.

6

RIGHT TO REQUEST A HEARING

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

12 6. If any person fails to request a hearing within thirty (30) days of 13 receiving this Order, then such person shall be deemed in default, and the 14 Order shall, on the thirty-first (31st) day, become permanent, all 15 allegations may be deemed true, and shall remain in full force and effect 16 until modified or vacated by the Commissioner for good cause shown. RSA 17 399-A:7 and RSA 399-A:8.

18 7. A default may result in administrative fines as described in Paragraph
19 2 above.

20

STATEMENT OF ALLEGATIONS

21 Consumer A:

22 8. On May 13, 2008 the Department received a complaint from a New 23 Hampshire consumer ("Consumer A") against Respondent concerning a payday or 24 small loan.

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9. On August 7, 2007, Respondent issued Consumer A the payday or small

1 loan in the amount of \$350.00, in violation of RSA 399-A:2,I.

2 10. Respondent deducted \$810.00 from Consumer A's bank account over the 3 course of 4 months in violation of RSA 399-A:11,XI and RSA 399-A:13,I. 4 Consumer A should be entitled to a refund of \$460.00, the amount over the 5 \$350.00 originally borrowed.

6 Consumer B:

7 11. On September 9, 2009 the Department received a complaint from a New 8 Hampshire consumer ("Consumer B") against Respondent concerning a payday or 9 small loan.

10 12. Respondent issued Consumer B the payday or small loan, in violation of 11 RSA 399-A:2,I.

12 Consumer C:

13 13. On January 29, 2009 the Department received a complaint from a New 14 Hampshire consumer ("Consumer C") against Respondent concerning a payday or 15 small loan.

16 14. On April 23, 2007, Respondent issued Consumer C the payday or small 17 loan in the amount of \$400.00, in violation of RSA 399-A:2,I.

18 15. Respondent deducted \$770.00 from Consumer C's bank account over the 19 course of 2 months in violation of RSA 399-A:11,XI and RSA 399-A:13,I. 20 Consumer C should be entitled to a refund of \$370.00, the amount over the \$400.00 originally borrowed.

22 16. On June 4, 2007, Respondent issued Consumer C the payday or small loan 23 in the amount of \$300.00, in violation of RSA 399-A:2,I, and RSA 399-A:13 24 XIX.

25 || 17. Respondents deducted \$270.00 from Consumer C's bank account over the

1	course of 1 month in violation of RSA 399-A:11,XI and RSA 399-A:13,I.	
2	18. On May 24, 2007, Respondent issued Consumer C the payday or small loan	
3	in the amount of \$300.00, in violation of RSA 399-A:2,I, and RSA 399-A:13	
4	XIX.	
5	19. Respondents deducted \$270.00 from Consumer C's bank account over the	
6	course of 1 month in violation of RSA 399-A:11,XI and RSA 399-A:13,I.	
7	<u>Consumer D:</u>	
8	20. On September 29, 2010 the Department received a complaint from a New	
9	Hampshire consumer ("Consumer D") against Respondent concerning a payday or	
10	small loan.	
11	21. Respondent issued Consumer D the payday or small loan in the amount of	
12	\$300.00, in violation of RSA 399-A:2,I.	
13	Consumer E:	
14	22. On January 10, 2011 the Department received a complaint from a New	
15	Hampshire consumer ("Consumer E") against Respondent concerning a payday or	
16	small loan.	
17	23. On May 12, 2010, Respondent issued Consumer E the payday or small loan	
18	in the amount of \$300.00, in violation of RSA 399-A:2,I.	
19	24. Respondent deducted \$540.00 from Consumer E's bank account over the	
20	course of 1 month in violation of RSA 399-A:11,XI and RSA 399-A:13,I.	
21	Consumer E should be entitled to a refund of \$240.00, the amount over the	
22	\$300.00 originally borrowed.	
23	<u>Consumer F:</u>	
24	25. On March 7, 2011 the Department received a complaint from a New	
25	Hampshire consumer ("Consumer F") against Respondent concerning a payday or	
	Order to Chev Cauga and Cauga and Degist (

small loan. 1

Respondent issued Consumer F the payday or small loan in the amount of 2 26. \$500.00, in violation of RSA 399-A:2,I. 3

Consumer G: 4

5 27. On November 28, 2007 the Department received a complaint from a New Hampshire consumer ("Consumer G") against Respondent concerning a payday or 6 small loan. 7

On July 2, 2007, Respondent issued Consumer G the payday or small loan 8 28. in the amount of \$180.00, in violation of RSA 399-A:2,I.

10 Consumer H:

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On May 6, 2010 the Department received a complaint from a New 11 29. Hampshire consumer ("Consumer H") against Respondent concerning a payday or 12 13 small loan.

14 On October 22, 2009, Respondent issued Consumer H the payday or small 30. loan in the amount of \$350.00, in violation of RSA 399-A:2,I. 15

Consumer I: 16

On March 18, 2011 the Department received a complaint from a New 17 31. 18 Hampshire consumer ("Consumer I") against Respondent concerning a payday or 19 small loan.

Prior to December 21, 2010, Consumer I applied for a payday loan in 20 32. the amount of \$1,000.00, however Consumer I declined the loan offer of 21 22 \$300.00 made by Respondent. On December 21, 2010, Respondent issued 23 Consumer I the payday or small loan in the amount of \$300.00, in violation of RSA 399-A:2,I. 24

25 Respondent deducted \$750.00 from Consumer I's bank account over the 33.

1 course of 3 months in violation of RSA 399-A:11,XI and RSA 399-A:13,I. 2 Consumer I should be entitled to a refund of \$450.00, the amount over the 3 \$300.00 originally borrowed.

4 Correspondence:

5 34. On December 6, 2007, the Department sent a letter via U.S. Certified 6 Mail return receipt requested to Respondent at the Salt Lake City, Utah 7 address suggesting it apply for licensure with the Department and resolution 8 of a consumer complaint. The Department received the letter back from the 9 U.S. Post Office on December 31, 2007 with instructions, "Return to Sender, 10 Attempted, Not Known".

11 35. On December 6, 2007, the Department sent a letter via U.S. Certified 12 Mail return receipt requested to Respondent at the Murray, Utah address 13 suggesting it apply for licensure with the Department and resolution of a 14 consumer complaint. The Department received the letter back from the U.S. 15 Post Office on December 26, 2007 with instructions, "Return to Sender, 16 Unable to Forward".

17 36. On January 22, 2008, the Department sent a letter via U.S. Certified 18 Mail return receipt requested to Respondent at the Salt Lake City, Utah 19 address suggesting it apply for licensure with the Department and resolution 20 of a consumer complaint. The Department received the letter back from the 21 U.S. Post Office on February 1, 2008 with instructions, "Return to Sender, 22 Refused".

23 37. On July 7, 2008, the Department sent a letter via U.S. Certified Mail 24 return receipt requested to Respondent at the Salt Lake City, Utah address 25 suggesting it apply for licensure with the Department. The Department

received the letter back from the U.S. Post Office on July 22, 2008 with 1 instructions, "Return to Sender Attempted, Not Known". 2 On January 25, 2011, the Department sent a letter via U.S. Mail to 3 38. Respondent at the Nassau, Bahamas address suggesting it apply for licensure 4 5 with the Department, resolve the consumer complaints that had been filed and provide requested documentation to the Department. The Department never 6 received the letter back from the U.S. Post Office. 7 To date, Respondent Payday has an active website and has 8 39. not specifically excluded New Hampshire from the states in which it offers 9 10 payday or small loans. 11 12 /s/ August 15, 2011 Ryan McFarland Date 13 Hearings Examiner 14 ORDER 15 40. I hereby find as follows: Pursuant to RSA 399-A:7, I and II, the facts as alleged above, if 16 а. true, show Respondent is operating or has operated in violation of RSA 17 18 Chapter 399-A and form the legal basis for this Order; 19 b. Pursuant to 399-A:16,VI, this Order is necessary and appropriate 20 to the public interest and for the protection of consumers and consistent 21 with the purpose and intent of New Hampshire banking laws; 22 The Department finds pursuant to RSA 399-A:8, I, reasonable cause c. 23 to issue an order to cease and desist; and Pursuant to RSA 399-A:7,I and II and RSA 399-A:8,I, 24 d. if 25 Respondent fails to respond to this Order and/or defaults then all facts as Order to Show Cause and Cease and Desist- 7

1 alleged herein are deemed as true.

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2 41. Accordingly, it is hereby ORDERED that:

a. Respondent shall cease and desist from violating RSA Chapter
4 399-A and rules or orders thereunder;

5 b. Respondent shall immediately provide the Department a list of 6 all New Hampshire consumers for whom Respondent has given payday or small 7 loans and a status of those accounts. This list must include the names and 8 contact information of the New Hampshire consumers, along with monies 9 charged, collected and waived (if applicable). The list shall also be 10 accompanied by all contracts, checks to and from the consumer and any other 11 documents in the New Hampshire consumers' files;

12 c. Respondent shall show cause why the Commissioner should not 13 enter an order of rescission, restitution, or disgorgement of profits, 14 including at a minimum restitution of \$460.00 (for Consumer A), \$370.00 (for 15 Consumer C), \$240.00 (for Consumer E), \$450.00 (for Consumer I), and 16 restitution for Consumer B, Consumer D, Consumer F, Consumer G, and Consumer 17 H if applicable;

18 d. Respondent shall show cause why an administrative fine of up to
19 a maximum of \$2,500.00 per violation should not be imposed as follows:

20 (1). Respondent Payday:
21 Violation #1: Unlicensed payday or small loan activity
22 (RSA 399-A:2,I) - 11 Counts;
23 Violation #2: Charging additional fees on a loan (RSA 39924 A:11,XI)) - 6 Counts;

Violation #3: Charging additional fees on a loan (RSA 399-

1	A:13,I) - 6 Counts;
2	Violation #4: Making multiple payday loans to a borrower
3	within sixty days (RSA 399-A:13,XIX) - 2 counts;
4	Violation #5: Failure to provide requested documents (RSA
5	399-A:10,II) - 1 count;
6	Violation #6: Failure to provide notice to consumers that
7	a complaint may be filed with the commissioner (RSA 399-
8	A:11,XIV) - 3 counts;
9	e. Nothing in this Order:
10	(1). shall prevent the Department from taking any further
11	administrative and legal action as necessary under New Hampshire law; and
12	(2). shall prevent the New Hampshire Office of the Attorney
13	General from bringing an action against the above named Respondent in any
14	New Hampshire superior court, with or without prior administrative action by
15	the Commissioner.
16	
17	SO ORDERED.
18	/s/ Dated: <u>August 16,2011</u>
19	RONALD A. WILBUR BANK COMMISSIONER
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25	
	Order to Show Cause and Cease and Desist- 9