

) Case No.: 11-210

1 In re the Matter of: )  
 )  
 2 State of New Hampshire Banking Department, )  
 )  
 3           Petitioner, )  
 )  
 4           and ) Order to Cease and Desist  
 )  
 5 7 Day Loans (d/b/a 7dayloans.com), )  
 )  
 6           Respondent )

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NOTICE OF ORDER TO CEASE AND DESIST ("ORDER")

8 1. This Order commences an adjudicative proceeding under the provisions  
 9 of RSA Chapter 399-A (including RSA 399-A:7,I and II, RSA 399-A:8,I and RSA  
 10 399-A:16,IV) and RSA Chapter 541-A.

11 2. The Commissioner may impose administrative penalties of up to  
 12 \$2,500.00 for each violation. *RSA 399-A:18,V and VI.*

RESPONDENT

14 3. 7 Day Loans (d/b/a 7dayloans.com) ("Respondent 7Day") is an online  
 15 company located in Auckland, New Zealand. Respondent 7Day's website  
 16 indicates Respondent 7Day is approved by the New Zealand Financial Service  
 17 Providers Register. Respondent 7Day is not registered with the New Hampshire  
 18 Secretary of State. Respondent 7Day is a "Person" as defined under RSA 399-  
 19 A:1,XII, a "Lender" as defined under RSA 399-A:1,VIII, a "Payday Loan  
 20 Lender" as defined under RSA 399-A:1,XI and a "Small Loan Lender" as defined  
 21 under RSA 399-A:1,XV.

22 4. The New Hampshire Banking Department ("Department") records indicate  
 23 Respondent 7Day has never held a Payday or Small Loan Lender license with  
 24 the Department.

1 RIGHT TO REQUEST A HEARING

2 5. Respondent 7Day has a right to request a hearing on this Order. A  
3 hearing shall be held not later than ten (10) days after the Commissioner  
4 receives the Respondent 7Day's written request for a hearing. Respondent  
5 7Day may request a hearing and waive the ten (10) day hearing requirement.  
6 The hearing shall comply with RSA Chapter 541-A, RSA 399-A:7, RSA 399-A:8,  
7 and Administrative Rule JUS Chapter 800.

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

14 7. A default may result in administrative fines as described in Paragraph  
15 2 above.

16 STATEMENT OF ALLEGATIONS

17 Consumer A:

18 8. On June 24, 2011, the Department received a complaint from a New  
19 Hampshire consumer ("Consumer A") against Respondent 7Day (concerning a  
20 payday or small loan.

21 9. In June of 2011, Respondent 7Day issued Consumer A the payday or small  
22 loan in the amount of \$350.00, in violation of RSA 399-A:2,I.

23 10. Respondent 7Day charged Consumer A and collected a total of \$30.00  
24 before Consumer A could close Consumer A's bank account.

1 Correspondence:

2 11. On August 31, 2011, the Department sent a letter via International  
3 Mail return receipt requested at the Auckland, New Zealand address,  
4 facsimile and email to Respondent 7Day instructing it to apply for a license  
5 with the Department, requesting documentation regarding a New Hampshire loan  
6 list and requesting a response to the consumer complaint that had been  
7 filed.

8 12. Counsel for Respondent 7Day responded by asserting jurisdictional  
9 issues and choice of law matters. Respondent 7Day's counsel believes that  
10 since New Hampshire consumers voluntarily agreed to have a loan under the  
11 laws of New Zealand, that New Hampshire has no jurisdiction. The issue here  
12 is that Respondent 7Day conducted business with New Hampshire consumers and  
13 therefore from a regulatory standpoint, the Department has jurisdiction. The  
14 Department's final communication occurred on September 27, 2011.

15 13. To date, Respondent 7Day has an active website and has not  
16 specifically excluded New Hampshire from states in which it offers payday or  
17 small loans.

18 14. To date, Consumer A has not received any refund.

19 \_\_\_\_\_/s/  
20 Maryam Torben Desfosses  
21 Hearings Examiner

05/04/12  
Date

21 ORDER

22 15. I hereby find as follows:

23 a. Pursuant to RSA 399-A:2 and RSA 399-A:2,I, the facts as alleged  
24 above, if true, show Respondent 7Day is operating or has operated in  
25 violation of RSA Chapter 399-A and form the legal basis for this Order;

1           b.     Pursuant to 399-A:16,VI, this Order is necessary and appropriate  
2 to the public interest and for the protection of consumers and consistent  
3 with the purpose and intent of New Hampshire banking laws;

4           c.     The Department finds pursuant to RSA 399-A:8,I, reasonable cause  
5 to issue an order to cease and desist; and

6           d.     Pursuant to RSA 399-A:8,I, if Respondent 7Day fails to respond  
7 to this Order and/or defaults then all facts as alleged herein may be deemed  
8 as true.

9 **16.   Accordingly, it is hereby ORDERED that:**

10          a.     Respondent 7Day shall cease and desist from violating RSA  
11 Chapter 399-A and rules or orders thereunder;

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

19          c.     Respondent 7Day shall be hereby ordered to rescind, provide  
20 restitution or disgorge profits;

21          d.     Respondent 7Day shall hereby be administratively fined a maximum  
22 of \$2,500.00 per violation (as stated in Counts below) pursuant to RSA 399-  
23 A:18,V and VI as follows:

24               (1).   Respondent 7Day:

25                       #1: Unlicensed payday or small loan activity (RSA 399-

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A:2,I) - 1 Count;

e. Nothing in this Order:

(1). shall prevent the Department from taking any further administrative and legal action as necessary under New Hampshire law; and

(2). shall prevent the New Hampshire Office of the Attorney General from bringing an action against the above named Respondent in any New Hampshire superior court, with or without prior administrative action by the Commissioner.

**SO ORDERED.**

\_\_\_\_\_/s/  
RONALD A. WILBUR  
BANK COMMISSIONER

Dated: 05/07/12