

1 State of New Hampshire Banking Department

2 In re the Matter of:) Case No.: 06-022
)
 3 State of New Hampshire Banking)
) Cease & Desist Order
 4 Department,)
)
 5 Petitioner,)
)
 6 and)
)
 7 Payday City,)
)
 8 Respondent)
)

9 This Order commences an adjudicative proceeding under the provisions of
 10 RSA 399-A:8 and RSA 541-A.

11 LEGAL AUTHORITY AND JURISDICTION

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

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

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 at
 24 the Respondent's own expense. A hearing shall be held not later than 10 days
 25 after the request for such 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 cease and desist order or making it permanent as

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

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

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

15 The Staff Petition dated May 22, 2006 (a copy of which is attached
16 hereto) is incorporated by reference hereto.

16 **ORDER**

17 WHEREAS, finding it necessary and appropriate and in the public
18 interest, and consistent with the intent and purposes of the New Hampshire
19 banking laws, and

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

22 It is hereby ORDERED, that:

- 23 1. The Respondent shall immediately cease engaging in small loan,
24 pay day or title lending activities in New Hampshire; and
- 25 2. Failure to request a hearing within 30 days of the date of
receipt of this Order shall result in a default judgment being

1 Andrea J. Shaw
State of New Hampshire
2 Banking Department
64B Old Suncook Road
3 Concord, NH 03301
4

5 **State of New Hampshire Banking Department**
6

7 **In re the Matter of:**) **Case No.: 06-022**
) **Staff Petition**
8 **State of New Hampshire Banking**)
)
9 **Department,**)
)
10 **Petitioner,**)
)
11 **and**)
)
12 **Payday City,**)
)
13 **Respondent**)
)
14

15 **STATEMENT OF ALLEGATIONS**
16

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

- 19 1. The Department reviewed the following website: www.paydaycity.com. It
20 appears that Payday City (hereinafter "Respondent") is soliciting New
21 Hampshire customers to obtain payday loans. See Exhibit 1.
22 2. Respondent is not licensed to conduct payday lending activities with
23 New Hampshire consumers.
24 3. The Department attempted to contact Respondent on or about October 4,
25 2005, via certified mail (mail piece number: 7002 2410 0005 1961 9766).

1 4. Oscoco Miranda signed for the mail piece on or about October 11, 2005.

2 The mail piece contained New Hampshire licensing information and
3 requested the courtesy of a response. See Exhibit 2.

4 5. The Respondent failed to reply.

5 6. The Department sent the above reference letter on February 7, 2006
6 marked "second request".

7 7. Again, the Respondent failed to reply.

8 8. Respondent's website www.paydaycity.com is still active and appears to
9 be soliciting consumers.

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

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

14 2. Pursuant to the New Hampshire Banking laws, RSA 399-A:2 states in
15 relevant part that "no person shall engage in the business of making
16 small loans, title loans, or payday loans in this state or with
17 customers located in this state, without first obtaining a license from
18 the commissioner as provided in this chapter".

19 3. "Pay Day Lender" means a person engaged in the business of making
20 payday loans.

21 4. Pursuant to NH RSA 399-A:8, the Department has the power to issue and
22 to serve an order requiring persons to cease and desist from violations
23 of the chapter whenever it has reasonable cause to believe that any
24 person has engaged in any act or practice constituting a violation of
25 the banking laws, or any rule or order thereunder. Respondent has
violated RSA 399-A:2, by conducting unlicensed payday activities with
New Hampshire consumers.

1 5. Pursuant to NH RSA 399A:18 violations of Department Order's may be
2 punishable by criminal penalties.

3
4 **RELIEF REQUESTED**

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

- 7 1. Find as fact the allegations contained in section I of the Statement of
8 Allegations of this petition.
9 2. Make conclusions of law relative to the allegations contained in section
10 II of the Statement of Allegations of this petition.
11 3. Pursuant to NH RSA 399-A:8, Order Respondent to immediately Cease and
12 Desist from violations of the New Hampshire Regulation of Small Loans,
13 Title Loans, and Payday Loans Act, RSA 399-A.
14 4. Take such other administrative and legal actions as are necessary for
15 enforcement of the New Hampshire Banking laws, the protection of New
16 Hampshire citizens, and to provide other equitable relief.

16 **RIGHT TO AMEND**

17 The Department reserves the right to amend this Petition for Relief and
18 to request that the Banking Department Commissioner take additional
19 administrative action. Nothing herein shall preclude the Department from
20 bringing additional enforcement action under RSA 399-A or the regulations
21 thereunder.

22 Dated this 22nd day of May, 2006

23 _____
24 State of New Hampshire
25 Banking Department
64B Old Suncook Road
Concord, NH 03301
Andrea J. Shaw