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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF)	
FINANCE, CONSUMER FINANCE)	Docket No. 2013-6-04
BUREAU,)	
)	
Complainant,)	ORDER TO CEASE AND DESIST
)	
vs.)	
)	
AAA PAYDAY ADVANCE UT LLC,)	
)	
Respondent.)	
)	
)	
)	

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department), pursuant to the Idaho Credit Code, Idaho Code § 28-41-101 *et seq.* (the ICC), and the Idaho Payday Loan Act, Idaho Code § 28-46-401 *et seq.* (the IPLA) included as part 4 of the ICC, hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to Idaho Code §§ 28-46-402(1) and –(4) and 28-46-108(1), requiring AAA PAYDAY ADVANCE UT, LLC (the Respondent), to immediately cease and desist from violating the ICC and the IPLA by engaging in payday lending activities in Idaho without maintaining the license required by the ICC and the IPLA.

RESPONDENT

1. The Respondent is a Utah limited liability company registered as a consumer lender with the Utah Department of Financial Institutions (Utah DFI). Utah Code § 7-23-201(1)(a) requires that consumer lenders, including payday lenders, must register with the Utah DFI to conduct a consumer lending business in that state. The Utah DFI website lists the Respondent's business address as 5051 W National Ave Bldg. 5-100, Springfield, MO 65810.

2. Respondent has not filed a Certificate of Authority with the Idaho Secretary of State.

3. A Utah DFI staff member informed the Department via email that the Respondent's current managing member is Eddie Lawrence.

4. On its website, www.aaapaydaycash.com, Respondent lists its business address as AAA Payday Advance UT, LLC, 50 W Broadway, Salt Lake City, UT 84101.

FINDINGS OF FACT

5. The Respondent has never held an Idaho payday lender license issued by the Department authorizing it to engage in a payday lending business in Idaho.

6. On or about October 8, 2013, a Department staff member conducted an investigation into unlicensed payday lenders offering loans to Idaho consumers. Using the Google search engine, the staff member entered "How do I get an online payday loan?" The Respondent was one of the entries displayed on the first page of the results.

7. The Department staff member clicked on the Respondent's website, www.aaapaydaycash.com, and it revealed that the Respondent offers payday loans specifically to Idaho residents, as well as residents of thirty-six other states.

8. The Respondent's website is interactive, allowing Idaho consumers to apply for and enter into loan agreements with the Respondent.

CONCLUSIONS OF LAW AND VIOLATIONS

9. The allegations set forth in paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. Idaho Code § 28-41-201(9) provides that “any person who, in this state, advertises, offers or solicits to make a loan for a consumer purpose, or arranges a payday loan for a third party lender, is engaging in business in this state for which a license is required under the Idaho credit code.”

11. Respondent’s acts of soliciting to make payday loans to Idaho consumers via the Internet, as referenced above, is engaging in business in this state for which a license is required under the ICC. Respondent was not licensed under the ICC to do so, which constitutes a violation of Idaho Code § 28-41-201(9).

12. Further, Respondent’s act of engaging in payday lending activity in Idaho by soliciting to make a loan to at least one (1) Idaho resident, as referenced above, specifically relates to the state of Idaho. The Respondent is actively advertising to Idaho consumers on its interactive website, allowing the consumer to consummate the loan online. Therefore, Respondent’s payday lending business falls within the jurisdiction of the Department. Similarly, the Tenth Circuit has held that the State of Kansas was regulating in-state payday lending activity when it attempted to regulate a Utah lender entering into online loan agreements with Kansas residents. *Quik Payday, Inc. v. Stork*, 549 F.3d 1302 (10th Cir. 2008), *cert. denied*, 129 S. Ct. 2062, 173 L.Ed.2d 1134 (2009).

13. Idaho Code § 28-46-402(1) provides that no person shall engage in the business of payday loans, offer or make a payday loan, or arrange a payday loan for a third party lender in a payday loan transaction (in Idaho) without having first obtained a license under the ICC, and particularly under the sections of the ICC referred to as “The Payday Loan Act.”

14. The Respondent's acts of engaging in the business of payday loans in Idaho, as referenced in above, while not licensed under the ICC to do so, constitutes a violation of Idaho Code § 28-46-402(1).

REQUESTED RELIEF

15. Idaho Code § 28-46-402(4) provides that whenever the Director of the Department finds "that a person subject to this part has violated, is violating, or that there is reasonable cause to believe that a person is about to violate the provisions of this part, or any rule promulgated under this act and pertinent to this part, the administrator may, in his discretion, order the person to cease and desist from the violations."

ORDER

The Director, having reviewed the foregoing, good cause being shown, and the protection of the public justifying the entry of this Order and that it be effective immediately,

NOW, THEREFORE, the Director HEREBY FINDS that the Respondent has violated the Idaho Credit Code and the Idaho Payday Lender Act, to include engaging in unlicensed payday loan activity in Idaho, as set forth above.

Based on the foregoing, and pursuant to Idaho Code §§ 28-46-402 and 28-46-108(1), IT IS HEREBY ORDERED that the Respondent and its agents and employees immediately CEASE AND DESIST from any further payday lending activities in Idaho and from any other conduct under the ICC constituting a violation of the ICC.

NOTICE

16. The Respondent is HEREBY NOTIFIED that the foregoing ORDER TO CEASE AND DESIST is a final order of the Director, subject to the Respondent's right to timely file a motion for reconsideration of such final order or request for a hearing as to such order, pursuant to Idaho Code § 67-5246(4). Such motion for reconsideration or request for a hearing must be

in writing and submitted to the Department within fourteen (14) days after the service of this Order. A copy of the motion for reconsideration or request for a hearing shall be served on Michael Larsen, Consumer Finance Bureau Chief, at the following address:

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of the request for hearing shall also be served on the Department's counsel in this matter, Brian D. Nicholas, Deputy Attorney General, at the following address:

Brian D. Nicholas
Deputy Attorney General
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

17. If the Respondent timely files a request for hearing, the Department will notify the Respondent of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

18. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

19. The Department will dispose of a motion for reconsideration within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Rule 740, Idaho Rules of Administrative Procedure of the Attorney General (IRAP), located at IDAPA 4.11.01.740.

20. Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal to the district court by filing a petition in the district court of the county in which:

- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

See IDAPA 04.11.01.740.02.b.

21. An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. See IDAPA 04.11.01.740.02.c.

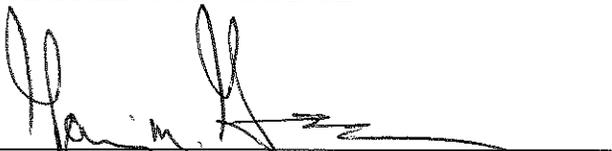
This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 31st day of OCTOBER, 2013.



STATE OF IDAHO
DEPARTMENT OF FINANCE


GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of November, 2013, I served a true and correct copy of the foregoing ORDER TO CEASE AND DESIST upon the following by the designated means:

AAA Payday Advance UT LLC
5051 S National Ave Bldg 5-100
Springfield, MO 65810

U.S. mail, postage prepaid
 Certified mail
 Facsimile

AAA Payday Advance UT LLC
50 W Broadway
Salt Lake City, UT 84101

U.S. mail, postage prepaid
 Certified mail
 Facsimile



Paralegal