

LAWRENCE G. WASDEN  
Attorney General

BRIAN D. NICHOLAS – I.S.B. #3585  
Deputy Attorney General  
State of Idaho  
Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031  
Telephone: (208) 332-8092  
Facsimile: (208) 332-8016  
brian.nicholas@finance.idaho.gov

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STATE OF IDAHO  
DEPT OF FINANCE

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

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, CONSUMER FINANCE )  
BUREAU, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
Liberty Loans, LLC, )  
 )  
Respondent. )

Docket No. 2013-6-03

**CONSENT ORDER**

The Director of the State of Idaho, Department of Finance (Director) has conducted a review of the Idaho payday lending activities of LIBERTY LOANS, LLC (Respondent). Pursuant to said review, the Director alleges that Respondent has violated provisions of the Idaho Credit Code, Idaho Code § 28-41-101 *et seq.* (ICC), and Idaho’s Payday Loan Act, Idaho Code § 28-46-401 *et seq.*, included within the ICC (the Act). The Director and Respondent have agreed to resolve this matter through this Consent Order rather than through a formal

administrative proceeding or civil action. Therefore, the Director deems it appropriate and in the public interest that this Consent Order be entered. The Respondent voluntarily consents to the entry of this Consent Order.

### **RESPONDENT**

1. The Respondent purchased an existing licensed payday lending business sometime between November 2012 and January 19, 2013, and formed as an Idaho limited liability company on November 7, 2012. The Respondent maintains a corporate office at 235 East Yellowstone Highway #B, Saint Anthony, Idaho and a branch operation at 1508 West Broadway, Idaho Falls, Idaho. The Respondent is owned and managed equally by Benjamin Lynn Clark and Josh Hugh Norman.

### **FINDINGS**

2. The State of Idaho, Department of Finance, Consumer Finance Bureau (Department) has never issued to the Respondent a regulated lender license under the ICC that would authorize the Respondent to engage in regulated lending in Idaho.

3. On or about November 13, 2012, the Respondent submitted to the Department an application for an Idaho regulated lender license. The Department reviewed the submission and determined that the new licensure application was incomplete.

4. On November 30, 2012, the Department sent the Respondent, via e-mail, an Idaho Collection Agency Deficient Application Notice (deficiency notice), listing the information that was required in order to make the application complete. The deficiency notice also indicated that a complete application package was due by the close of business on January 30, 2013, or the Respondent's application would be deemed withdrawn.

5. Additionally, the deficiency notice warned the Respondent that it was not authorized to engage in regulated lending activities in Idaho until such time as it was issued a license under the ICC.

6. On or about January 25, 2013 and January 28, 2013, the Department received responses to its November 30, 2012 deficiency notice. Both of the Respondent's responses were found to be incomplete, and on January 30, 2013, the Department deemed the application withdrawn after Respondent failed to timely cure the deficiencies. A Department licensing examiner called the Respondent on February 12, 2013, notifying the Respondent of its incomplete application status and that a new application would need to be submitted.

7. The Respondent submitted a second application for new licensure on or about February 23, 2013.

8. On March 25 and 26, 2013, the Department conducted an onsite pre-license examination of the Respondent. During the course of the examination, the Department discovered that the Respondent had begun engaging in payday lending activity, without a license, on or around January 3, 2013, and had extended payday loans to Idaho borrowers between January 2, 2013 and March 26, 2013, while it failed to hold the license required by the ICC.

9. The Department also reviewed the Respondent's second application for new licensure and determined that it was incomplete.

10. On April 2, 2013, the Department sent the Respondent, via e-mail, a deficiency notice which outlined the second application's specific deficiencies. The deficiency notice also indicated that a complete application package was due by the close of business on June 3, 2013, or the Respondent's application would be deemed withdrawn.

11. The deficiency notice again warned the Respondent that it was not authorized to engage in regulated lending activities in Idaho until such time as it was issued a license under the ICC.

12. The Respondent submitted three incomplete deficiency responses to the Department over the next couple of months and eventually completed its application filing on June 3, 2013. Based on the completed application and the unusual circumstances, surrounding the application a license was issued.

### **CONCLUSIONS OF LAW AND VIOLATIONS**

#### *ENGAGING IN UNLICENSED REGULATED LENDING ACTIVITY IN IDAHO*

13. The allegations set forth in paragraphs 1 through 12 above are fully incorporated herein by this reference.

14. Idaho Code § 28-46-401(1) defines “payday loan” as a transaction pursuant to a written agreement between a creditor and the maker of a check whereby the creditor: (a) accepts a check from the maker; (b) agrees to hold the check for a period of time prior to negotiation, deposit or presentment; and (c) pays to the maker of the check the amount of the check, less the fee permitted by the ICC. Idaho Code § 28-46-401(2) provides that payday loans are regulated consumer credit transactions, and both payday loans and payday lenders are subject to all provisions of the ICC that relate to regulated consumer loans.

15. Idaho Code § 28-46-402(1) provides that no person shall engage in the business of payday loans in Idaho without first having obtained a license from the Department authorizing the person to do so.

16. Respondent's acts of extending payday loans in Idaho while not licensed under the Act, constitute violations of Idaho Code § 28-46-402(1). Each loan constitutes a separate violation.

17. Idaho Code § 28-46-406(1) provides that other than the transfer of a license to a new location, a license issued pursuant to the Act is not transferable or assignable.

18. The license issued to the prior owners of the payday lending business was not transferable or assignable to the Respondent pursuant to Idaho Code § 28-46-406(1).

19. Idaho Code § 28-46-406(2) provides that "The prior written approval of the Director is required for the continued operation of a payday loan business whenever a change in control of a licensee is proposed. In the case of an entity, 'control' means direct or indirect ownership, or the right to vote or otherwise control, 25% or more of the governance interests of the entity, or the ability of any person to elect a majority of the directors."

20. The Respondent failed to get prior written approval of the Director authorizing Respondent to continue the operation of the payday loan business when it acquired ownership and a change in control of the licensee was proposed. Such failure constitutes a violation of Idaho Code § 28-46-406(2).

#### **REMEDIES**

21. The Respondent admits to the allegations set forth in this Consent Order.

22. The Respondent agrees to pay to the Department the sum of one thousand five-hundred dollars (\$1,500) as an administrative penalty in settlement of the violations contained herein, by October 31, 2013.

23. The Respondent agrees to comply with all provisions of the Idaho Credit Code, rules promulgated thereunder, and relevant federal law and regulations at all times in the future.

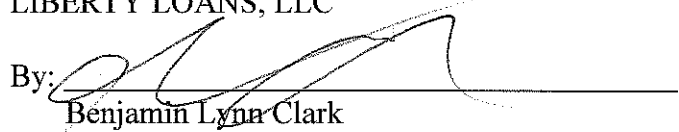
24. The Department agrees not to seek further penalties or fees from the Respondent for the violations addressed in this Consent Order, other than as set forth in paragraph 22 above, if the Respondent timely and fully complies with all provisions of this Consent Order.

25. The Respondent acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same.

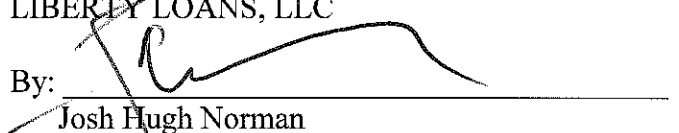
26. The Respondent acknowledges and understands that should the Department learn of additional violations by the Respondent of the ICC, rules promulgated under the ICC, or applicable federal laws and regulations relating to the Respondent's regulated lending activities in Idaho, the Department may pursue further legal action and seek additional remedies.

DATED this 9<sup>th</sup> day of January, 2018.

LIBERTY LOANS, LLC

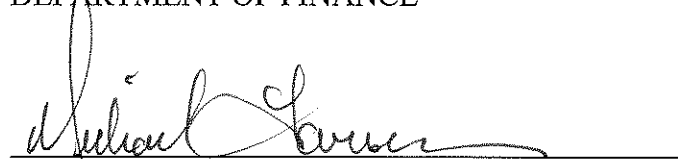
By:   
Benjamin Lynn Clark

LIBERTY LOANS, LLC

By:   
Josh Hugh Norman

DATED this 9<sup>th</sup> day of January, 2018.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

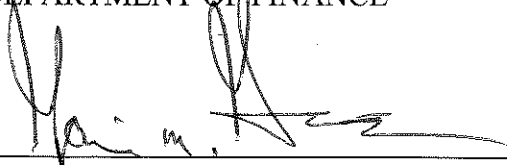
  
MICHAEL LARSEN  
Consumer Finance Bureau Chief

**IT IS SO ORDERED.**

DATED this 9<sup>th</sup> day of JANUARY, 2018.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
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GAVIN M. GEE, Director

**CERTIFICATE OF SERVICE**

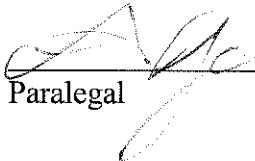
I HEREBY CERTIFY that on this 10<sup>th</sup> day of January, 201~~3~~<sup>4</sup>, I caused a true and correct copy of the foregoing fully-executed CONSENT ORDER to be served on the following by the designated means:

Liberty Loans, LLC  
235 East Yellowstone Highway #B  
St. Anthony, ID 83445

U.S. mail, postage prepaid  
 certified mail  
 facsimile

Liberty Loans, LLC  
1508 West Broadway  
Idaho Falls, ID 83402

U.S. mail, postage prepaid  
 certified mail  
 facsimile

  
\_\_\_\_\_  
Paralegal