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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
BUREAU,

Complainant,

vs.

CASH JAR a/k/a
DOWN UNDER VENTURES LTD and
HONG KONG PARTNERS, LTD

Respondent.

Docket No. 2012-6-10

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Finance (Department), pursuant to the Idaho Credit Code, and specifically the provisions relating to payday loans, codified at Idaho Code § 28-46-401 *et seq.* (the payday loan provisions), hereby alleges the following facts that constitute a basis for the issuance of an order pursuant to Idaho Code § 28-46-402(4), requiring CASH JAR, to immediately cease and desist from violating the payday loan provisions of the Idaho Credit Code.

RESPONDENT

1. Respondent, Cash Jar, claims it is licensed and registered under the laws of the International Financial Services Commission Act of Belize. It lists its principal address as P.O. Box 1639, Belize City, Belize. An additional address of P.O. Box 025250, # 15050, Miami, Florida, 33102-5250, has been linked with the Respondent.

2. Respondent does not possess a Certificate of Authority to do business in Idaho. It also does not possess a license, as required by the Idaho Credit Code to make regulated consumer loans in Idaho. Respondent is an entity of unknown form.

3. Respondent maintains a website, www.cashjar.com, where it offers to make small loans to consumers.

FINDINGS OF FACT

4. On or about June 26, 2012, an Idaho resident, MC, after being solicited for a loan by Respondent over the internet, entered into an agreement with Respondent to obtain a loan in the amount of \$250.00. The agreement was memorialized in a contract emailed to MC, and on or about June 27, 2012, \$250.00 was deposited into MC's bank account. The contract set out the terms of the loan. To repay the loan, MC was required to make a one-time payment of \$325 on July 6, 2012. The difference between the repayment amount and the loan amount is Respondent's underwriting fee and a finance charge. MC agreed to grant Respondent a security interest in a ". . . remotely created check/ACH authorization in the amount of the total of payments." The agreement referred to this security interest as the "ECheck/ACH Authorization," which the Respondent could negotiate on the payment due date. Additionally, MC could renew the loan on the due date by paying the total of the finance charge and the underwriting fee of \$75.00.

5. On September 10, 2012, MC filed a complaint with the Department asserting that he became aware Respondent was not licensed. The Department sent a letter to Respondent on October 2, 2012, requesting that it provide all information relating to MC's loan and a complete listing of its Idaho customers.

6. On October 23, 2012, MC provided a copy of his bank statements for the period of July 9, 2012 to August 21, 2012 to the Department. Between July 20, 2012 and August 17, 2012, three withdrawals of \$75.00 each were made by the Respondent. Based on the agreement, MC agreed to renew his loan three times by paying the finance charge and the underwriting fee. Thus, on a \$250.00 loan, MC has paid \$225.00 in a little over a month; however, his principle amount has not been reduced.

7. On October 25, 2012, Respondent responded to the Department's letter. First, it agreed to cancel any remaining amounts owed by MC. It stated that the loan was made pursuant to the law of Belize and that it did not solicit "North Carolina" consumers in any form. The Department believes the response is a form letter that Respondent sends to all states inquiring about its unlicensed activity, and that Respondent intended to indicate that it did not solicit "Idaho" consumers, rather than "North Carolina" consumers. This statement also appears to be patently false since it maintains a website available to consumers everywhere. The Respondent did not address the specific requests in the Department's letter dated October 2, 2012.

8. Based on information provided to the Department, the Department concludes as follows:

a. Respondent has solicited, at least, one Idaho resident for a loan, which resulted in a contractual agreement.

b. Respondent loaned the Idaho resident \$250, but collected \$225 in fees and finance charges in a little over one month. Despite paying \$225, nothing has been credited against the outstanding loan principal.

CONCLUSIONS OF LAW AND VIOLATIONS

COUNTS ONE: UNLICENSED PAYDAY LENDING IN IDAHO

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

10. Idaho Code § 28-46-401 provides as follows, in pertinent part:

28-46-401. Definitions. –(1) As used in this act, unless the context otherwise requires, “payday loan” means 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 this chapter.

...
(3) As used in this section, “check” refers to a check or the electronic equivalent of a check.

11. Idaho Code § 28-46-402 provides in pertinent part as follows,:

28-46-402. – License required. – (1) 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 without having first obtained a license under this chapter. A separate license shall be required for each location from which such business is conducted.

12. The loan between Respondent and MC constitutes a payday loan within the meaning of Idaho Code § 28-46-401. Respondent loaned money to MC and agreed to take an interest in MC’s bank account. The ECheck/ACH Authorization is really an electronic check, wherein Respondent could negotiate it on the loan due date.

13. Respondent, since it is engaged in the business of making payday loans, is required to be licensed pursuant to Idaho Code § 28-46-402.

COUNT TWO: CHARGING A FINANCE CHARGE

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

15. Idaho Code § 28-46-412(3) provides as follows, in pertinent part:

28-46-412. Payday loan procedures.

...

(3) A licensee may charge a fee for each payday loan. Such fee shall be deemed fully earned as of the date of the transaction and shall not be deemed interest for any purpose of law. No other fee or charges may be charged or collected for the payday loan except as specifically set forth in this act.

16. Respondent charged a finance fee. This charge violates Idaho Code § 28-46-412.

REQUESTED RELIEF

17. 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 public interest being served thereby,

NOW, THEREFORE, the Director HEREBY FINDS that Respondent has violated the the payday loan provisions of the Idaho Credit Code (section 400 of chapter 46, title 28, Idaho Code).

Pursuant to Idaho Code § 28-46-402, IT IS HEREBY ORDERED that Respondent and its agents and employees immediately CEASE AND DESIST from acts, practices, or omissions which constitute a violation of the Act, including specifically from engaging in making payday loans or other similar loans in Idaho without the license required by the Act.

This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 18th day of March, 2013.



STATE OF IDAHO
DEPARTMENT OF FINANCE

A handwritten signature in black ink, appearing to read "Gavin M. GEE", is written over a horizontal line.

GAVIN M. GEE, Director

NOTICE

Respondent is HEREBY NOTIFIED that this ORDER TO CEASE AND DESIST is a final order of the Director.

Respondent may file a motion for reconsideration or request for hearing concerning this final order within fourteen (14) days of the service date of this order. Any such motion for reconsideration or request for hearing must be in writing, addressed to:

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

A copy of such motion for reconsideration or request for a hearing shall also be served on the Department's counsel, Brian D. Nicholas, Deputy Attorney General, at the same address.

The Department will dispose of a motion for reconsideration within twenty-one (21) days of the receipt of a motion for reconsideration, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Idaho Rules of Administrative Procedure of the Attorney General (IRAP) at IDAPA 4.11.01.740.02.a. Should Respondent make a timely request for a hearing, the Department shall schedule a hearing within the twenty-one (21) day time period.

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.

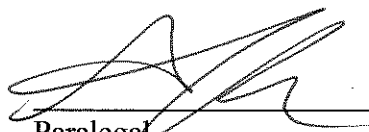
An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) of an order denying a motion for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a motion for reconsideration or schedule a hearing, whichever is later. See Idaho Code § 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of March, 2013, I caused a true and correct copy of the foregoing fully-executed ORDER TO CEASE AND DESIST to be served on the following by the designated means:

Cash Jar
P.O. Box 1639
Belize City, Belize

U.S. mail, postage prepaid
 Certified mail
 Facsimile:
 Email:



Paralegal