

ORDER

**BEFORE THE ADMINISTRATOR
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING**

TO: Cash Cure, LLC
405 North King Street, Suite 505
Wilmington, DE 19801
Respondent

PURPOSE

This is an order issued by the Administrator, State of Wisconsin, Department of Financial Institutions, Division of Banking and directed to respondent.

JURISDICTION and AUTHORITY

The State of Wisconsin, Department of Financial Institutions, Division of Banking ("division") shall enforce all laws relating to the lending of money under s. 138.14, Stats., in the State of Wisconsin, and shall enforce and cause to be enforced every law relating to the supervision and control thereof. Sec. 220.02(2)(b), Stats.

The intent of s. 220.02(2)(b), Stats., is to give the division jurisdiction to enforce and carry out all laws relating to small loan companies or other loan companies or agencies. Sec. 220.02(3), Stats.

Respondent is not licensed under s. 138.14, Stats., with the division. Upon information and belief, respondent is located at the address indicated above.

Respondent is a regulated entity under the supervision and control of the division. Sec. 220.04(9)(a)2., Stats.

The division may issue any general or special order in execution of or supplementary to s. 138.14, Stats. Sec. 138.14(8)(a), Stats.

FINDINGS

The division finds as follows:

1. On or about July 13, 2012, the division received a complaint filed against respondent by Mr. (" "), a Wisconsin resident. **Ex. 1.**
2. indicated that he obtained a \$200 payday loan from respondent on May 1, 2012 and made \$44 payments to respondent on May 7, 2012, May 22, 2012, June 7, 2012, June 22, 2012, and July 6, 2012.

3. On July 17, 2012, the division wrote to respondent regarding respondent's unlicensed payday lending activity. **Ex. 2.**
4. On or about August 13, 2012, the division received a letter from respondent's legal counsel, the Law Offices of Parkowski, Guerke & Swayze ("PGS"). PGS indicated that respondent is a duly licensed lender under Delaware Law and is engaged in the business of consumer lending exclusively in interstate commerce via the internet and has no presence in the State of Wisconsin. PGS also indicated that respondent does not in any manner target or advertise its loans to Wisconsin residents, and all of its loans are entered into in the State of Delaware and all of its contracts clearly disclose Delaware as the governing law of such contracts. PGS stated that respondent does not require its borrowers to provide a check or an authorization for an electronic fund transfer in order to obtain a loan from respondent. While PGS indicated that respondent discharged all remaining obligations under [redacted]'s loan, will take no further collection activities with respect to [redacted]'s account, and will not report [redacted]'s loan payment history to any credit reporting agency, PGS neither responded to the division's request that respondent provide its assurance that it would no longer originate or service payday loans for Wisconsin residents, nor did respondent issue a refund to [redacted] for all amounts [redacted] paid to respondent. **Ex. 3.**
5. On August 17, 2012, the division wrote to PGS and explained why [redacted]'s loan was a payday loan. The division asked PGS to provide their assurance that respondent refunded all amounts [redacted] paid to respondent and asked that respondent provide its assurance that it would stop originating and servicing Wisconsin payday loans until properly licensed. **Ex. 4.**
6. On September 20, 2012, the division wrote to PGS and informed PGS that [redacted] had informed the division that he had received a refund from respondent. The division; however, did not receive respondent's assurance that it would stop originating and servicing Wisconsin payday loans until properly licensed. The division informed PGS that if respondent continued to originate or service payday loans for Wisconsin residents, the division would consider it a willful violation of s. 138.14, Stats. **Ex. 5.**
7. On or about February 1, 2013, the division received a complaint filed against respondent by Mrs. [redacted] (" [redacted]"), a Wisconsin resident. **Ex. 6.**
8. [redacted] indicated that respondent deposited \$600 into her bank account on January 6, 2013, even though she did not apply for a loan from respondent.
9. On February 1, 2013, April 8, 2013, and July 8, 2013, the division wrote to respondent regarding respondent's unlicensed payday lending activity. **Exs. 7, 8, and 9.** The division received no response from respondent.
10. On or about February 11, 2013, the division received a complaint filed against respondent by Mr. [redacted] (' [redacted]'), a Wisconsin resident. The complaint included a copy of [redacted] loan agreement with respondent. **Exs. 10 and 11.**
11. [redacted] loan agreement indicates that he obtained a \$600 loan from respondent on September 10, 2012. The loan had an annual percentage rate of 568.97% and a due date of September 28, 2012. The agreement indicates that one payment in the amount

of \$759 would be due on the due date or a minimum payment of \$159.00 would be due on the due date if [redacted] chose to extend his loan pursuant to the "RENEWALS" sections of the loan agreement. [redacted]'s loan agreement indicates that [redacted] could choose to pay by certified check or money order; however, if [redacted]'s payment wasn't received by the due date, respondent would charge [redacted]'s bank account in accordance with the ACH authorization respondent received from [redacted].

12. On February 11, 2013, March 5, 2013, April 8, 2013, and July 8, 2013, the division wrote to respondent regarding respondent's unlicensed payday lending activity. **Exs. 12, 13, 14, and 15.** The division received no response from respondent.

13. Pursuant to s. 138.14(1), Stats., "Payday loan" includes a transaction between an individual with an account at a financial establishment and another person, including a person who is not physically located in this state, in which the person agrees to accept the individual's authorization to initiate one or more electronic fund transfers from the account, to wait a period of time before initiating the electronic fund transfer or transfers, and to loan to the individual, for a term of 90 days or less, before initiating the electronic fund transfer or transfers, an amount that is agreed to by the individual.

14. Pursuant to s. 138.14(2), Stats., a person may not originate or service a payday loan involving a Wisconsin resident without first having obtained a payday lender license from the division for each place of business at which the person originates or services payday loans involving Wisconsin residents. The license is required for all payday loans made to a Wisconsin resident, regardless of whether the loan is made by face-to-face contact, mail, telephone, Internet, or any other means.

15. Respondent violated s. 138.14(2), Stats., by originating and servicing payday loans involving a Wisconsin resident without first having obtained a payday lender license from the division.

16. Pursuant to s. 138.14(15)(b), Stats., if a person who is not licensed under s. 138.14, Stats., makes a payday loan to a customer, the loan is void, the customer is not obligated to pay any amounts owed on the loan, and the customer may recover from the person all amounts the customer has paid to the person.

ORDER

Based on the foregoing, IT IS HEREBY ORDERED AS FOLLOWS:

Respondent shall not originate or service payday loans involving Wisconsin residents.

Respondent shall immediately discontinue any and all violations of s. 138.14, Stats., and ch. DFI-Bkg 75, Admin. Code.

Respondent shall void [redacted]'s payday loan and shall refund to [redacted] any and all monies that have been paid to respondent by [redacted]. The refund check shall be made payable to [redacted] and shall be forwarded to the division along with the voided loan agreement, a letter of explanation to [redacted]; and a stamped envelope addressed to [redacted]. The check, voided loan agreement, letter, and stamped envelope shall be received by the division no later than September 27, 2013.

Respondent shall void _____ payday loan and shall refund to _____ any and all monies that have been paid to respondent by _____. The refund check shall be made payable to _____ and shall be forwarded to the division along with the voided loan agreement, a letter of explanation to _____ and a stamped envelope addressed to _____. The check, voided loan agreement, letter, and stamped envelope shall be received by the division no later than September 27, 2013.

For each Wisconsin resident for whom respondent originated a payday loan on or after January 1, 2011, respondent shall void any unpaid payday loan and shall refund any and all moneys that the Wisconsin resident paid to respondent. Respondent shall forward to the division the voided loan agreements, refund checks, letters of explanation, and stamped envelopes addressed to each Wisconsin resident. The checks, voided loan agreements, letters and stamped envelopes must be received by the division by September 27, 2013.

The provisions of this order shall be binding upon respondent and respondent's directors, officers, employees, agents, successors, assigns, and other persons participating in the conduct of its affairs. The provisions of the order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this order shall have been modified, terminated, suspended, or set aside by the division.

The effective date of this order shall be the date it is served, and service is complete upon mailing. Secs. 227.48(1), Stats., and DFI—Bkg 11.09, Admin. Code.

Dated and mailed at Madison, Wisconsin this 28th day of August, 2013.

By: _____
Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
201 W. Washington Avenue, Suite 500
Madison, WI 53707-7876
tel. (608) 266-0451
fax (608) 267-6889

APPEAL

The procedures to appeal this order are set forth in s. 227.42, Stats. Pursuant to s. 227.42(1), Stats., any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

- (a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;
- (b) There is no evidence of legislative intent that the interest is not to be protected;
- (c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and
- (d) There is a dispute of material fact.

All four criteria set for in s. 227.42(1), Stats., must be met for a person to have the right to a hearing. In particular, the attention of an individual or entity requesting a hearing is directed to the requirement to demonstrate that there is a dispute of material fact regarding the basis or bases for the action being taken by the division.

The request shall be sent to:

Michael J. Mach, Administrator
Wisconsin Department of Financial Institutions
Division of Banking
P.O. Box 7876
201 W. Washington Avenue, Suite 500
Madison, WI 53707-7876
tel. (608) 266-0451
fax (608) 267-6889