

ORDER

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

TO: My Cash Now
207-1425 Marine Drive
West Vancouver, British Columbia
CANADA V7T1B9
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 October 4, 2012, the division received a complaint filed against respondent by Ms. _____ ("_____"), a Wisconsin resident. The complaint included a copy of _____'s loan agreement with respondent. **Exs. 1 and 2.**

2. _____'s loan agreement indicates that she obtained a \$2,080 loan from respondent on June 1, 2012. The loan had an annual percentage rate of 473.278% and

a maturity date of August 24, 2012. s loan agreement provided respondent with authorization to process ACH debits to s bank account on her due dates.

3. On October 11, 2012, November 2, 2012, and November 23, 2012, the division wrote to respondent regarding respondent's unlicensed payday lending activity. **Exs. 3, 4, and 5.** The division received no response from respondent.

4. On or about April 18, 2013, the division received a complaint filed against respondent by Mr. (" "), a Wisconsin resident. **Ex. 6.**

5. indicated that he obtained a \$400 payday loan from respondent in January, 2013. The loan had a maturity date of February 15, 2013. indicated that respondent debited his checking account on several occasions and applied the amounts debited to accrued interest on his loan.

6. On April 23, 2013, May 9, 2013, and May 24, 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.

7. On or about May 27, 2013, informed the division that he received an email from respondent which indicated that respondent considered s loan to be paid in full. **Ex. 10.**

8. On or about June 3, 2013, the division received a complaint filed against respondent by Ms. (" "), a Wisconsin resident. The complaint included a copy of s loan agreement with respondent. **Exs. 11 and 12.**

9. s loan agreement indicates that she obtained a \$550 loan from respondent on November 20, 2012. The loan had an annual percentage rate of 466.03% and a maturity date of February 8, 2013. s loan agreement provided respondent with authorization to process ACH debits to s bank account on her due dates.

10. On June 6, 2013 and June 25, 2013, the division wrote to respondent regarding respondent's unlicensed payday lending activity. **Exs. 13 and 14.** The division received no response from respondent.

11. 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.

12. 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.

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

14. 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 _____'s 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.

Respondent shall void _____'s 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.

Respondent shall void _____'s 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