

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Accu-Check Cash Now
www.accu-checkcashnow.com

Enforcement Case No. 13-11892
Agency No. 13-034-RL

Respondent

_____ /

Issued and entered
this 9th day of May, 2014
by Rhonda J. Fossitt
Senior Deputy Director

ORDER TO CEASE AND DESIST

I. Findings of Fact and Conclusions of Law

1. Pursuant to Executive Order 2013-1, the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Regulatory Loan Act (RLA), MCL 493.1 *et seq.*, to exercise general supervision and control over persons engaged in the business of making regulatory loans.
2. The Director of the Department of Insurance and Financial Services (DIFS) is statutorily charged with the responsibility and authority to administer and implement the RLA.
3. The Director is granted general supervisory power over all persons engaging in the business of making loans of money, credit, goods, or things in action in the state of Michigan or with Michigan residents.
4. Accu-Check Cash Now (Respondent) is a company of indeterminate origin claiming to operate from the address of 29610 Southfield Road, #115, Southfield, Michigan 48076 and 2085 Partridge Drive, Shelby Township, Michigan 48317. Respondent is not registered to do business in Michigan with the State of Michigan Corporations Division as a domestic or foreign corporation.
5. Respondent holds itself out to be in the business of making short-term consumer loans to individuals. Respondent conducts its consumer loan business via the internet through the website www.accu-checkcashnow.com. The website is easily accessible to residents of the state of Michigan with internet access.
6. At all relevant times herein, Respondent was not licensed in the state of Michigan with the Director as a Regulatory Lender.

7. A person—defined by the RLA to include an individual, partnership, association, corporation, limited liability company, or other legal entity—is prohibited from engaging in the business of making loans and charging a greater rate of interest than the lender would be permitted by law to charge if the lender were not licensed in the State of Michigan unless they are properly licensed under Section 2 of the RLA, MCL 493.2.
8. Respondent is not licensed under the RLA to make loans to Michigan residents that are above the interest rate permitted by the Interest Rates Act, which is 7% per annum.
9. DIFS Staff has received information confirming that Respondent is engaged in the business of making loans within the state of Michigan to Michigan residents.
10. In response to this information, DIFS Staff undertook an investigation into the business activities of Respondent. As a result of that investigation, DIFS Staff determined that in addition to not being licensed as required by the RLA, Respondent has violated various other provisions of the RLA and the Credit Reform Act (CRA), MCL 445.1851 *et seq.*
11. A review of a loan agreement showed that Respondent’s rates and loan fees exceed the rates and fees permitted to a licensee pursuant to MCL 493.13(1) and Sections 4(1) and 6(2) of the CRA, MCL 445.1854(1) and 445.1856(2).
12. Respondent made loans to at least one Michigan resident for personal, family or household use through the website www.accu-checkcashnow.com. As part of the loan terms, the borrower provided Respondent with identification information for his bank account and allowed Respondent to access the account. Respondent deposited the loan principal into the borrower’s bank account. The borrower also authorized Respondent to electronically debit his account by means of an Automated Clearing House transaction with loan amount, fees and charges, on the due date.
13. At least one Michigan resident entered into a loan agreement resulting in the assessment of high finance charges, annual percentage rates (APR), and interest rates in excess of the legally permissible rate of 7% as authorized by Section 1 of the Interest Rates Act, MCL 438.31(1), as well as the interest rates and loan fees permitted by MCL 493.13(1), MCL 445.1854(1) and 445.1856(2):

Customer	Date	Amount Finance	Finance Charge	Total of Pym’s	APR %	NSF FEE
CP	07/11/12	\$300.00	\$90.00	\$390.00	728.14	\$30.00

14. The interest rate charged to the Michigan resident grossly exceeds both the 7% interest rate legally permitted for unlicensed lenders and the 25% interest rate legally permitted for licensed lenders.
15. Section 6(2) of the CRA, MCL 445.1856(2), provides that regulated lenders may charge a fee not to exceed \$25.00 for a check or other payment instrument that is dishonored because of insufficient funds in the account on which the check or instrument is drawn. In violation of this provision, Respondent has charged a Michigan resident an insufficient funds fee greater than the maximum allowed by the CRA.
16. Respondent is not licensed under the RLA and is not a regulated lender under the Credit Reform Act; therefore, Respondent is not permitted to charge fees as otherwise authorized as a licensee under the RLA or as a regulated lender under the CRA.
17. Respondent, through its interactive website, purposefully availed itself of the privilege of conducting activities within the state of Michigan, thereby subjecting Respondent to the requirements of Michigan law. *See Neogen Corp v Neo Gen Screening, Inc*, 282 F3d 883 (CA 6, 2002) and *Oberlies v Searchmont Resort, Inc*, 246 Mich App 424; 633 NW2d 408 (2001).
18. Respondent's conduct demonstrates that Respondent has, and continues to, engage in a practice posing a threat of financial loss or threat to the public welfare, and that Respondent has or, or is about to continue to, violate a law or rule.
19. On January 21, 2014, a true copy of the Administrative Complaint and Notice of Intent to Issue a Cease and Desist Order, Order for Hearing and Notice of Hearing was mailed to 29610 Southfield Road, #115, Southfield, Michigan 48076.
20. Copies of the Administrative Complaint and Notice of Intent to Issue a Cease and Desist Order, Order for Hearing and Notice of Hearing, mailed to Respondent via certified mail, were returned to DIFS by the United States Postal Service as "not known." On or about March 12, 2014, DIFS subsequently mailed copies of the Administrative Complaint and Notice of Intent to Issue a Cease and Desist Order, Order for Hearing and Notice of Hearing to Respondent via both certified mail and first class mail to 2085 Partridge Drive, Shelby Township, Michigan 48317. The U.S. Postal Service returned the certified mail as "unclaimed" (and not as "not known"). The U.S. Postal Service did not return the copies mailed via first class mail.
21. In paragraph 3 of the Order for Hearing, the Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to a resolution with the opposing party, 2) file a response to the allegations in the Administrative Complaint, or 3) file a request for an adjournment. Paragraph 5 states that failure to make the required filing shall constitute the default of Respondent in this contested case.
22. Respondent failed to take any of the actions required by paragraph 3 of the Order.

23. Despite DIFS Staff having made reasonable efforts to serve Respondent, Respondent has failed to comply with the Order for Hearing.
24. Therefore, where Respondent has received notice and was given an opportunity to respond and Respondent has not responded, the Petitioner is entitled to an Order to Cease and Desist from violating the RLA and CRA.

II. Order

IT IS THEREFORE ORDERED that:

1. Respondent shall immediately CEASE AND DESIST from making loans for personal, family, or household use and charging interest fees, and other considerations which aggregate in excess of 7% per annum.
2. Respondent shall immediately CEASE AND DESIST from advertising, soliciting, making loans and charging interest fees, and other considerations which aggregate in excess of 7% per annum.
3. Respondent shall immediately CEASE AND DESIST from making loans for personal, family, or household use to Michigan residents through its website www.accu-checkcashnow.com and charging interest fees, and other considerations which aggregate in excess of 7% per annum for such loans.
4. This Order shall be and is effective on the date it is issued, as shown in the caption hereof.
5. This Order shall remain in effect until terminated, modified, or set aside in writing by the Director of DIFS.
6. The Director specifically retains jurisdiction of the matter contained herein to issue such further order or orders as she may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.


Rhonda J. Fossitt
Senior Deputy Director