

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Enforcement Case No. 15-12657

Agency No. 16-008-RL

Petitioner,

v

Cash on Demand Kalamazoo, LLC

dba Cash on Demand

System ID No. 0018862

Respondent.

Issued and entered
on October 20, 2017
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

At all relevant times, Cash on Demand Kalamazoo, LLC dba Cash on Demand (hereinafter Respondent) was licensed to conduct regulatory loan business in the state of Michigan pursuant to the Michigan Regulatory Loan Act (RLA), 1939 PA 21, as amended, MCL 493.1 *et seq.*, and the Credit Reform Act (CRA), 1995 PA 162, as amended, MCL 445.1851 *et seq.* On July 28, 2014, the Department of Insurance and Financial Services (DIFS) conducted an on-site examination of Respondent and found violations of the RLA and CRA. On September 8, 2016, a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent violated the RLA and CRA provided justification for licensing sanctions, fines, damages, or other sanctions or remedies pursuant to Sections 19 of the RLA, MCL 493.19 and Section 11 of the CRA, MCL 445.1861. Respondent failed to show compliance with the RLA and CRA.

On October 31, 2016, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent's attorney at his address of record. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to respond or take any action.

On October 2, 2017, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

II. Findings of Fact and Conclusions of Law

1. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of the Department of Insurance and Financial Services (Director).
2. The on-site examination conducted on July 28, 2014, showed that Respondent failed to comply with the CRA when it assessed a flat interest charge equal to 25% of the loan amount rather than providing interest charges based upon a simple interest loan. Respondent had a loan portfolio of 110 loans as of the on-site examination date; 43 of those loans were reviewed by DIFS examiners. Based upon the loan agreements executed between the Respondent and the borrowers, if the borrowers repay in accordance with the payment schedule provided in the Truth in Lending Disclosure, the borrowers will pay at a rate higher than 25% per annum.
3. Respondent contracted for and charged a processing (origination) fee, as allowed under Section 13(4) of the RLA, but failed to contract for an interest charge. Consequently, Respondent was not entitled to interest charges for the current loan portfolio. Respondent was advised to adjust each unsatisfied loan only to reflect the processing fee. Respondent was advised to submit a loan payment history for each unsatisfied loan agreement which reflects all payments made and the unpaid principal balance as of the last payment made. For the satisfied loans, Respondent was advised to refund to the borrowers the amount of overpaid interest. Finally, Respondent was advised to provide proof of refunds and the clearing of the refunds. Respondent failed to comply with DIFS examiners' compliance requests.
4. DIFS examiners found several loan agreements that stated a \$0.00 processing fee, but the fee was included in the Finance Charge of the Truth in Lending Disclosure and the borrowers' loan accounts. Respondent is not entitled to this fee as it was stated as \$0.00. DIFS examiners advised Respondent to adjust each affected loan by eliminating the processing fee.
5. As a regulatory loan licensee, Respondent knew or had reason to know that Bulletin 2014-01-CF provides that a licensee may charge a loan processing fee not to exceed 5% of the principal, up to \$300.00.
6. Respondent further knew or had reason to know that Section 4 of the CRA, MCL 445.1854, provides that a licensee may charge, collect, and receive any rate of interest or finance charge for an extension of credit not to exceed 25% per annum.
7. Respondent violated Section 13 of the RLA, MCL 493.13 and Section 4 of the CRA, MCL 445.1854, and has provided justification for licensing sanctions, fines, damages, or other sanctions or remedies pursuant to Section 19 of the RLA, MCL 493.19 and Section 11 of the CRA, MCL 445.1861.

8. Respondent has received notice and has been given an opportunity to respond and appear, but has not responded nor appeared.
9. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

III. Order

Based upon the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall cease and desist from violating the RLA and CRA.
2. Respondent shall immediately cease and desist from conducting regulatory loan business in the state of Michigan.
3. Respondent shall refund all interest charged on accounts paid in full concerning any of the 110 loans in its portfolio.
4. Respondent shall provide proof of refunds and the clearing of the refunds to DIFS staff within 60 days of the issuance and entry of this Final Decision.

Patrick M. McPharlin, Director
For the Director:



Randall S. Gregg, Deputy Director