

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. 18-15238
Agency No. 18-069-RL

Petitioner,

v

Uncle Warbucks
Unlicensed

Respondent.

_____ /

Issued and entered
on November 5, 2018
by Randall S. Gregg
Deputy Director

FINAL ORDER TO CEASE AND DESIST

I. Background

Uncle Warbucks (Respondent) is a foreign business entity. The Department of Insurance and Financial Services (DIFS) received information that Respondent was offering loans to Michigan residents without a requisite license, and that Respondent was making loans to Michigan residents above the interest rate permitted by the Interest Rates Act. After investigation and verification of the information, on August 9, 2018, DIFS served an Administrative Complaint and Notice of Intention to Issue Cease and Desist Order, and Order for Hearing upon Respondent at the mailing and business addresses it maintains on its website. 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 by the 21-day deadline of August 20, 2018. The Notice of Hearing had identified November 5, 2018, as the date for a hearing if Respondent had acted within the 21-day response deadline.

On September 27, 2018, DIFS Staff filed a Motion for Entry of Final Order to Cease and Desist, citing the Respondent's failure to respond to the Administrative Complaint. On October 31, 2018, Respondent filed, through its attorneys, a letter to Petitioner's attorney acknowledging the Administrative Complaint sent to Respondent via email. Respondent did not file a response to the allegations, state that it intended to attend

the hearing on the Administrative Complaint, or request an adjournment of any proceedings. Instead, Respondent's letter indicated its willingness to resolve any complaints on file and requested that this letter be communicated to anyone present at the November 5, 2018, hearing. This is not a response to the allegations, nor a challenge to the Department's authority to issue a Cease and Desist Order for unlawful conduct engaged in the state of Michigan.

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. The Director is statutorily charged with the responsibility and authority to administer and implement the RLA. See MCL 493.1 *et seq.*
2. 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.
3. Uncle Warbucks (Respondent) is a foreign business entity with a purported principal place of business of P.O. Box 1469, Kahnawake, Quebec J0L 1B0.
4. Respondent, via the internet, offered and entered into short-term loans with Michigan residents.
5. 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.
6. 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.
7. DIFS Staff received information confirming that Respondent is engaged in the business of making loans within the state of Michigan to Michigan residents.
8. In response to this information, DIFS Staff undertook an investigation into the business activities of Respondent. As a result of that investigation, DIFS Staff have determined that in addition to not being licensed as required by the RLA, Respondent violated various other provisions of the RLA.
9. Complainant is a Michigan resident who financed \$800.00 from Respondent. According to Respondent's installment agreement, its annual percentage rate is 457.34%, with a finance charge of \$2,516.00. The installment agreement also identified a \$30.00 charge for returned item charges.
10. Respondent violated Section 6(2) of the Credit Reform Act, MCL 445.1856(2), by maintaining a contract with returned item charge of \$30.00.

11. Respondent violated Section 1026.19(e) of Title 12 of the Code of Federal Regulations, 12 CFR 1026.18(e), by failing to disclose the correct interest rate to Complainant. The interest rate disclosed to Complainant was 457.34%; however, it appears that based upon Respondent's payment schedules for Complainant, the actual interest rate is different.
12. Respondent violated Section 13(3) of the RLA, MCL 493.13(3), by failing to provide simple interest in its loan to Complainant.
13. Respondent's conduct demonstrates that Respondent has engaged, or is about to engage, in a practice posing a threat of financial loss or threat to the public welfare, or that Respondent has violated, or is about to violate, a law or rule.
14. On August 9, 2018, true copies of an Administrative Complaint and Notice of Intention to Issue Cease and Desist Order, Order for Hearing, and Notice of Hearing were mailed by first class mail to Respondent at the following address: Uncle Warbucks, P.O. Box 1469, Kahnawake, Quebec, Canada JOL 1B0, and via email to customerservice@unclewarbucks.com.
15. DIFS has not received a response from the Respondent.
16. 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 and file a statement that Respondent plans to attend the hearing as scheduled, 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.
17. Respondent has failed to take any of the actions required by paragraph 3 of the Order. See Petitioner's Exhibit 1, Affidavit of Christy Capelin.
18. Therefore, where Respondent has received notice and was given an opportunity to have a hearing on this contested case and Respondent has not responded nor appeared to defend, the Petitioner is entitled to an entry of default and a Final Order to Cease and Desist.
19. DIFS Staff have made reasonable efforts to serve Respondent.
20. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
21. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

III. Final Order to Cease and Desist

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.
2. Respondent shall immediately **CEASE** and **DESIST** from engaging in the business of making loans in the state of Michigan.

Patrick M. McPharlin, Director
For the Director:



Randall S. Gregg, Deputy Director