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IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.)
DOUGLAS J. PETERSON, ATTORNEY)
GENERAL, AND MARK QUANDAHL,)
DIRECTOR, NEBRASKA)
DEPARTMENT OF BANKING AND)
FINANCE,)

CI 16 - 1522

Plaintiff,)

COMPLAINT

v.)

CASHCALL, INC., DELBERT)
SERVICES CORPORATION, J. PAUL)
REDDAM, MARTIN A. WEBB,)
WESTERN SKY FINANCIAL, LLC, and)
WS FUNDING LLC,)

Defendants.)

COMES NOW the State of Nebraska, by Douglas J. Peterson, Nebraska Attorney General, and Mark Quandahl, Director of the Nebraska Department of Banking and Finance, by and through the undersigned counsel (hereinafter collectively referred to as "Plaintiff" or "the State of Nebraska"), and brings this action against Defendants CashCall, Inc., Delbert Services Corporation, J. Paul Reddam, Martin A. Webb, Western Sky Financial, LLC, and WS Funding LLC (hereinafter collectively referred to as "Defendants") for violating the Consumer Protection Act, Neb. Rev. Stat. § 59-1601 et seq. (hereinafter "CPA"), the Uniform Deceptive Trade Practices

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Act, Neb. Rev. Stat. § 87-301 et seq. (hereinafter “UDTPA”), and the Nebraska Installment Loan Act, Neb. Rev. Stat. § 45-1001 et seq. (hereinafter “NILA”) through its activities relating to providing loans to Nebraskans.

1. The Plaintiff brings this action pursuant to the CPA, UDTPA, and NILA to protect the public and pursuant to the Plaintiff’s statutory and common law authority, powers, and duties. The Plaintiff has cause to believe that Defendants have violated and are continuing to violate the CPA, UDTPA, NILA, and other relevant laws. The Plaintiff also has cause to believe that this action is in the public interest because Defendants have deceived, misled, and caused financial harm to thousands of Nebraska consumers.

2. Upon information and belief, the State of Nebraska alleges as follows:

PARTIES

3. Douglas J. Peterson, is the duly elected, qualified, and acting Attorney General of the State of Nebraska. The Nebraska Attorney General is responsible for enforcement of Nebraska consumer protection laws, including, but not limited to, the CPA and the UDTPA.

4. Mark Quandahl, the duly appointed Director of the Nebraska Department of Banking and Finance, brings the above-captioned action in his official capacity pursuant to the NILA.

5. Western Sky Financial, LLC is a limited liability company organized under the laws of South Dakota with its principal place of business located at 612 E Street, Timber Lake, SD 57656. Western Sky Financial, LLC originated consumer loans to Nebraska consumers.

6. Martin A. Webb is the managing and sole member/owner of Western Sky Financial, LLC as such, materially participated in the conduct of its affairs.

7. CashCall, Inc. is a California corporation with its principal place of business located at One City Boulevard West, Suite 1000, Orange, CA 92868. CashCall, Inc. has and continues to transact business in Nebraska by acquiring, servicing, and collecting consumer loans made to Nebraska consumers.

8. WS Funding LLC is a Delaware limited liability company and a wholly-owned subsidiary of CashCall, Inc. WS Funding LLC has and continues to transact business in Nebraska by acquiring, servicing, and collecting consumer loans made to Nebraska consumers.

9. Delbert Services Corporation was a Nevada corporation with its principal place of business at 7125 Pollock Drive, Las Vegas, NV 89119. Delbert Services Corporation transacted business in Nebraska by acquiring, servicing, and collecting consumer loans made to Nebraska consumers.

10. J. Paul Reddam is the chief executive officer, president, and sole owner of CashCall, Inc., the president of WS Funding LLC, and was the director and sole owner of Delbert Services Corporation. He has/had managerial responsibility for CashCall, Inc., WS Funding LLC, and Delbert Services Corporation and has materially participated in the conduct of their affairs.

VENUE AND JURISDICTION

11. The District Court of Lancaster County has jurisdiction over Defendants pursuant to Neb. Rev. Stat. § 59-1608.01, Neb. Rev. Stat. § 87-303.05(1), Neb. Rev. Stat. § 24-302, and Neb. Rev. Stat. § 45-1041 because Defendants have transacted business within the State of Nebraska at all times relevant to this Complaint.

12. Venue for this action properly lies in the District Court of Lancaster County pursuant to Neb. Rev. Stat. § 59-1608.01, Neb. Rev. Stat. § 87-303.05(1) and Neb. Rev. Stat. § 25-403.01 because Defendants transact business in Lancaster County, Nebraska and throughout

Nebraska and/or some of the transactions out of which this action arose occurred in Lancaster County, Nebraska and throughout Nebraska.

ALLEGATIONS

Loans Originated

13. Defendants are in the business of originating, funding, servicing, and collecting on high-interest loans to borrowers across the nation, including to Nebraska consumers.

14. Defendants have promoted these consumer loans through Western Sky Financial, LLC's website, www.westernsky.com, and through national television advertising broadcast in Nebraska in the name of Western Sky Financial, LLC.

15. Nebraska consumers apply for and sign loan documents while physically located in Nebraska, using computer terminals in Nebraska. Nebraska consumers do not travel to South Dakota, much less the Cheyenne River Indian Reservation in South Dakota, to apply for a loan, to sign the loan agreement, or to pick up the loan proceeds. Instead, Western Sky Financial, LLC deposits money directly into Nebraska consumers' bank accounts located in Nebraska, by way of electronic transfer.

16. Consumer loans offered to Nebraska consumers by Western Sky Financial, LLC through its website ranged in amount from \$700.00 to \$10,000.00, carried interest rates of 89.68% to 342.86% per annum, and imposed an origination fee of between \$75.00 and \$500.00. Such loans required consumers to repay loans in monthly installments, with repayment periods ranging from twelve (12) to eighty-four (84) months.

Business Structure

17. In its loan agreements, Western Sky Financial, LLC claimed it was a tribal entity subject solely to the exclusive jurisdiction of Cheyenne River Sioux Tribe, Cheyenne River Indian

Reservation. Western Sky Financial, LLC, however, is not owned or operated by a tribe, is not a tribal entity, and does not exist for the benefit of a tribe. Instead, it is a limited liability company created under South Dakota law, and its sole member is Defendant Martin A. Webb. While Mr. Webb holds himself out as a member of the Cheyenne River Sioux Tribe, no approval was required from the Cheyenne River Sioux Tribe for Western Sky Financial, LLC to become a South Dakota limited liability company. The profits made by Western Sky Financial, LLC were distributed to Mr. Webb, and Western Sky Financial, LLC does not operate for the benefit of a tribe. The doctrine of tribal sovereign immunity does not apply to the loans made by Western Sky Financial, LLC to Nebraska consumers.

18. Through multiple agreements, WS Funding LLC, a wholly owned subsidiary of CashCall, Inc., managed and facilitated almost every aspect of Western Sky Financial, LLC's business, including:

- (a) CashCall, Inc. and its subsidiaries created all advertising and marketing materials for Western Sky Financial, LLC;
- (b) CashCall, Inc. and its subsidiaries provided website hosting and support services for Western Sky Financial, LLC;
- (c) CashCall, Inc. and its subsidiaries reimbursed Western Sky Financial, LLC, for all costs of maintenance, repair and/or update costs associated with Western Sky Financial, LLC's server;
- (d) CashCall, Inc. and its subsidiaries reimbursed Western Sky Financial, LLC, for its office, personnel, and postage expenses and provided Western Sky Financial, LLC with a toll free telephone number and fax number;

- (e) When a consumer applied for a loan, CashCall, Inc. and its subsidiaries reviewed the application for underwriting purposes;
- (f) Once a loan application was approved, Western Sky Financial, LLC executed a promissory note and debited a so-called "Reserve Account" to fund the promissory note;
- (g) CashCall, Inc. and its subsidiaries were required to set up, fund, and maintain the balance in the Reserve Account;
- (h) After a loan was funded, CashCall, Inc. and its subsidiaries were obligated to purchase the promissory note from Western Sky Financial, LLC;
- (i) CashCall, Inc. and its subsidiaries bore all risk of loss on the loans;
- (j) CashCall, Inc. and its subsidiaries generally made contact with a consumer within one business day of a consumer filing an application for the loan and once the loan was made;
- (k) Western Sky Financial, LLC accepted no payments from consumers on the loans;
- (l) CashCall, Inc. serviced the loans;
- (m) CashCall, Inc. and its subsidiaries were responsible for tracking all consumer complaints regarding the loans;
- (n) CashCall, Inc. and its subsidiaries agreed to indemnify Western Sky Financial, LLC for all costs arising or resulting from any and all civil, criminal, or administrative claims or actions relating to the loans, including but not limited to fines, costs, assessments, and/or penalties which may arise/arose in any jurisdiction;
- (o) As compensation for services provided, Western Sky Financial, LLC paid CashCall, Inc. and its subsidiaries 2.02% of the face value for each approved and

executed loan transaction plus any additional charges, with a net minimum payment of \$100,000.00 per month; and

(p) CashCall, Inc. and its subsidiaries paid Western Sky Financial, LLC 5.145% of the face value of each approved and executed loan credit extension and/or renewal, as well as a minimum monthly administration fee of \$10,000.00.

19. These facts demonstrate CashCall, Inc.'s intent to use Western Sky Financial, LLC as a front to exploit tribal sovereign immunity, evade licensure by state agencies, and shield its deceptive business practices from prosecution by state and federal regulators.

VIOLATIONS OF LAW

COUNTS I AND II - VIOLATIONS OF THE UNIFORM DECEPTIVE TRADE PRACTICES ACT, NEB. REV. STAT. § 87-301 ET SEQ. AND THE CONSUMER PROTECTION ACT, NEB. REV. STAT. § 59-1601 ET SEQ.

20. Plaintiff realleges and incorporates by reference herein each and every allegation contained in the preceding paragraphs 1 through 19.

21. In the course of offering, arranging, making, servicing, and collecting on their illegal consumer loans, Defendants engaged in unconscionable, unfair, and deceptive acts or practices in the conduct of trade or commerce in violation of Neb. Rev. Stat. §§ 87-302, 87-303.01 and § 59-1602.

22. Defendants' unconscionable, unfair, and deceptive acts or practices include, but are not limited to the following:

(a) Engaging in an unfair business enterprise of offering, making, and collecting on usurious consumer loans to Nebraska consumers, when such loans were/are in gross violation of state law;

- (b) Attempting to circumvent Nebraska lending and consumer protection laws by deceptively asserting that such loans are made by an Indian tribe and are not subject to Nebraska lending laws, despite the fact that neither Western Sky Financial, LLC nor the other Defendants are a tribal enterprise and cannot claim tribal sovereign immunity for their lending and collections activities; and
- (c) Deceptively representing to consumers that such loans were/are not subject to Nebraska lending laws thus implying consumers are not entitled to the rights and relief granted thereby.

**COUNT III – VIOLATIONS OF THE
NEBRASKA INSTALLMENT LOAN ACT, NEB. REV. STAT. § 45-1001 ET SEQ.**

23. Plaintiff realleges and incorporates by reference herein each and every allegation contained in the preceding Paragraphs 1 through 22.

24. Defendants engaged in a common enterprise of making loans of money and charging, contracting for, and receiving interest on such loans without a license.

25. By stating in advertisements and promotional materials that Western Sky Financial, LLC was subject solely to the jurisdiction of the Cheyenne River Sioux Tribe and therefore implying its illegal loans were shielded from prosecution by state and federal regulators, Defendants violated the prohibition against misleading advertising found in Neb. Rev. Stat. § 45-1020.

26. Defendants charged interest rates on consumer loans that far exceeded the maximum allowable interest rate for non-licensee consumer loans of sixteen (16) percent per annum on the unpaid principal balance of a loan. The rate of interest charged by defendants far exceeded the amount of interest that even an installment loan licensee could have charged on a consumer loan pursuant to Neb. Rev. Stat. § 45-1024.

27. Defendants charged loan origination fees in excess of the state's maximum origination fee permitted for installment loan licensees and non-licensed lenders under Neb. Rev. Stat. § 45-1024 and Neb. Rev. Stat. § 45-101.02(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Nebraska, respectfully requests this Court:

A. Permanently enjoin and restrain Defendants, its agents, employees, partners, subsidiaries, parents, affiliates, owners, members, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair, unconscionable, deceptive or misleading conduct, acts, or practices which violate the CPA and UDTPA in the originating, funding, and collecting of loans made to Nebraska consumers pursuant to the CPA, Neb. Rev. Stat. § 59-1608, and the UDTPA, Neb. Rev. Stat. § 87-303.05(1);

B. Permanently enjoin and restrain Defendants, their agents, employees, partners, subsidiaries, parents, affiliates, owners, members and all other persons and entities, corporate or otherwise, in active concert or participation with any of them from soliciting, advertising, offering, or making any loans of any kind to Nebraska residents pursuant to the CPA, Neb. Rev. Stat. § 59-1608(1), the UDTPA, Neb. Rev. Stat. § 87-303.05(1), and the NILA Neb. Rev. Stat. § 45-1041.

C. Order Defendants to pay restitution pursuant to the UDTPA, Neb. Rev. Stat. § 87-303.05(1) and CPA, Neb. Rev. Stat. § 59-1608(2);

D. Order Defendants to pay civil penalties of up to two thousand dollars (\$2,000.00) for each and every violation of the CPA, pursuant to Neb. Rev. Stat. § 59-1614;

E. Order Defendants to pay civil penalties of up to two thousand dollars (\$2,000.00) for each and every violation of the UDTPA, pursuant to Neb. Rev. Stat. § 87-303.11;

F. Order Defendants to pay all of Plaintiff's costs and attorneys' fees for the

prosecution and investigation of this action, pursuant to the CPA, Neb. Rev. Stat. § 59-1608 and the UDTPA, Neb. Rev. Stat. § 87-303(b); and

G. Grant Plaintiff such other and further relief as the Court deems equitable, just, and proper.

DATED this _____ day of _____, 2016.

Respectfully submitted,

STATE OF NEBRASKA, ex rel.
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Attorney General, and
MARK QUANDAHL, Director of the Nebraska
Department of Banking and Finance, Plaintiff,

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