

South Dakota Department of Labor and Regulation
Division of Banking

IN THE MATTER OF:

Order No. 2017-2

Dollar Loan Center of South Dakota, LLC
DBA Dollar Loan Center
MYL No. 2840
8860 W Sunset Road Suite 100
Las Vegas, NV 89148

CEASE AND DESIST AND LICENSE REVOCATION ORDER

The Director of the South Dakota Division of Banking (“Division”), having determined that Dollar Loan Center of South Dakota, LLC has engaged in, is engaging in, or is about to engage in, acts or practices constituting violations of state and federal law and applicable regulations, hereby issues the following FINDINGS OF FACT, CONCLUSIONS OF LAW, CEASE AND DESIST ORDER, and LICENSE REVOCATION ORDER.

A. PARTIES AND JURISDICTION

1. Dollar Loan Center of South Dakota, LLC (“DLC”) is a South Dakota limited liability company with headquarters in Las Vegas, Nevada. DLC does business in South Dakota as Dollar Loan Center.
2. DLC and four of its branches are licensed by the Director as money lenders under SDCL Chapter 54-4 as of the date of this order.
3. The Division has jurisdiction over the licensing and regulation of persons and entities engaged in the business of lending money in South Dakota pursuant to SDCL 51A-2-1, SDCL Chapter 54-4, and its implementing rules at ARSD 20:07:20 *et seq.*

B. FINDINGS OF FACT

4. On all of DLC's applications to the Division for licensure as a money lender, DLC indicated that it would not provide "short term consumer loans" as defined in SDCL 54-4-36(16).
5. On June 21, 2017, the Division received written notice from DLC's attorney, that DLC intended to begin making loans using a loan contract that differed from those DLC previously disclosed to the Division.
6. Prior to June 21, 2017, DLC only originated and serviced "signature loans" with maturities longer than 6 months.
7. Pursuant to SDCL 54-4-57, the Division is authorized to conduct an examination of business records and accounts of any licensee licensed under SDCL Chapter 54-4 that transacts business in South Dakota to determine compliance with the provisions of SDCL Chapter 54-4, and any rule, or regulation issued thereunder, and with any federal law, rule, or regulation pertaining to consumer credit.
8. On July 13, 2017, the Division performed a target examination of DLC to evaluate the new loan product being offered by DLC for compliance with applicable laws and regulations. The Division reviewed Sioux Falls and Rapid City loans while on-site at DLC's Sioux Falls location via DLC's Infinity Software system. After reviewing the July 13, 2017 target examination information, the Division determined that additional performance information on DLC's new loan product was necessary and that the target examination needed to be expanded to a full scope examination.
9. On August 17-18, 2017, the Division performed a full scope examination of DLC. Again, the Division reviewed Sioux Falls and Rapid City loans while on-site at DLC's Sioux Falls location

via DLC's Infinity Software system. The Division reviewed 308 loans originated between July 3, 2017, and August 12, 2017.

10. During the examination, it was determined that the new loans offered by DLC are unsecured loans ranging in principal amounts from \$250 to \$1,000. All of the new loans mature in 7 days and require full payment of principal and interest upon maturity.

11. Of the 308 loans reviewed during the DLC examination, 276 had a maturity date prior to August 17, 2017. Late fees were charged on 146, or 52.90 percent, of the sampled loans.

12. DLC appears to be reliant on late fees to generate revenue from its new loan product. DLC's Payments Report for the time period between July 1, 2017, and August 17, 2017, provides that late fees paid by DLC's customers totaled \$10,050.00, compared to interest paid of only \$1,091.81. Late fees accounted for 90.22 percent of total DLC income from this product.

13. As a result of DLC's unsound loan underwriting and insufficient repayment analysis, the delinquency rate per DLC account is 57.75 percent and the delinquency rate per volume is 56.84 percent as of August 17, 2017.

14. For the loans reviewed, the stated APR for DLC's new loans ranged from 35.87% to 35.98%. The actual APR for DLC's new loans, when late fees are included in the APR as finance charges, ranged from 300.86% to 487.64%.

15. DLC has neither applied for nor received authorization from the Division to originate or service "short term consumer loans." DLC has previously been authorized by the Division to originate and service only signature loans with maturities longer than 6 months.

16. The loan product offered by DLC after June 21, 2017, is designed to incur late fees. The new loan product offered by DLC would not be profitable without the revenue earned from late fees.

C. CONCLUSIONS OF LAW

17. Based upon the information contained in Paragraphs 1 through 16, the Director has determined that:

a. DLC has engaged in, is engaging in, or is about to engage in, acts or practices which are in violation of the provisions of SDCL Chapter 54-4.

b. DLC is currently originating and servicing loans that meet the definition of “short term consumer loan” provided in SDCL 54-4-36(16).

c. The late fees charged by DLC, on loans originated after June 21, 2017, are anticipated fees that must be considered fees incident to the extension of credit, and be included in the finance charge calculation for DLC’s new loan product.

d. DLC is in violation of the provisions of SDCL 54-4-44.1 in that the loan product offered by DLC after June 21, 2017, is a device, subterfuge, or pretense to evade the requirements of SDCL 54-4-44.

e. The loans originated by DLC after June 21, 2017, are void and uncollectible as to any principal, fee, interest, or charge pursuant to SDCL 54-4-44.

f. 12 CFR 1026.22 (“Regulation Z”) provides in part, “the annual percentage rate shall be considered accurate if it is not more than 1/8 of 1 percentage point above or below the annual percentage rate...” DLC is in violation of Regulation Z in that the actual APR charged by DLC is far more than 1/8 of 1 percent above the APR calculated and stated by DLC.

g. Pursuant to SDCL 54-4-49, the Director may revoke a South Dakota money lender license for good cause. There is good cause to immediately revoke DLC’s money lender licenses in that, among other things, DLC violated statutes related to consumer credit, engaged in unfair practices

involving lending activity, and the money lender license applications filed by DLC with the Division are materially incomplete and contain statements that are, in light of the circumstances under which they were made, false or misleading with respect to material facts.

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED that:

DLC shall immediately cease engaging in the business of lending money in South Dakota.

Identify any and all loans made by DLC to consumers after June 21, 2017, to the date of this order, and notify any such consumer that the loans are void and uncollectible as to any principal, fee, interest, or charge pursuant to SDCL 54-4-44.

This Order is effective immediately upon signing and shall remain in effect unless set aside, limited, or suspended by the Division or upon court order after review under South Dakota law.

This Order shall not be construed as approving any act, practice, or conduct not specifically set forth herein which was, is, or may be in violation of relevant state or federal laws and regulations.

LICENSE REVOCATION ORDER

IT IS HEREBY ORDERED that:

DLC shall immediately surrender all of its South Dakota money lender licenses and return them to the Division.

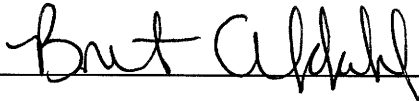
This Order is effective immediately upon signing and shall remain in effect unless set aside, limited, or suspended by the Division or upon court order after review under South Dakota law.

This Order shall not be construed as approving any act, practice, or conduct not specifically set forth herein which was, is, or may be in violation of relevant state or federal laws and regulations.

NOTICE OF HEARING

Any person aggrieved by this order, may, within thirty days after notice of this order has been mailed, file with the Division a written request for a hearing before the South Dakota Banking Commission (“Commission”). All proceedings before the Commission related to this order shall be held in conformance with SDCL Chapter 1-26.

DATED 9/13/2017

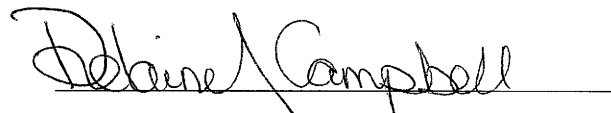


Bret Afdahl
Director
Division of Banking

CERTIFICATE OF SERVICE

Delaine Campbell, Secretary to the South Dakota Division of Banking, does hereby certify that she served by mail a true copy of the CEASE AND DESIST AND LICENSE REVOCATION ORDER on Sander J. Morehead, Attorney for Dollar Loan Center of South Dakota, LLC, P.O. Box 5027, Sioux Falls, SD 57117-5027, and InCorp Services, Inc., Registered Agent for Service of Process in South Dakota for Dollar Loan Center of South Dakota, LLC, 400 North Main Ave. Ste. 206, Sioux Falls, SD 57104-5979 properly addressed, postage prepaid, by mailing first class United States mail at the United States Post Office, Pierre, South Dakota.

Dated and mailed this 13th day of September, 2017.

A handwritten signature in cursive script that reads "Delaine Campbell". The signature is written in black ink and is positioned above a solid horizontal line.

Delaine Campbell
Secretary
South Dakota Division of Banking
1601 N. Harrison Avenue, Suite 1
Pierre, SD 57501
(605) 773-3421