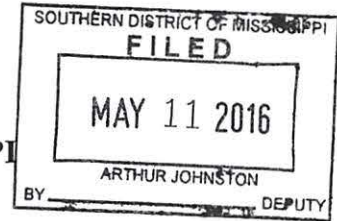


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION



Consumer Financial Protection Bureau,

Plaintiff,

v.

All American Check Cashing, Inc.; Mid-  
State Finance, Inc.; and Michael E. Gray,  
individually;

Defendants.

Case No. 3:16cv356WHB-JCG

**COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER RELIEF**

Plaintiff, the Consumer Financial Protection Bureau (“Bureau”), alleges the following against All American Check Cashing, Inc. and Mid-State Finance, Inc. (together, “AACC”) and Michael E. Gray (“Mr. Gray”) (together, “Defendants”):

**INTRODUCTION**

1. The Bureau brings this action based on Defendants’ violations of Sections 1031(a), 1036(a), and 1054(a) of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531(a), 5536(a), and 5564(a), in connection with their offering and providing of payday loans and check cashing services.

2. The Bureau seeks permanent injunctive relief, restitution, refunds, disgorgement, damages, civil money penalties, and other relief for Defendants’ violations of Federal consumer financial law.

**JURISDICTION AND VENUE**

3. The Court has subject-matter jurisdiction over this action because it is brought under Federal consumer financial law, 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

4. Venue is proper in this District because Defendants are located, reside, and do business in this District and because a substantial part of the events or omissions giving rise to the claims occurred here. 28 U.S.C. § 1391(b) and (c), and 12 U.S.C. § 5564(f).

**PLAINTIFF**

5. The Bureau is an agency of the United States charged with regulating the offering and provision of consumer financial products or services under Federal consumer financial laws. 12 U.S.C. § 5491(a). The Bureau has independent litigating authority to enforce Federal consumer financial laws, including the CFPA. 12 U.S.C. § 5564(a) and (b), 12 U.S.C. § 5531(a).

**DEFENDANTS**

6. All American Check Cashing, Inc. is a Mississippi corporation with its principal place of business at 505 Cobblestone Court, Suite B, Madison, MS, 39110. All American Check Cashing, Inc. has approximately 50 stores located in Mississippi, Alabama, and Louisiana, the majority of which are in Mississippi. At all times material to this complaint, All American Check Cashing, Inc. has offered and provided short-term, high-cost loans (“payday loans”) and check cashing to consumers. These products and services are “consumer financial product[s] or service[s]” as defined under the CFPA. 12 U.S.C. § 5481(5), (15). All American Check Cashing, Inc. is

therefore a “covered person” under the CFPA. 12 U.S.C. § 5481(6). At all times material to this complaint, All American Check Cashing, Inc. has transacted business in the Southern District of Mississippi.

7. Mid-State Finance, Inc., d/b/a Thrifty Check Advance, is a Mississippi corporation with its principal place of business at 505 Cobblestone Court, Suite B, Madison, MS, 39110. Mid-State Finance, Inc. has at least one store, in Pearl, Mississippi. At all times material to this complaint, Mid-State Finance, Inc. has offered and provided payday loans and check cashing to consumers. These products and services are “consumer financial product[s] or service[s]” under the CFPA. 12 U.S.C. § 5481(5), (15). Mid-State Finance, Inc. is therefore a “covered person” under the CFPA. 12 U.S.C. § 5481(6). At all times material to this complaint, Mid-State Finance, Inc. has transacted business in the Southern District of Mississippi.

8. Mr. Gray is the president and sole owner of All American Check Cashing, Inc. and Mid-State Finance, Inc. (together, “AACC”). Mr. Gray resides in Madison, Mississippi. Mr. Gray founded All American Check Cashing, Inc. in 1999, and purchased Mid-State Finance, Inc. approximately ten years later. At all times material to this Complaint, acting alone or in concert with others, Mr. Gray formulated, directed, controlled, or participated in the acts and practices of AACC, including the acts and practices set forth in this Complaint. At all times material to this Complaint, Mr. Gray has been a director, officer, or employee charged with managerial responsibility at AACC. Mr. Gray has also materially participated in the conduct of AACC’s affairs, including the development and approval of the practices complained of herein. Mr. Gray is a “related person” and a “covered person” under the CFPA. 12

U.S.C. § 5481(6), (25). At all times material to this Complaint, Mr. Gray has transacted business in the Southern District of Mississippi.

**AACC'S CHECK CASHING BUSINESS**

9. AACC began offering check cashing services in Mississippi in March 1999, in Louisiana in July 2012, and in Alabama in October 2013.

10. AACC charges consumers a fee to cash their checks. In Mississippi and Alabama, AACC's policy is to charge consumers 3% of the amount of the check to cash government-issued checks, and 5% of the amount of the check to cash other checks. In Louisiana, AACC's policy is to charge consumers 2% of the amount of the check to cash government-issued checks, and 5% of the amount of the check to cash other checks. In addition, in all states, AACC's policy is to charge a minimum fee of \$5. There are businesses and financial institutions located near AACC stores that charge consumers lower fees to cash a check.

11. AACC's check cashing business has been lucrative. In recent years, AACC has cashed about 12,000 to 17,000 checks and collected more than approximately \$1 million in check cashing fees, annually.

**AACC's policy and practice of refusing to disclose  
the check cashing fee to consumers**

12. Because the check cashing fees are fixed, when a consumer presents a check to AACC to cash, the AACC employee knows the fee structure (e.g. 3% or 5%). To determine the particular fee percentage a consumer will pay, the only information the AACC employee needs to know is whether or not the check is a government check, which the employee can almost always determine by looking at the face of the check. In addition, if the employee calculates the fee or knows that the \$5 minimum applies,

the employee also knows the dollar amount of the fee.

13. AACC prohibits employees from orally disclosing to consumers the fee structure (e.g. 3% or 5%), the fee percentage that applies to a transaction (e.g. 3%), or the dollar amount of the fee, at any point during a check cashing transaction, even when a consumer asks the employee what the fee is.

14. AACC's policy and training documents instruct employees to "[n]ever tell the customer the fee" and "[n]ever quote the fee or the percentage to the customer[.]"

15. AACC regularly trains and monitors its employees to ensure that they adhere to this prohibition. For example, AACC provides a training presentation to new employees instructing them to "NEVER TELL THE CUSTOMER THE FEE."

16. In a January 5, 2013 email, Mr. Gray listed the check cashing methods and systems he created, including: "NEVER spout off the fee in dollars or in percent."

17. When a consumer presents AACC with a check, AACC instructs its employees to "verify" the check by calling the issuer to confirm the check's authenticity and to "process" the check by entering data from the check into a store computer and preparing the cash and receipt for the consumer. AACC requires its employees to verify and process the check and provide the cash and receipt to the consumer without ever disclosing the fee or obtaining the consumer's consent to the transaction, even when a consumer asks how much it costs to cash a check.

18. When a consumer asks how much it costs to cash a check, AACC requires employees to deflect the question long enough to verify and process the check. For example, AACC instructs employees to say that the employees are not sure what the fee is and need to take additional steps to determine the fee, such as putting information in the store's computer, processing the check, or verifying the check.

AACC also trains employees to falsely state “I will let you know [the fee] in just a moment,” or state that the fee depends on the company that issued the check.

19. In both Mississippi and Louisiana, two of the jurisdictions within which AACC operates, the law provides for certain disclosures related to fees for check cashing services. At all times relevant to the allegations in this Complaint, AACC and Gray formulated and carried out a program aimed at subverting these consumer protections.

20. Mississippi law requires that consumers sign an acknowledgment of the fees charged when cashing a check. The receipt that AACC provides to consumers to sign at the end of the transaction lists the fee charged, but AACC requires employees to “[c]ount money out over receipt” to block the consumer’s view of the fee. Employees sometimes use other items to cover the fee, such as small giveaways. AACC also instructs employees to minimize the amount of time that the consumer can see the receipt before signing it. AACC instructs its employees to “keep [the] receipt away from customer as much as possible,” “keep the [receipt] for [the consumer] to sign on the counter for only a second,” and “remove [the] receipt and check as quickly as possible.” One former supervisor stated, “Employees at the stores I supervised asked customers to sign the receipt after the money was counted out over the receipt, so customers would not have a clear view of the fees listed on the receipt before signing it.” Even if the consumer sees the fee on the receipt, the receipt lists the “Fee Charged” and the “Date Cashed” in the past tense, indicating that the transaction has been completed and the fee already charged.

21. In both Mississippi and Louisiana, AACC is required to display a sign listing the fee percentages that AACC charges to cash checks. AACC does not permit

employees to direct a consumer's attention to the sign, even if the consumer asks about the amount of the fee. In fact, AACC seeks to prevent consumers from seeing the sign. In AACC stores, the sign is placed under the counter. Per company policy, AACC employees must direct consumers to a seat in the lobby while their check is being verified and processed, and ensure that the consumer's time at the counter is as minimal as possible. The information on the sign can be difficult to read from the lobby. One former employee stated that he was told by a store manager to keep the consumer's time at the counter as short as possible "to minimize the chance that the customer would see the fees listed on the sign under the counter[.]"

22. AACC also trains employees to distract consumers from finding out the fee by engaging in small talk, providing consumers with information not relevant to the transaction, showing them the cash, and providing small, free gifts. During one training, AACC instructed employees to ensure "[c]onstant information [is] given to customer" so that "they are overwhelmed with info." AACC's goal is to distract consumers as much as possible so that transactions can be completed without consumers learning the fee.

23. One consumer described AACC's failure to disclose its check cashing fee as follows:

I went into All American Check Cashing... to cash my tax refund check which was roughly \$4100. Upon asking how much the fee would be I was told that it wouldnt be expensive. There were no signs in the... building telling customers how much their services were. So, once my check was cashed, the guy... brung me my money. While he was counting the money, I kept asking how much did yall charge because he kept my ID over the amount charged and everytime I would move the ID he would grab it back so I wouldnt see the fee. I was charged \$200+!!!! Im very upset that I was overcharged...On top of that, they provided no paperwork. Something has got to be done.



**AACC's policy and practice of making it difficult for consumers to cancel or reverse a check cashing transaction**

24. AACC compounds its obfuscation of check cashing fees by making it difficult or impossible for consumers to cancel or reverse a check cashing transaction if and when they do learn the fee. AACC does this by, among other things, making misrepresentations about the consumer's ability to cancel or reverse a transaction, and taking steps during processing that make it difficult or impossible for the consumer to cash a check elsewhere.

25. According to one former supervisor, "the only time you ever have the transaction voided... is if the customer is pretty much kicking and screaming, fussing, cussing[.]"

26. In some cases, AACC makes false or misleading representations to discourage consumers from cancelling or reversing a transaction. For example, employees sometimes falsely say that because of steps taken by AACC during processing, the consumer cannot reverse the transaction and cash the check elsewhere, even when the consumer could, in fact, reverse the transaction and cash the check elsewhere. Employees also foster the misimpression that if the check is taken to a bank, then the bank will hold the check for a long period of time — further delaying consumers' access to their funds — when the AACC employees do not know whether or not this is true. Employees also tell consumers that it will take a long time to void or reverse a transaction, when this is not true.

27. In some instances, the steps AACC takes while processing a check actually do make it difficult or impossible for the consumer to cash the check elsewhere, and thus AACC locks the consumer into the transaction. For example, when processing a



check, employees sometimes apply a stamp to the back of the check – such as, “FOR DEPOSIT ONLY: ALL AMERICAN CHECK CASHING INC” – that prevents or interferes with the consumer’s ability to cash the check elsewhere. Some employees stamp a consumer’s check and then, if the consumer becomes upset about fee, tell the consumer that the consumer cannot cash that check elsewhere.

28. AACC also uses physical custody of the check to control consumers and to compel consumers to pay the fee even if they object. Training documents instruct employees to “[a]lways keep the check” because doing so “[k]eeps [the employee] in control of the situation” so the “[c]ustomer can’t just walk out and leave without talking to you.”

#### **Creation and implementation of AACC’s check cashing policies**

29. AACC and Mr. Gray promoted the check cashing policies and procedures described in Paragraphs 12 to 28. Mr. Gray created, or specifically approved, many of these policies and procedures. These policies and procedures are widely implemented at AACC.

30. AACC and Mr. Gray devote substantial resources to ensure that employees at every store strictly follow the check cashing policies and procedures in every transaction. For example, AACC performs regular audits of its stores to ensure that employees follow its check cashing policies. In addition, a supervisor visits stores to conduct demonstrations and practice sessions with employees on how to cash a check according to the policies and procedures set forth in Paragraphs 12 to 28.

31. AACC and Mr. Gray provide store managers and supervisors with incentives to ensure they follow AACC’s check cashing policies and procedures. For example, managers and supervisors can increase their monthly bonuses by increasing check

cashing fees collected at their stores.

32. As a result of the check cashing practices and policies, described in Paragraphs 12 to 28, consumers who do not know the fee for cashing a check are prevented or hindered from discovering it and prevented or hindered from stopping or reversing a transaction if they do learn the check cashing fee and seek to cancel the transaction.

### **AACC'S PAYDAY LENDING BUSINESS**

33. AACC offers payday loans to consumers in its stores in Mississippi, Louisiana, and Alabama. AACC began offering payday loans in Mississippi in March 1999, in Louisiana in July 2012, and in Alabama in October 2013.

34. AACC provides payday loans to consumers who receive benefits or paychecks once a month ("monthly consumers"). Monthly consumers include individuals who receive government benefits, such as Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI), and individuals paid by their employers once per month.

35. Unlike many of its competitors, AACC does not provide 30-day loans to monthly consumers. Instead, AACC has provided these consumers with multiple two-week loans over the course of the month. By borrowing from AACC, these consumers pay more in fees for the same or less net cash received during the month. Nevertheless, AACC has deceptively represented to consumers that borrowing from AACC in this manner is more financially beneficial than, or at least financially equivalent to, taking out a 30-day loan from one of AACC's competitors.

### **Regulatory background**

36. In Mississippi, AACC offers two payday loan products: a two-week loan of

\$100 for a \$20 fee, and a two-week loan of \$200 for a \$40 fee. AACC does not offer loans above \$250 because, although the maximum permissible fee under Mississippi state law is slightly higher (\$21.95 for every \$100 loaned), Mississippi law requires that loans in excess of \$250 have a loan term of 28 to 30 days. Miss. Code. § 75-67-519(1), (4).

37. Mississippi law prohibits lenders from “rolling over” a consumer’s loan, *i.e.* providing the consumer with a new loan to pay back an outstanding loan from the same lender. Miss. Code. § 75-67-519(5).

38. In Louisiana, although a payday loan term can be up to 30 days, AACC offers only two-week loans. Lenders may not roll over loans in Louisiana, although a lender may accept a partial payment of 25% of the amount advanced plus the fee and then enter into a new transaction for the remaining balance. La. Rev. Stat. §§ 9:3578.3(2)(b); 9:3578.6(7).

39. In Alabama, although a payday loan term can be up to 31 days, AACC offers only two-week loans. Under Alabama law, one rollover is permitted for a maximum of two continuous transactions. Ala. Code §§ 5-18A-13(c); 5-18A-12(b).

40. AACC has regularly rolled over consumers’ loans, even when it is illegal to do so under state law.

**AACC’s practice of lending to consumers who are paid monthly,  
or “1st and 3rd lending”**

41. Instead of a 30-day loan, AACC has provided monthly consumers with one or more two-week loans during the course of a single month, typically in the beginning of the month and in the middle of the month. AACC often refers to this lending practice as “Lending on the 1st and 3rd” or “Loaning on the 1st and 3rd,” in part

because many monthly consumers regularly come into an AACC store in the beginning of the month – on the 1st or the 3rd day of the month. AACC has also referred to this practice as the “Monthly Lending Program.”

42. Since at least 2011, AACC has implemented Lending on the 1st and 3rd (“1st and 3rd lending” or “1st and 3rd lending program”) in Mississippi, Alabama, and Louisiana.

43. In implementing 1st and 3rd lending, AACC frequently has used consumer’s loan(s) in the middle of the month to pay back the consumer’s loan(s) from the beginning of the month, *i.e.* rolled over the loan(s). AACC has often loaned monthly consumers more in the middle of the month than in the beginning of the month.

44. By borrowing from AACC through 1st and 3rd lending rather than taking out a 30-day loan from a competitor, consumers pay more in fees for the same or less net cash received during the month.

45. On multiple occasions, AACC distributed a training document to employees describing 1st and 3rd lending, which was also posted on the company’s intranet. AACC used the document to instruct employees on how to implement 1st and 3rd lending, including during breakout sessions at company-wide meetings. The document uses the following example of how to implement 1st and 3rd lending for a consumer in Mississippi:

- a. At the beginning of the month, when Mary comes to the store to pay off her loans, employees “[i]mmediately start selling her on getting part of her money back today.”
- b. Mary takes out a two-week loan for \$200. This loan has a \$40 fee.
- c. In the middle of the month, Mary brings in \$40. She then takes out two

two-week loans of \$200 each. Mary combines the \$40 that she brought in with \$200 from one of the loans to pay back the loan and fee from the beginning of the month. In other words, the loan from the beginning of the month is rolled over. Mary leaves with the \$200 from the second loan.

- d. At the beginning of the next month, after receiving her monthly income, Mary pays the \$480 due (\$400 in principal plus an \$80 fee from the two loans from the middle of the month).

46. In the example in Paragraph 45, the consumer pays \$120 in fees during the course of the month in return for leaving the store with a total of \$400: \$200 in the beginning of the month and \$200 in the middle of the month. As shown in the chart below, AACC charged the consumer significantly more fees through 1st and 3rd lending than the consumer would have paid for a 30-day loan of \$400 from a competitor.

	<b>\$400 to consumer from one 30-day loan</b>	<b>\$400 to consumer from three two-week loans</b>
<b>Fee in beginning of month</b>	\$87.80 (for \$400 loan)	\$40 (for \$200 loan)
<b>Fees in middle of month</b>	None	\$40 (for \$200 loan to pay back first loan) \$40 (for an additional \$200 loan)
<b>Total fees</b>	\$87.80	\$120
<b>Total cash received</b>	\$400 (all in beginning)	\$400 (\$200 in beginning, \$200 in middle)

47. The exact implementation of 1st and 3rd lending has varied. For example, some monthly consumers have borrowed \$100 or \$300 in the beginning of the month, rather than \$200. In addition, monthly consumers sometimes have brought in nothing at all or the entire amount due mid-month. In all these circumstances, monthly

consumers still pay more in fees for the same or less net cash received than if they had borrowed a 30-day loan from a competitor. An AACC supervisor highlighted how costly AACC 1st and 3rd lending is compared to competitor 30-day loans:

The most common implementation of [1st and 3rd lending] that I saw was that the customer would borrow \$300 at the beginning of the month and then return in the middle of the month without any money. The customer would borrow an additional \$400 in the middle of the month and use \$360 to pay back the loan (\$300) plus the fee (\$60) from the beginning of the month. The customer would then leave the store with the remaining cash, which was \$40. The customer would owe \$480 at the beginning of the next month. In this situation, the customer paid \$140 in fees during the month. If the customer had taken out a 30-day loan for \$400 from a competitor instead, the customer would have paid only \$87.80 in fees.

**AACC made deceptive statements to consumers  
in implementing 1st and 3rd lending**

48. AACC has represented to consumers that borrowing pursuant to 1st and 3rd lending was more financially beneficial than, or at least financially equivalent to, taking out a 30-day loan from one of AACC's competitors. For example, AACC has represented to consumers that "the fees are higher for competitors that offer [loans for] 30 days" and that "[c]ompetitors that offer 30 day advances are not able to help their customers twice a month like All American[.]" AACC has told consumers that AACC was "helping" or "looking out for" them by providing them with money in the middle of the month.

49. In fact, 1st and 3rd lending is not more financially beneficial for monthly consumers compared to a 30-day loan. In all variations of 1st and 3rd lending, monthly consumers pay AACC more in fees for the same or less net cash received over the course of the month than they would have paid for a 30-day loan from a competitor.

50. Consumers do not understand that they paid higher fees for the same or



less net cash received by borrowing twice a month from AACC compared with obtaining a 30-day loan from a competitor.

51. AACC also has misrepresented the amount and number of fees associated with 1st and 3rd lending. For example, AACC sometimes has told monthly consumers that, after receiving a loan, consumers could return in the middle of the month and receive more cash, but does not explain that consumers would also pay a fee at that time. As a result, some consumers have not understood that AACC charges them an extra fee when they obtain additional money in the middle of the month.

52. AACC has made these deceptive statements to encourage consumers to participate in 1st and 3rd lending, which AACC has described internally as a “huge income booster” due to the extra fees it has enabled AACC to extract from monthly consumers. AACC has instructed employees to sell 1st and 3rd lending aggressively to consumers. In one email to all the stores, a supervisor included the following cartoon depicting an AACC employee pressuring a consumer to participate in 1st and 3rd lending:





53. Mr. Gray has promoted the use of deceptive statements at AACC. For example, he circulated a 1st and 3rd training document that included the deceptive statements described in Paragraph 48, and instructed employees to implement it. Mr. Gray also has instructed employees to be aggressive in urging consumers to participate in 1st and 3rd lending.

**AACC RETAINED OVERPAYMENTS MADE BY CONSUMERS**

54. Consumers sometimes make overpayments to AACC when paying back a loan. Some of the overpayments are small, but in some instances, consumers overpay by hundreds of dollars. Overpayments occur when, for example, a consumer pays back a loan in cash at a store, and AACC has already requested an electronic fund transfer (EFT) from the consumer's bank. If AACC successfully obtains a payment through the EFT, then the consumer pays back the loan twice instead of once: first in cash, and then through the EFT.

55. From at least 2011 until at least 2014, AACC did not take affirmative steps to notify consumers when they made an overpayment or to refund overpayments to consumers, even though AACC could do so by sending an EFT to the consumer's bank account or a paper check to the consumer's home.

56. In addition, on a regular basis, AACC deleted the credit balances from consumers' accounts, making it more difficult for store employees to identify and provide refunds to consumers.

57. Mr. Gray knew of and directed AACC's practice of retaining overpayments by consumers and deleting credit balances from their accounts.

58. As a result of its refund policies and practices, AACC failed to provide refunds to hundreds of consumers.

**ROLE OF INDIVIDUAL DEFENDANT MICHAEL E. GRAY**

59. Mr. Gray was aware of the unlawful policies, procedures, and practices described herein, promoted them, directed others to implement them, and personally created some of them.

60. Mr. Gray has ultimate authority over AACC's products, policies, procedures, and strategic decisions, including with respect to lending, check cashing, and providing refunds to consumers.

61. Mr. Gray has received personal financial gain from the illegal practices discussed herein. Mr. Gray withdraws money from AACC at will with no formal process or predetermined regularity.

**VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT**

62. Sections 1031 and 1036 of the CFPA prohibit a "covered person" from committing or engaging in any "unfair, deceptive or abusive act or practice" in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. 12 U.S.C. §§ 5531(a), 5536(a)(1)(B). Defendants are "covered person[s]" within the meaning of the CFPA. 12 U.S.C. § 5481(6), (25).

63. An act or practice is unfair if the act or practice causes or is likely to cause substantial injury to consumers, which is not reasonably avoidable by consumers; and such substantial injury is not outweighed by countervailing benefits to consumers or to competition. 12 U.S.C. § 5531(c).

64. An act or practice is deceptive if there is a material representation, omission, or practice that is likely to mislead consumers acting reasonably under the circumstances.

65. An act or practice is abusive if it (1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service, or (2) takes unreasonable advantage of (A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or (C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer. 12 U.S.C. § 5531(d).

## **DEFENDANTS' UNLAWFUL CHECK CASHING PRACTICES**

### **Abusive Acts and Practices in Check Cashing**

#### **Count I**

66. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

67. In numerous instances, in connection with offering and providing check cashing to consumers, Defendants have materially interfered with the ability of consumers to understand a term or condition of their check cashing services by having a policy to never tell the consumer the fee – even when the consumer asks, blocking the fee amount listed on the receipt, minimizing the amount of time the consumer has to see the receipt, interfering with the consumer's ability to see the sign listing fee percentages, making false or misleading statements to consumers about the availability of information about the fee, and making false or misleading statements to consumers about their ability to cancel or reverse the transaction or to cash their check elsewhere.

68. Defendants' acts and practices in connection with check cashing constitute

abusive acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C. §§ 5531(a) and (d)(1), 5536(a)(1)(B).

### **Count II**

69. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

70. In numerous instances, in connection with offering and providing check cashing to consumers, Defendants have taken unreasonable advantage of the inability of consumers to protect their interests in selecting or using Defendants' check cashing services by pressuring or coercing consumers to cash their checks at AACC, including by retaining custody of the check to prevent consumers from leaving, processing the check without the consumer's consent, applying an AACC stamp to the back of the check during processing to impair the consumer's ability to cash the check elsewhere, and making misrepresentations about the consumer's ability to cancel or reverse the transaction or cash the check elsewhere.

71. Defendants' acts and practices in connection with check cashing constitute abusive acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C. §§ 5531(a) and (d)(2)(B), 5536(a)(1)(B).

### **Deceptive Acts and Practices in Check Cashing**

#### **Count III**

72. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

73. In numerous instances, in connection with offering and providing check cashing to consumers, Defendants have represented to consumers that:

- a. Information about the fee for cashing a check is not available; and

- b. It is difficult or time-consuming to cancel or reverse a check cashing transaction, and steps taken by AACCC during processing prevent consumers from cashing their checks elsewhere.

74. In truth and in fact, in numerous instances:

- a. Information about the fee for cashing a check is available. This information includes: the fee structure (e.g. 3% or 5%), the fee percentage that applies to a transaction (e.g. 3%), or the dollar amount of the fee; and
- b. It is not difficult or time-consuming to cancel or reverse a check cashing transaction and, in some cases, the steps taken by AACCC to process the check do not prevent consumers from cashing their checks elsewhere.

75. Defendants' representations described in Paragraph 73 are false and misleading, and constitute deceptive acts or practices in violation of Sections 1031 and 1036 of the CFPA, 12 U.S.C §§ 5531(a), 5536(a)(1)(B).

### **Unfair Acts and Practices in Check Cashing**

#### **Count IV**

76. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

77. In numerous instances, Defendants' check cashing acts and practices described herein have caused or were likely to cause substantial injury to consumers, including but not limited to the payment of fees in amounts that were not authorized by consumers and for which consumers did not bargain.

78. Defendants' actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or to competition.

79. Defendants' acts and practices as described in Paragraph 77 constitute unfair acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C §§ 5531(a) and (c), 5536(a)(1)(B).

**DEFENDANTS' UNLAWFUL 1ST AND 3RD LENDING PRACTICES**

**Deceptive Acts and Practices in 1st and 3rd Lending**

**Count V**

80. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

81. In numerous instances, in connection with offering and providing payday loans to monthly consumers, Defendants have represented to consumers directly or indirectly, expressly or by implication, that borrowing pursuant to "1st and 3rd lending" was more financially beneficial than or equivalent to obtaining a 30-day loan from a competitor.

82. In truth and in fact, "1st and 3rd lending" is not more financially beneficial than or equivalent to obtaining a 30-day loan from a competitor because consumers borrowing pursuant to "1st and 3rd lending" pay higher fees for the same amount of or less net cash received over the course of the month compared to 30-day loans offered by competitors.

83. Defendants' representations described in Paragraph 81 are false and misleading, and constitute deceptive acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C §§ 5531(a), 5536(a)(1)(B).

**DEFENDANTS' UNLAWFUL PRACTICES RELATING TO OVERPAYMENTS**

**Unfair Acts and Practices in Connection with Overpayments by Consumers**

**Count VI**

84. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

85. In numerous instances, Defendants have not notified or refunded consumers when consumers have made an overpayment.

86. Defendants' actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or to competition.

87. Defendants' acts and practices as described in Paragraph 85 constitute unfair acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C §§ 5531(a) and (c), 5536(a)(1)(B).

**CONSUMER INJURY**

88. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the CFPA. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

**THIS COURT'S POWER TO GRANT RELIEF**

89. The CFPA empowers this Court to grant any appropriate legal or equitable relief including, without limitation, a permanent or temporary injunction, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, payments of damages or other monetary relief,



limits on the activities or functions of Defendants, and civil money penalties. 12 U.S.C. § 5565(a), (c). In addition, the Bureau may recover its costs in connection with the action, if it is the prevailing party. 12 U.S.C. § 5565(b).

**PRAYER FOR RELIEF**

90. Wherefore, the Bureau requests that the Court:
- a. Award Plaintiff such injunctive and ancillary relief as may be necessary to enjoin Defendants from harming consumers, including but not limited to limits on activities or functions of Defendants;
  - b. Permanently enjoin Defendants from committing future violations of the CFPA;
  - c. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the CFPA, including, but not limited to, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, and payment of damages or other monetary relief;
  - d. Award Plaintiff civil money penalties; and
  - e. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: May 11, 2016

Respectfully submitted,

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