

STATE OF NEW HAMPSHIRE

BANKING DEPARTMENT

In re CashCall, Inc.,
John Paul Reddam, President and CEO of CashCall, Inc., and
WS Funding, LLC.

Docket No. 12-308

CONSENT ORDER

The New Hampshire Banking Department (the "Department"), acting in agreement with the Respondents, CashCall, Inc. ("CashCall"), John Paul Reddam, President and CEO of CashCall, and WS Funding, LLC ("WS Funding"), finds and orders as follows:

Respondents

1. CashCall is a California corporation headquartered in Orange, California. CashCall was licensed by the Department as a mortgage banker under RSA Chapter 397-A until December 31, 2013 when it surrendered its license.
2. John Paul Reddam is the President and Chief Executive Officer of CashCall. Mr. Reddam owns 100% of CashCall's corporate stock. Mr. Reddam does not hold any license from the Department.
3. WS Funding is a wholly-owned subsidiary of CashCall. WS Funding is a Delaware limited liability company with its principal place of business in Orange, California. WS Funding is not licensed by the Department.

Definitions

1. "Borrower Refund Amount" shall mean the amount that a New Hampshire borrower who entered into a loan on the Loan List is eligible to receive from the Respondents under the terms of this Consent Order.

2. "Collectible Amount" shall mean the amount the Respondents would have collected in principal and interest if the loan had been originated with a 36% Annual Percentage Rate. The Collectible Amount shall account for the servicing history of each loan.
3. "Effective Date" shall mean the date that the Commissioner executes this Consent Order.
4. "Refund Eligible Borrower" shall mean any New Hampshire consumer who received a loan from the Respondents and has a Borrower Refund Amount greater than \$0.

Background

On June 4, 2013, the Department issued an Order to Cease and Desist against the Respondents alleging that the Respondents violated RSA Chapter 399-A. On July 5, 2013, the Respondents requested a hearing on the Order to Cease and Desist. Subsequently, the Department and the Respondents entered into negotiations to resolve this matter with the full cooperation of both parties.

During the course of negotiations, the parties identified a list of all loans that were made to New Hampshire consumers. This list identified all New Hampshire loans that were owned by any of the Respondents at any time (including loans that were subsequently sold or transferred by any of the Respondents to third parties) and had loan agreements that identified Western Sky Financial, LLC as the lender (the "Loan List"). The Respondents and the Department have evaluated each loan on the Loan List to calculate any Borrower Refund Amounts and identify all Refund Eligible Borrowers. The parties calculated any Borrower Refund Amounts as follows:

1. For each loan on the Loan List, calculate a Collectible Amount by re-amortizing the principal amount of the loan at a 36% annual percentage rate to determine a new monthly payment and total all payments for the term of the loan.

2. Subtract the Collectible Amount and any fees owed by the consumer from the total amount paid by the consumer to determine the Borrower Refund Amount.

For example, a borrower on the Loan List received a loan in the amount of \$1,500, which included a \$500 prepaid fee. The borrower paid a total of \$4,874.52 on her loan. To determine her Borrower Refund Amount: first, re-amortize the \$1,500 loan at a 36% annual percentage rate to determine a new monthly payment and total all payments for the term of the loan to arrive at a Collectible Amount of \$2,125.71. Second, subtract the Collectible Amount (\$2,125.71) and her prepaid fee (\$500) from the total amount paid by the consumer (\$4,874.52) to arrive at a Borrower Refund Amount of \$2,248.81.

Acknowledgments

1. The parties acknowledge that nothing in this Consent Order waives the right of any consumer to pursue claims stemming from the conduct described in this Consent Order.
2. The Respondents knowingly and voluntarily entered into this Consent Order without reliance upon any discussions between the Department and the Respondents, without the promise of a benefit of any kind (other than the concessions contained in this Consent Order), and without threats, force, intimidation, or coercion of any kind.
3. The Respondents understand the nature of the allegations set forth in this Consent Order, including potential penalties provided by law.
4. The Respondents acknowledge, understand, and agree they have the right to notice, hearing, civil action, and/or appeal related to this Consent Order, and hereby waive those rights.
5. The Respondents understand that entering into this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.

6. The Respondents represent and warrant that they have all the necessary rights, powers, and abilities to carry out the terms of this Consent Order.
7. The Respondents acknowledge that the Department is relying upon the Respondents' representations and warranties stated herein in making its determination in this matter.
8. The Respondents understand this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against the Respondents if the Department later discovers that the Respondents knowingly or willfully withheld information from the Department.
9. This Consent Order is binding on all heirs, assigns, and successors in interest.
10. This Consent Order fully resolves this matter and the Commissioner will not take further action against Respondents, or their officers, directors or employees, relating to the conduct described in this Consent Order and the Order to Cease and Desist dated June 4, 2013. However, the Department may take enforcement action against Respondents for any violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms of this Order is not being observed or if any representation made by Respondents and reflected herein is subsequently discovered to be untrue.

Order

Pursuant to RSA 399-A:20, VI, the Bank Commissioner finds this Consent Order necessary or appropriate to the public interest, for the protection of consumers, and consistent with the purposes fairly intended by the policy and provisions of RSA Chapter 399-A. Accordingly, the Commissioner orders as follows:

1. General Terms:

- a. The Respondents shall comply with RSA Chapter 399-A, and any rules or orders under RSA Chapter 399-A, including but not limited to all licensure requirements.
- b. The Respondents shall not sell, transfer, or assign any obligations arguably due under the terms of the loans listed on the Loan List.
- c. The Respondents shall not contract with any third-party debt collectors regarding the loans listed on the Loan List.
- d. The Respondents shall not resume collection or servicing activities with regard to any loan on the Loan List.

2. Borrower Refunds:

- a. Within 90 days of the Effective Date, the Respondents shall engage a third-party payment administrator (“Administrator”) that is approved by the Department prior to any engagement to facilitate the distribution of borrower refunds.
- b. The Respondents shall be responsible for paying all costs of the Administrator and any expenses incurred in providing notice and processing refunds to consumers. In no event shall the Department be liable for any costs associated with the provision of monies to consumers.
- c. The Department shall have the right to remove and replace the Administrator for failing to comply with the terms of this Consent Order or otherwise acting improperly.
- d. In no event shall the Department have any liability to the Respondents, the Administrator, or any consumer in connection with the provision of monies to consumers.

- e. Upon engagement of the Administrator, the Respondents shall deliver the Loan List to the Administrator. The Respondents shall also provide the Administrator with any other information reasonably necessary for the Administrator to discharge its duties under this Consent Order, including each borrower's last known mailing address, telephone number, and e-mail address.
- f. Within 120 days of the Effective Date, the Respondents shall direct the Administrator to deliver via postal mail and email a "Notification of Refund Eligibility" to all Refund Eligible Borrowers. The Notification of Refund Eligibility shall: notify borrowers of this Consent Order; specify the Borrower Refund Amount; and include a release of claims. The Respondents shall direct the Administrator to attempt to continue to locate and contact all Refund Eligible Borrowers that they are unable to reach in accordance with the provisions of subsection (n) below.
- g. The Respondents shall direct the Administrator to ensure that the Notification of Refund Eligibility clearly instructs the Refund Eligible Borrower to sign and return the document no later than 180 days from the Effective Date (the "Claims Period") to obtain the refund.
- h. The Administrator shall work with the Department to draft appropriate and clear communications to Refund Eligible Borrowers to be made via mail and e-mail, consistent with the terms of this Consent Order. The Administrator and the Department shall consider the Respondents' input on the drafting of these communications in good faith.

- i. Within 10 days following the end of the Claims Period, the Respondents shall provide the Administrator with funds sufficient to pay Borrower Refund Amounts to all Refund Eligible Borrowers who submitted a claim.
- j. The Respondents shall direct the Administrator to take appropriate measures to minimize fraud and promote accuracy. Within 30 days following the end of the Claims Period, the Administrator shall send a check in the amount of the Borrower Refund Amount to each Refund Eligible Borrower who had completed and returned a Notification of Refund Eligibility prior to the end of the Claims Period.
- k. All funds distributed by the Administrator shall be by check that is valid for 90 days. The Respondents shall direct the Administrator to contact in writing, by mail and email, each Refund Eligible Borrower to whom such refund checks were issued, if such check remains un-cashed for more than 90 days. If a Refund Eligible Borrower contacts the Administrator thereafter, the Respondents shall direct the Administrator to re-issue the un-cashed check if less than 11 months from the Effective Date. After 11 months from the Effective Date, the Administrator shall direct the Refund Eligible Borrower to the State of New Hampshire, Treasurer, Abandoned Property Division.
- l. The Respondents shall direct the Administrator to provide the Department with copies of canceled checks which have been cashed by Refund Eligible Borrowers.
- m. The Respondents shall direct the Administrator to publicize this Consent Order to maximize reasonable notice to Refund Eligible Borrowers by placing an advertisement in a New Hampshire newspaper of general circulation in both

hardcopy and online versions at 120 days from the Effective Date and then again at 150 days from the Effective Date. The advertisements shall be reviewed and approved by the Department prior to publication. The Respondents shall direct the Administrator to maintain a website with the terms and conditions of the Consent Order, as well as information by which Refund Eligible Borrowers may contact the Administrator to inquire as to their refund eligibility, verify or update their contact information, and learn of the procedures to obtain refunds.

- n. The Respondents shall direct the Administrator to make all reasonable efforts including written letter, email, or telephone, to locate or follow-up with all Refund Eligible Borrowers who (i) the Administrator did not successfully contact within the period described in subsection (f) above because of incorrect or unavailable contact information; (ii) did not submit a claim within 30 days of the Administrator's attempt to contact the borrower; or (iii) submitted a claim but whose refund payment was returned. Such reasonable efforts shall include, but not be limited to, the use of commercially-available databases, public records, and follow-up correspondence. If contact information for the borrower is identified, the Respondents shall direct the Administrator to, within 7 days, send Notification of Refund Eligibility to the borrower at the new address or a refund payment if the refund payment was previously returned.
- o. The Respondents shall direct the Administrator to provide the Department a monthly report that provides the following information for each separately identified Refund Eligible Borrower: (i) claims received; (ii) total number of claims received; and (iii) number and identity of Refund Eligible Borrowers yet to

file claims and subsequent efforts made to contact them. Within 10 days of the date the Administrator sends a check in the amount of the Borrower Refund Amount to each Refund Eligible Borrower who had completed and returned a Notification of Refund Eligibility prior to the end of the Claims Period, the Administrator shall provide the Department with an updated monthly report that states the total number of claims paid and the total amount of such payments.

- p. The Respondents shall direct the Administrator to, upon request of the Department, provide all documentation and information necessary to confirm compliance with this Consent Order.
 - q. All communications with Refund Eligible Borrowers and procedures shall be subject to review and approval by the Department. The Administrator, the Department, and the Respondents shall in good faith consider the Respondents' input with respect to such communications and procedures.
 - r. The Respondents shall provide the Department with a copy of all communications and transmissions of information to the Administrator.
 - s. To the extent any errors are identified in the Loan List, the Respondents and the Department agree to work in good faith to correct such errors.
3. Escheat to the State of New Hampshire. In the specific event that a Refund Eligible Borrower fails to cash a check issued by the Administrator in accordance with this Consent Order and the Administrator has made reasonable efforts to contact the borrower consistent with this Consent Order, the Administrator shall turn over such unclaimed Borrower Refund Amount to the State of New Hampshire, Treasurer, Abandoned Property Division in the name of the borrower in accordance with applicable New

Hampshire law. The Respondents shall direct the Administrator to provide the Department with proof of any escheatment.

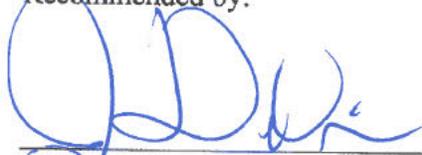
4. Credit Report Remediation. Within 60 days of the Effective Date, for each loan on the Loan List, whether currently or previously owned by the Respondents, the Respondents shall notify all credit agencies that maintain a record of the loan that any negative credit reporting related to the loan should be removed.
5. Debt Collector Notifications. To the extent that any loan on the Loan List was sold or transferred to a debt collector, the Respondents shall notify the debt collector or purchaser of the loan of this Consent Order, identify the loans that they purchased that appear on the Loan List, and inform such debt collector or purchaser that the identified loans should be deemed discharged, canceled, released, and forgiven. The Respondents shall provide the Department with a copy of any such communication including the debt collector's or purchaser's identity and contact information.
6. Dismissal of Superior Court Action. As soon as practicable, but in no event later than 7 calendar days after the Effective Date, the Respondents shall file a motion for voluntary non-suit in the action currently pending in the State of New Hampshire, Superior Court, Merrimack County, captioned *CashCall, Inc., et al. v. State of New Hampshire, Banking Department*, Case No. 217-2018-CV-00356 (the "Superior Court Action"), with each party bearing its own costs, expenses, and fees in the Superior Court Action.
7. Administrative Fine.
 - a. The Respondents shall be jointly and severally liable for the sum of \$188,880 in administrative fines, payable as follows:

- i. The sum of \$94,440 shall be paid within 30 days of the Respondents' execution of this Consent Order by bank check made payable to the "State of New Hampshire" or by wire.
 - ii. The remaining sum of \$94,440 shall be suspended (the "Suspended Amount") for a period of 18 months from the Effective Date (the "Suspension Period"), provided that the Respondents comply with the provisions of this Consent Order. If the Respondents fail to comply with any provision of this Consent Order, the Respondents shall be jointly and severally liable to pay the Suspended Amount. At the conclusion of the Suspension Period, the Suspended Amount shall be permanently suspended unless: (i) the Presiding Officer determines that Respondents have violated the terms of this Consent Order, or (ii) an administrative enforcement action filed by the Department to determine compliance with this Consent Order is pending. At the conclusion of any such administrative enforcement action to determine compliance with this Consent Order, the Suspended Amount shall be dealt with in accordance with the determination of that administrative enforcement action.
- b. In the event that a payment previously made by one or more of the Respondents is avoided or recovered in connection with a bankruptcy proceeding or otherwise, each and every Respondents shall be jointly and severally liable for repaying any avoided or recovered payments.

8. Compliance and Enforcement.

- a. The Respondents shall maintain and keep available records needed to establish compliance with all provisions of this Consent Order for a minimum of 3 years.
- b. Upon request of the Department, the Respondents shall produce all non-privileged documents and/or information relating to compliance and/or efforts to comply with the provisions of this Consent Order.

Recommended by:



John DeWispelaere
Hearings Examiner
New Hampshire Banking Department

5/2/19

Date

J. Paul Reddam
(Printed Name)
Representative of CashCall, Inc.



(Signature)

J. Paul Reddam
(Printed Name)
Representative of WS Funding, LLC



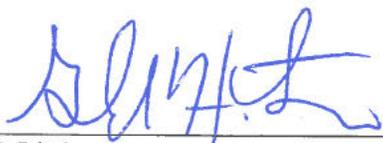
(Signature)

John Paul Reddam

03/20/2019

Date

SO ORDERED.



Gerald H. Little
Bank Commissioner
New Hampshire Banking Department

3/21/19

Date