

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
_____ DIVISION

STATE OF ARKANSAS *ex rel.*
DUSTIN MCDANIEL, ATTORNEY GENERAL

PLAINTIFF

vs. CASE NO. _____

TRI-STATE PAWN OF TEXARKANA, INC.,
AND WILLIAM DUFFER

DEFENDANTS

COMPLAINT

Plaintiff, State of Arkansas *ex rel.* Dustin McDaniel, Attorney General, for its Complaint against the Defendants, states:

PARTIES

1. Plaintiff is the State of Arkansas *ex rel.* Dustin McDaniel, the Arkansas Attorney General. This is a consumer protection action. This Complaint is brought in the public interest in order to redress and restrain violations of the Arkansas Deceptive Trade Practices Act, Ark. Code. Ann. § 4-88-101 through 115 and the Arkansas Constitution, Amendment 89, formerly *Article 19, Section 13*, prohibiting usury.

2. Defendant Tri-State Pawn of Texarkana, Inc. (hereinafter referred to as Tri-State Pawn) is a for profit Arkansas corporation. Its principle place of business is at 1804 N Stateline Ave, Texarkana, AR 71854.

3. Defendant William Duffer is the owner, president, and registered agent of Tri-State Pawn. William Duffer personally formulated, directed, controlled, supervised, managed, participated in, had knowledge of, and acquiesced in the practices of his business Tri-State Pawn (as more specifically set out below) to such a degree that Defendant William Duffer is personally

liable for the unconscionable and otherwise unlawful acts and practices described below.

Defendant William Duffer is a “controlling person” within the meaning of Ark. Code. Ann. § 4-88-113(d).

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104, and the common law of the State of Arkansas. Venue is proper pursuant to Ark. Code Ann. § 4-88-104, § 4-88-112, and the common law of the State of Arkansas. The Defendants have transacted business in the State of Arkansas.

BUSINESS PRACTICES OF THE DEFENDANTS

5. Tri-State Pawn currently operates at 1804 N. Stateline Ave., Texarkana, Arkansas 71854.

6. Tri-State Pawn is a pawnshop, which is in the business of making collateralized loans to Arkansas consumers.

7. Separate defendant Duffer is the owner, president, and registered agent of Tri-State Pawn.

8. As part of their lending business, Defendants have offered and entered into auto title pawns with Arkansas consumers.

9. An auto title pawn is a relatively short term, high interest loan where the borrower provides the title and a key to his vehicle as collateral on the loan, but retains possession and use of the vehicle. The lender, having both title and key to the borrower’s vehicle, purports to retain the right to seize and sell, or otherwise obtain possession of, the vehicle in the event that the borrower fails to make timely payments as mandated by the loan terms.

10. Since at least October 2012, Defendants have engaged in an unknown number of title pawn transactions. The Attorney General is aware of two such transactions. The Annual

Percentage Rate (APR), as disclosed by the Defendants, for both of these loans is 240%. See Exhibits A and B. For the purposes of the application of Arkansas law to these transactions, the Annual Percentage Rate is a close approximation of, and the functional equivalent of, the interest rate as that term is used in applicable Arkansas law.

11. In addition, on at least one occasion, the Defendants seized the vehicle of a borrower prior to the due date of the borrower's payment obligation.

VIOLATIONS OF THE ARKANSAS DECEPTIVE TRADE PRACTICES ACT

12. The business practices of the Defendants constitute the sale of "goods" or "services" within the meaning of Ark. Code Ann. § 4-88-102(6) and (7). The same business practices constitute business, commerce, or trade within the meaning of Ark. Code Ann. § 4-88-107.

13. The conduct engaged in by the Defendants constitutes deceptive and unconscionable trade practices prohibited by the Arkansas Deceptive Trade Practices Act. The prohibited practices engaged in by the Defendants include, but likely are not limited to, violations of the Ark. Code Ann. § 4-88-107(a)(1), 4-88-107(a)(8), 4-88-107(a)(10), and 4-88-108. More specifically, the Defendants violate the Arkansas Deceptive Trade Practices Act by:

a. Charging and collecting unconscionable rates of interest. The practice of charging ultra-high and usurious rates of interest is unconscionable as a matter of law, as well as in violation of the Arkansas Constitution, Amendment 89. See *State of Ark. v R & A Investment Co., Inc.*, 336 Ark. 289, 785 SW 2d 299 (1999), *Arkansas Board of Collection Agencies and Old Republic Surety Company v. Mcghee, et al.*, No. 07-129 (AR S. Ct. Jan. 17, 2008), and *Staton v Arkansas Board of Collection Agencies and American Manufactures Mutual Insurance Company*, No. 07-53 (AR S. Ct. Feb. 21, 2008).

b. Unlawfully seizing consumers' vehicles that were put up as collateral for the aforementioned illegal title pawns.

14. The Attorney General seeks the restoration to affected consumer of the illegal payments taken from Arkansas consumers, the cancellation of illegal debt obligations, the disgorgement of illegally-obtained funds, the imposition of civil penalties, and permanent injunctive relief that will prohibit the Defendants from engaging in any schemes to avoid the prohibitions of the Arkansas Constitution, the DTPA, and the clear public policy of the State of Arkansas prohibiting usury.

RELIEF REQUESTED

15. The acts and practices of the Defendants constituting violations of the Arkansas Deceptive Trade Practices Act and the Arkansas Constitution warrant, and the Plaintiff hereby seeks, the following relief:

a. Injunction—Pursuant to Ark. Code Ann. § 4-88-113(a)(1), the Court should enter such orders or judgments as may be necessary to prevent the use or employment by the Defendants of the practices described herein which are violations of the Arkansas Deceptive Trade Practices Act and the Arkansas Constitution, *Amendment 89*. In addition to enjoining ongoing violations of Arkansas law, Plaintiff requests that the Court cancel all outstanding loan contracts together with any obligations to which any consumers may be arguably be subject upon such contracts.

b. Restitution—Pursuant to Ark. Code Ann. § 4-88-113(a)(2), this Court should enter such orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use of prohibited practices any monies which may have been acquired by the Defendants, together with any other damages which these consumers may have

sustained. In addition, or in the alternative, the Defendant should be ordered to disgorge all funds received from borrowers in these unconscionable lending transactions.

c. Civil Penalties—Pursuant to Ark. Code Ann. § 4-88-113(a)(3), the Plaintiff seeks the imposition of civil penalties to be paid to the State by the Defendants. Plaintiff seeks civil penalties against the Defendants in the amount of \$10,000.00 for each violation of the Arkansas Deceptive Trade Practices Act. Each unconscionable lending transaction should be considered an individual violation of the Arkansas Deceptive Trade Practices Act. The total recovery sought by Plaintiff for restitution, disgorgement, and civil penalties is in an amount in excess of that required for federal court jurisdiction in diversity of citizenship cases.

d. Forfeiture of corporate charters, licenses, permits, and authorization to do business in Arkansas—Pursuant to Ark. Code Ann. § 4-88-113(b), the Plaintiff seeks the forfeiture of such charters, licenses, permits, or authorizations to do business in Arkansas as may currently be enjoyed by the Defendants.

e. Attorneys fees and costs—Pursuant to Ark. Code Ann. § 4-88-113(e), the Plaintiff seeks as compensation for its services the reimbursement of all expenses reasonably incurred in the investigation and prosecution of this matter, together with attorneys fees and costs.

WHEREFORE, Plaintiff requests that this Court preliminarily and permanently restrain and enjoin the Defendants from engaging in acts which constitute violations of the Arkansas Deceptive Trade Practices Act; that the Defendants be ordered to pay restitution to all affected Arkansas customers; alternatively, or in addition, that the Defendants be ordered to disgorge all payments received from Arkansas consumers; that the Defendants be assessed civil penalties; that any corporate charter, license, permit, or authorization to do business in the State of Arkansas and currently enjoyed by the Defendants be revoked, that the Plaintiff be awarded from

the Defendants reimbursement for all expenses reasonably incurred in the investigation and prosecution of this matter, together with reasonable attorneys fees and cost, and for all other relief to which the Plaintiff may be entitled.

Respectfully submitted,

DUSTIN MCDANIEL,
Attorney General

By:



Charles Saunders
Arkansas Bar No. 03117
Assistant Attorney General
200 Cattlet-Prien Tower Building
323 Center Street
Little Rock, Arkansas 72201-2610
(501) 682-8063
ATTORNEYS FOR PLAINTIFF

192011

TEXARKANA, TX 75603

Tri-State Pawn & Jewelry
1804 N. Stateline
Texarkana, Ar 71854 (870) 773-7207

See your contract for any additional information concerning non-payment and default.
You are giving a Security Interest in the following goods:

TITLE, YEAR=2005, COLOR=TAN, MAKE= CHEV
MODEL=CTA, TAG#=820DCS, VIN=1GNEC13T85R223471
TITLE #=, REG#=
MV FEE= 0, TERM= 30 DAYS

08/31/2012 14:39 09/30/2012

AMOUNT FINANCED. The amount of cash advanced or credit extended to you.	\$ 1200.00
FINANCE CHARGE. The dollar amount the credit will cost you.	\$ 240.00
TOTAL OF PAYMENTS. Amount required to redeem pawn on the Maturity Date.	\$ 1440.00
ANNUAL PERCENTAGE RATE. The cost of your credit as a yearly rate.	240.00 %
PAYMENT SCHEDULE 1 @ \$	1440.00
PREPAYMENT: If you pay off early, you will not be entitled to a refund of part of the finance charge.	

TXDL	F	W	44	5-05	140	BR	BRN	1967	\$
Representation of the Amount	\$ 1200.00	Amount given to you	\$ 0.00	Amount Refund	\$ 0.00	DATE PAID	AMOUNT PAID		

I acknowledge receipt of a true copy of this agreement. **PAWNEE FOR ONE MONTH ONLY**

X FLEGGOR'S SIGNATURE

See Reverse Side For Terms And Conditions

194166

TEXARKANA, TX 75603

Tri-State Pawn & Jewelry
1804 N. Stateline
Texarkana, Ar 71854 (870) 773-7207

See your contract for any additional information concerning non-payment and default.
You are giving a Security Interest in the following goods:

TITLE, YEAR=2005, COLOR= TAN, MAKE= CHEV
MODEL=CTA, TAG#=820DCS, VIN=1GNEC13T85R223471
TITLE #=, REG#=
MV FEE= 0, TERM= 30 DAYS

10/04/2012 14:39 11/04/2012

AMOUNT FINANCED. The amount of cash advanced or credit extended to you.	\$ 1200.00
FINANCE CHARGE. The dollar amount the credit will cost you.	\$ 240.00
TOTAL OF PAYMENTS. Amount required to redeem pawn on the Maturity Date.	\$ 1440.00
ANNUAL PERCENTAGE RATE. The cost of your credit as a yearly rate.	240.00 %
PAYMENT SCHEDULE 1 @ \$	1440.00
PREPAYMENT: If you pay off early, you will not be entitled to a refund of part of the finance charge.	

TXDL	F	W	44	5-05	140	BR	BRN	1967	\$
Representation of the Amount	\$ 1200.00	Amount given to you	\$ 0.00	Amount Refund	\$ 1200.00	DATE PAID	AMOUNT PAID		

I acknowledge receipt of a true copy of this agreement. **PAWNEE FOR ONE MONTH ONLY**

X

SIGNATURE ON REDEMPTION
hpc 810-0427 - AR - 8/11/2008 - BURRELL PRINTING CO., INC. - 800-531-4234

X FLEGGOR'S SIGNATURE

See Reverse Side For Terms And Conditions



Pledgor's Name & Address

TEXARKANA, AR 71854

Tri-State Pawn & Jewelry
 1804 N. Stateline
 Texarkana, Ar 71854 (870) 773-7207

See your contract for any additional information concerning this agreement.
 You are giving a Security Interest in the following assets:

TITLE, YEAR=1999
 WHITE CHEVY 1500
 1GBEC19R9XR134214
 441RIS

ORIGINAL LOAN NO 200751		205556								
DATE MADE 04/12/2013	TIME MADE 17:01	DATE PAID 05/12/2013								
BD	AMOUNT FINANCED	\$ 730.00								
	FINANCE CHARGES	\$ 146.00								
	TOTAL OF PAYMENTS	\$ 876.00								
	ANNUAL PERCENTAGE RATE	240.00								
	PAYMENT SCHEDULE 1 @ \$	876.00								
PREPAYMENT: If you pay off early you will not be entitled to a refund of part of the finance charge.										
IDENTIFICATION	SEX	RACE	AGE	HGT.	WT.	HAIR	EYES	DATE OF BIRTH	Additional Charge Paid on Reception	
ARLD	M	W	39	6-01	165	BLK	BRN	/1973	\$	
Itemization of the Amount Financed of	Amount given to you directly		Amount Refinanced						DATE PAID	AMOUNT PAID
\$ 730.00	\$ 0.00		\$ 730.00							

I acknowledge receipt of a true copy of this agreement. **PAWNED FOR ONE MONTH ONLY**

X _____
 SIGNATURE ON REDEMPTION
bpc #10-0407 • AR • 9/11/2006 • BURRELL PRINTING CO., INC • 800-531-5234

X _____
 PLEDGOR'S SIGNATURE See Reverse Side For Terms And Conditions

