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Klein: Noose tightens on lenders

Bank may have to throw in the towel after bad publicity

By JOHN HOFHEIMER
Leader staff writer

Payday lenders suffered a pair of reverses in the last two weeks, according to Hank Klein, who retired recently as CEO of Arkansas Federal Credit Union, but not as an activist committed to curtailing high-interest loans to the least sophisticated borrowers.

Klein

A Puget Sound, Wash., bank that served as a clearinghouse for payday loans written by Advance America in Arkansas will probably get out of that business rather than try to comply with rigid new Federal Insurance Deposit Corp. (FDIC) rules and guidelines pertaining to payday loans.

Arkansas is the only state in which Venture Bank partners with Advance America in making payday loans, and according to a recent accounts, the bank thinks the relationship may no longer be worth the trouble.

Known as "rent-a-bank," the relationship in the past has allowed Advance America to import banking rules—such as higher loan caps and interest rates—from the state of the bank with which they affiliate instead of needing to comply with Arkansas' comparatively strict lending laws.

"If there's nothing for our shareholders, we're not going to stay in the business," a Venture spokesman told the local paper. "We're not going to take on the regulators on this issue."

Klein said the environment in Arkansas for Advance America might be harsh enough to send the Clarksville, Tenn., corporation packing.

Jacksonville alone has two Advance American check cashers or payday lenders.

Klein said successful lawsuits against high-interest lenders by Todd Turner of Fort Smith might have driven Advance America to seek shelter through Venture Bank in the first place.

Two months ago, the FDIC required the 11 banks that partner payday lenders to put together a plan to allow only one payday loan at a time and then for only three months, according to Klein.

"The customer must be nine months payday loan free per year," he said.

Last week, an 11th Circuit Court of Appeals ruling validated the ability of states to regulate "rent-a-bank" relationships be-tween state-chartered banks and payday lenders.

The 11th Circuit ruled that the Federal Deposit Insurance Act does not preempt Georgia's state law on payday lending, does not interfere with its regulation of payday lenders seeking to avoid state law through rent-a-bank arrangements.

In many states, payday lenders have partnered with banks to attempt to evade state restrictions on payday lending.

Klein said the ruling allows payday lenders to partner with a bank—and export its interest rate and exceed the state's usury limit only if the loan in question is predominantly owned by the bank.

"I think the (Arkansas attorney general's office) will take a different view of payday lending now," Klein said.