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Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

State fines payday lender \$173,050

BY DAVID SMITH

Posted on Wednesday, November 15, 2006

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Arkansas' regulator of payday lenders on Tuesday ordered a Conway businessman to pay more than \$ 217, 000 in fines and refunds to customers for operating stores without a license.

The Arkansas State Board of Collection Agencies voted unanimously to order C. Michael Stout, who formerly owned payday lending stores in Conway, Heber Springs and Hot Springs, to pay \$ 173, 050 in fines to the board and almost \$ 44, 000 in refunds to customers.

It was the second-largest fine imposed by the board and the second major fine levied in five months. On June 28, Dennis Bailey of Fordyce was fined more than \$ 1. 3 million for operating 14 payday lending stores throughout the state without licenses.

In Arkansas, a payday loan works like this: A customer writes a check for \$ 400, for example, and receives \$ 350. The lender normally keeps the check for two weeks, but does not cash it.

The \$ 50 charge on a \$ 350 loan for 14 days equals 371 percent in annual interest. If the borrower cannot pay off the loan in two weeks, another check is written, another fee paid and the loan is extended for two more weeks. The process often continues for months, and it is not unusual for borrowers to spend more than \$ 1, 000 before paying off a \$ 350 loan.

The Arkansas Supreme Court is considering a case on the constitutionality of the Arkansas Check-cashers Act, which permits

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payday lending in the state. The court heard oral arguments early this month on the case. Plaintiffs in the case argued that payday lenders in Arkansas routinely charge interest rates on loans that exceed the 17 percent constitutional limit on interest rates.

There are about 275 licensed payday lenders in the state.

Stout owned Cash Advance of Hot Springs Inc. and Check Mart Inc., which had stores in Conway and Heber Springs. Earlier this year, he sold the Conway and Hot Springs stores, which are still being operated as payday lenders under the new owners, and closed the Heber Springs store, said Peggy Matson, executive director of the board.

Stout and Bailey operated their stores under a similar arrangement. Both claimed to finance payday loans through Missouri finance companies. But Matson said Tuesday that Dunn Finance Co., the Missouri company affiliated with Stout's Arkansas stores, was a sham and that there was no financing of loans through the Missouri business.

"This is evidenced by the fact that Check Mart Inc. made only a handful of loan payoff payments to Dunn Finance," Matson told the board.

After that, Stout's three stores "merely utilized loan documents bearing the name of Dunn Finance Co. while making the loans themselves," Matson said.

Stout, also the managing broker of Coldwell Banker Advantage Realty in Conway, was not at Tuesday's hearing and wasn't represented by an attorney. Stout can appeal the board's ruling to circuit court.

Stout declined to comment about the fine when reached by telephone. He said he was on jury duty Tuesday. At the hearing, however, Matson said she had contacted the court where Stout is serving jury duty and was told that he could be excused to appear before the Board of Collection Agencies.

When Matson first approached Stout about the violations earlier this year, she offered to drop any charges if he would license his three stores, she said. The cost would have been \$ 1, 500 but Stout never agreed to pay the fees, she said.

Matson said she also offered to settle the issue in March if Stout would pay \$ 1, 500 and either close or sell the stores, but he didn't accept the offer.

Matson told the board that Stout was willing to sign papers admitting that his payday stores had operated without a license and were liable for the fines and refunds. But, Matson said, Stout

was not willing to admit that he personally was liable for the violations.

Stout's corporation that owned the stores no longer exists and has no assets, Matson said.

But using the legal doctrine of "piercing the corporate veil," Matson said that Stout should be liable personally and jointly with his payday stores for violations of the Check-cashers Act.

Matson said evidence showed that Stout made monthly payments on his personal 2003 Jeep with checks from the Conway Check Mart Inc. business account. Stout similarly made payments on a 2005 Chevrolet Trailblazer he and his wife owned, Matson said, and a WaveRunner watercraft Stout owned.

Matson also established that other personal expenses were paid out of the business account.

"Check Mart Inc. and Mr. Stout are one and the same," Matson said.

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