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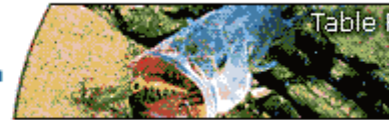
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## Payday lender's penalty upheld Fine amounts to \$1.3 million

BY DAVID SMITH

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LITTLE ROCK — Pulaski County Circuit Judge Marion Humphrey on Wednesday upheld a \$1.3 million ruling against Fordyce payday lender Dennis Bailey made last year by the state Board of Collection Agencies.

An administrative law judge presiding over the state board's meeting last June ruled that the board could fine Bailey more than \$1.3 million for operating 14 payday lending stores in Arkansas without a license.

Bailey closed all the stores last year. Ten of the 14 stores went by the name of Fast Cash.

"We are excited to get the decision and plan on pursuing Mr. Bailey for collection of the judgment," said Tom Thrash, a Little Rock attorney who represented the state board. "We'll go after his personal assets and any assets that have been transferred from the stores or any assets available from the stores. The judgment is against him personally, so we'll be able to get to all his assets."


Paul Johnson, Bailey's attorney, said he had not seen the opinion and declined to comment on it.

Thrash said he expects Bailey to appeal the decision, but to do so, he must post a bond for \$1.3 million plus interest to delay execution of the judgment.





Peggy Matson, executive director of the state board, said Humphrey's decision was gratifying.


"It sends the message one more time that if you are going to offer payday loans you'd better be in compliance with Arkansas' laws," Matson said. "This gets the message over that the state Board of Collection Agencies is enforcing the law."

In June last year an administrative law judge heard testimony by the state Board of Collection Agencies that Bailey operated his stores without a license.



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Bailey purported to run loans at his stores through a Missouri company, BMB Finance Co. But Missouri law prohibits BMB from doing business outside its Missouri office, the board's testimony showed.

The fine against Bailey was based on the number of payday loans and check-cashing transactions he made while operating without a license.

One of the main arguments Johnson made before Humphrey last month was that there was no sworn testimony in the hearing before the state board last June.

But Humphrey said Wednesday in his decision that "sworn testimony is not required in an administrative hearing to support an agency's findings."

In Arkansas, taking out a payday loan works like this: The customer writes a check for \$400, for example, and receives \$350 in cash. The lender usually keeps the check for two weeks before cashing it.

A \$50 charge on a \$350 loan for 14 days equals 371 percent in annual interest. Under the Arkansas Check-cashers Act, the customer must repay the loan before the agreed-upon date or the lender must deposit the check. Once the loan is repaid or the check deposited, the customer can take out another loan by exchanging another check for cash and promising to repay the loan.

The annual interest rate on payday loans in Arkansas exceeds the 17 percent limit on interest rate allowed on consumer loans by the Arkansas Constitution. A bill to limit interest on payday loans to 17 percent failed to pass the Legislature in the recent session.

Matson said the state board has a similar case pending in Faulkner County Circuit Court against Mike Stout, a broker who owned payday lending stores in Hot Springs, Conway and Heber Springs.

Humphrey's ruling Wednesday "makes us more confident in our case against Mr. Stout," Matson said.

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