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Lender shifted holdings, state says Fordyce man faces lawsuit from board

BY DAVID SMITH

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LITTLE ROCK — The day before a state regulatory board for payday lenders fined Dennis

Bailey \$1.3 million last year, the Fordyce businessman began transferring assets - including money, real estate and other businesses - out of his name, according to a lawsuit filed Friday in Pulaski County Circuit Court.

The Arkansas State Board of Collection Agencies on June 28 of last year fined Bailey for operating 14 payday lending stores in Arkansas without a license. Bailey closed all the stores last year, 10 of which went by the name of Fast Cash. And Pulaski County Circuit Judge Marion Humphrey last month upheld the board's decision against Bailey.

However, on June 27, Bailey began transferring cash out of his Fast Cash accounts, according to the board's lawsuit. The suit was filed against Bailey; his wife, Karen Bailey; their children William Brooks Bailey, Morgan Elyse Bailey and Samuel Bronson Bailey; partner Jonathan Whitehead; Bailey Enterprises Inc.; and BMB Finance Co., a Missouri firm owned by Bailey.

Bailey transferred amounts less than \$10,000 to avoid federal reporting requirements, the lawsuit said. From June 27 to July 1 last year, he transferred more than \$195,000 in cash out of his stores' accounts, the lawsuit said.

The transfer of assets was made "with the actual intent to hinder, delay and defraud the state board from recovering its claim against Dennis Bailey," the lawsuit said.

"He had to know [at the time of the hearing last June] that if the board found him in violation of the law that it would eventually result in a court judgment and we would be obtaining those assets," said Peggy Matson, executive director of the Board of Collection Agencies. "We watched and we knew the money was leaving the stores' accounts.

"But we didn't have the power to stop it at that point. We had to go through the legal process. Because we knew he could try something like this, we subpoenaed his bank records."

Paul Johnson, Bailey's attorney, did not return a call seeking comment.

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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 state Legislature this year.

Bailey also has transferred title to some of his property. In February, Bailey filed a quitclaim deed to his second home, in west Little Rock, to his son, William Brooks Bailey, for \$10. The house is valued at at least \$180,000, the lawsuit said. William Brooks Bailey is an unemployed student at the University of Arkansas "who has no ability to make the mortgage payment on this property," the lawsuit said.

He also transferred title to a Fordyce convenience store, gas station, Mazzio's Pizza and a car wash to his children on Jan. 26 for \$10. On that same day, he transferred title to a rent house in Fordyce to his three children \$10, the lawsuit said.

On the same day, he and his wife filed a quitclaim deed to a piece of commercial property in Fordyce to their children for \$10, the lawsuit said. On Jan 29, Bailey transferred title to commercial property in Camden to his children for \$10.

On March 1, Bailey transferred property in a North Little Rock house to Whitehead for \$10. And on March 23, Bailey purchased real estate in Fayetteville in the name of William Brooks Bailey, the lawsuit said.

"He made his children participants in these activities," Matson said.

Bailey first was fined by the state board in 2004, \$20,200 for operating a store in Pine Bluff without a license. Bailey has never paid that fine.

Anything Bailey transferred after 2004 could be considered a fraudulent conveyance, said Tom Thrash, a Little Rock attorney representing the state board. But the board is unaware of any transfers of property Bailey made before last year, Thrash said.

That real estate is worth at least \$600,000, Thrash estimated.

But Bailey's net worth could be as high as \$5 million, based on a loan document he filed with a bank, Matson said.

The state agency also has drafted a memorandum of understanding on Bailey and plans to turn it over to the Internal Revenue Service, Matson said.

"We believe this will be beneficial to both agencies," Matson said.

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